SB

375

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

MINERALS AND ENERGY MANAGEMENT

Pouch 7-034
Anchorage, Alaska 99510

Pat Pourchot
Senate Resources Committee
Legislative Information Office
1024 W. 6th Ave.
Anchorage, AK 99501

Dear Pat:

You requested additional information on two of the mining-related AS 38 amendments the Department of Natural Resources is recommending.

You asked whether the department's suggested changes to AS 38.05.275 would have any impact on the staking of claims on lands beneath navigable rivers and lakes. These proposed changes would 1) eliminate the special exception that currently allows mining claims to be staked on submerged lands (lands seaward of the mean low tide line, AS 38.05.365(17)), which are ordinarily available only under the offshore leasing system (AS 38.05.250); 2) limit claimstaking on tidelands (lands between the mean high and mean low tide lines) to situations where the claim includes some state-owned uplands that are open to mineral entry; and 3) eliminate the dual filing requirement for claims on both shorelands (that is, lands beneath navigable rivers and lakes) and tidelands. The first two changes would not affect the staking of claims on navigable rivers and lakes in any way, while the last change would make it easier to stake such claims by reducing paperwork. Filing location notices with the Division of Minerals and Energy Management would no longer be necessary; recordation alone would suffice.

You questioned whether our proposed amendment to AS 38.05.127(a) would have an adverse impact on the public interest. The change we have suggested would not result in any lessening of the State's legal right and duty to ensure access to and along public waters. It would apply only to leases of the mineral estate, which are inherently different from surface disposals in their effect on access. A person who receives a subdivision lot, homesite entry permit, homestead, commercial lease, etc., gains exclusive possession of the surface (including the right to prohibit public use) unless access rights are specifically withheld or "reserved" by the State in the terms of the conveyance. Thus any decision to retain a public right-of-way must be made before the surface disposal occurs.

In contrast, a mineral lease does not include the surface estate. It gives the lessee only the right to explore for, produce and process a certain class of minerals (such as oil and gas or locatable minerals). Although exploration and development necessarily entail using some of the surface, the State

explicitly retains the surface estate and associated rights to manage, lease, sell, or issue rights-of-way on it.

A mineral lessee is required to submit a plan of operations for state approval before beginning activities on the lease. This gives the department an excellent opportunity to see precisely how lease development plans would affect access (along with other state concerns). If production facilities, mine operations, etc., are proposed to be located where they could interfere with access to public waters, either the lessee is asked to alter its plans slightly, or an easement is reserved to allow the public to move past or around the obstruction. It is much more practical and timely to analyze and correct access problems at the plan of operations phase (and the State has the legal right to do so at that time) than to try to identify all public waters on several thousand or hundred thousand acres of proposed leases in advance and plat easements to and along each one. The great majority of those access routes will remain vacant public lands throughout the duration of the leases and no easement will ever be necessary.

I hope that this information satisfactorily explains the department's rationale for its proposed changes. If you have further questions, please let me know.

Sincerely,

Mary Kaye Hession

Mary Kaye Hession
Natural Resource Manager II

cc: John Ringstad

4261a

Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-4801

PLANNING DEPARTMENT

LAND MANAGEMENT - PLATTING - PLANNING

January 16, 1984

The Honorable Bettye Fahrenkamp, Chairman
Senate Committee on Resources
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

We have reviewed your draft bill relating to land disposal and management. We support this effort and offer a few comments regarding some of its contents. Comments made will be preceded by the section number to which it applies.

AS 38.04.010 (b) (2) We support this policy. however, if intended private use is included to mean being capable of self sufficiency heating year round and perpetually, a 100 acre lot would be required for proper forest regeneration to supply the fuelwood needed by a family year-round.

AS 38.04.035 (4) The administration of a cabin leasing system should allow reasonable terminations of those leases when resource limitations have been reached. Perpetual appeals from lessees should be disallowed.

AS 38.05.118 (a) The term "local manufacturer" should be defined to differentiate between negotiated sales in this section and those referred to in AS 38.05.115 (a) above it. At what point does a purchaser become a manufacturer, allowing him to exceed the limits previously established.

AS 38.05.205 (c) According to this section perpetual renewals of leases are automatic. A limit should be set such that no more than a one term automatic renewal can be made.

AS 38.050.020 - The $100,000 value limit is rather low even relative to agricultural rights values. This would mean that probably most exchanges would be subject to legislative review. If in fact most exchanges would have to receive legislative review, and given the fact that the governmental processes are already fairly slow, then appraisals done in the beginning of the process would most likely have to be redone before the exchange was completed.

JAN 19 1984

AS 38.95.080 (a) should be amended to read the director shall..... rather than the commissioner may. The Borough supports subsistence and recreational trapping and the current language (shall) supports our position. Permissive language to inappropriate if the applicant meets the condition set up in the statutes.

The authority for actions bounces between the director and commissioner throughout this bill and is confusing. Most of the decision addressed in this bill should be made by the director with the concurrance of the commissioner. This gives a check and balance system to the decision making process, and would allow for consistency throughout the bill. The director level is a professional level, while the commissioner is a political entity (even if the incumbent is a profession). Therefore, all actions relating to administration of this law become political instead of professional.

We would recommend the establishment of a revolving fund to cover the costs of road construction for state subdivision. After an initial appropriation the revenue from land sales could be used to keep the account at a certain level. This ensures the ability of the Department to fund the capital projects associated with subdivisions.

Thanks once again for this opportunity to take part in the redraft of Title 38.

Please do not hesitate to contact me if you have any further questions concerning this.

Sincerely,

Robert J. Stickles

Robert J. Stickles
Planning Director

Sponsor T-38 OK

KENAI PENINSULA BOROUGH

BOX 850 • SOLDOTNA, ALASKA 99669
PHONE 262-4441

STAN THOMPSON
MAYOR

January 10, 1984

The Honorable Bettye Fahrenkamp
Chairman, Senate Resources Committee
Pouch V
Juneau, AK 99811

Dear Senator Fahrenkamp:

Reference your letter concerning your draft bill regarding development of state land.

I personally have a couple of problems with the bill in the third round as it now stands. One was your number (26) - 005.035(B), and as this stands now, I believe that inaction by the state could extinguish a preference right. Perhaps I am reading that incorrectly. I'm not quite certain what the interpretation of that statute would be. I do feel that inaction by the state should not limit preference right to "three years from date of error or state action". In other words, if the state does not take action and the three years pass, I hope that wouldn't cut out the preference right. NO

application filed w/in 3 yrs. of error or state action being taken

I have a personal example. Back in the early 1960's, thirty years plus or minus ago, I filed for a preference right on an 80 acre parcel. This had been a T & M site under the federal government on which I built roads, and rental cabins, etc. With the state take over of the properties, I was transferred to the state. To date, however, I have never yet had this resolved by the state - absolutely no state action (I had brown hair then and have gray hair now.)

For the foregoing reason, and example, I also question that preference rights should be limited to five acres as in your senate bill. This was an 80 acre parcel and 30 years ago I did the prove-up required and was hoping for state action. I think it should be limited only to the property that should receive preference right no matter what the acreage. NO

In number (31) - 05.050 I believe your language should stay with the municipality rather than community. "Community" is a vague term and could create confusion "at least in the organized boroughs".

Under Section 45, AS 39.95.080(A)(1) states "the person must have an established trapline with proof of regular use". I have a question current statute we didn't amend

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about this one. It's not a major point of course, but this would definitely cut out any new traplines or at least any person building a cabin site on a new trapline. Traplines change from time to time - change areas, change directions, etc., and it's certainly necessary for a trapper to have a trapper's cabin up or down his trapline. I would think that we should cut out Section 1 which says the person must have an established trapline with proof of regular use.

Senator Fahrenkamp, I appreciate the work you and your committee have done on this. I think it's really a great piece of legislation and I only have the few minor points that I have mentioned. We appreciate your work.

Thank you,

Stan Thompson
Kenai Peninsula Borough Mayor

ST:lc

Bristol Bay Native Corporation

445 E. 5TH AVENUE / P.O. BOX 100220 / ANCHORAGE, ALASKA 99510 / (907) 278-3602

DEC 2 1983

November 23, 1983

The Honorable Bettye Fahrenkamp
Alaska State Senate
State Capitol, Pouch V
Juneau, Alaska 99811

SUBJ: Title 28 State Land Disposals.

Dear Senator Fahrenkamp:

The Bristol Bay Native Corporation's position on State land disposals was previously expressed in the attached letters which were prepared for the Bristol Bay Cooperative Management Plan.

This past summer, four subdivisions were surveyed on Bristol Bay and are scheduled to go on the market in 1984.

PIKE LAKE SUBDIVISION

This subdivision, under development by Paug-Vik, Inc, Limited, consists of 26 lots on a 70 acre tract adjacent to Pike Lake between King Salmon and Naknek Lake.

BRISTOL BAY BOROUGH SUBDIVISION

This subdivision has been developed by the Bristol Bay Borough and is scheduled to go on the market on November 26, 1983. The subdivision consists of 85 five acre lots located adjacent to the Naknek/King Salmon Road.

TOGIAK HEIGHTS SUBDIVISION

The Togiak Heights subdivision has been developed by Togiak Natives Limited two miles northwest of Togiak. The subdivision consists of 49 two acre lots and was placed on the market this past summer.

KEYES POINT SUBDIVISION

The Keyes Point Subdivision is under development by Nondalton Native Corporation on Lake Clark and consists of 266 two and one half acre lots and is scheduled to go on the market in 1984.

BRISTOL BAY HOUSING AUTHORITY

The Bristol Bay Housing Authority has scheduled to construct 82 houses in 1984: Chignik (10); Manokotak (32); New Stuyahok (30); and Twin Hills (10). At Twin Hills, the houses will be placed on townsite lots. New subdivisions with access roads, sewer and water systems will be required at Chignik, Manokotak, and New Stuyahok.

CONCLUSION

With the exception of the Keyes Point Subdivision on Lake Clark, all of the above subdivisions are located in close proximity and have access to existing roads, airports and schools.

Any State land disposal program should take into consideration the availability of private lands for residences or recreation. The sale and development of village corporation's subdivision lots is critical to the economic well being of these corporations as well as any taxing authority.

RECOMMENDATIONS

1. The BBNC supports State land disposals close in to existing villages with transportation, education and other support systems in place.

2. The BBNC supports the substitution of local land disposal programs for State disposals since the need for placing State land in private hands has been substantially reduced.

3. The BBNC does not support the sweat equity concept since the State can not afford to continue the State land disposal program without recovering the cost of the program. To do otherwise will unfairly compete with village corporation land disposal programs throughout the State.

4. Any State land disposal program should require local participation and be based on ground truth before the sites are nominated for disposal.

5. After disposal, evaluations should be made at regular intervals to determine the actual use and the impact of development on the natural resources.

6. The quota concept based on State land ownership by region without regard to the land character and the potential impact on natural resources is unconscionable.

Sincerely,

John C. Moores
Engineer Geologist/Land Planner

Encl: a/s

DEC

KENAI PENINSULA BOROUGH

BOX 850 • SOLDOTNA, ALASKA 99669
PHONE 262-4441

STAN THOMPSON
MAYOR

December 7, 1983

Senator Bettye Fahrenkamp
Alaska State Legislature
Pouch V
Juneau, AK 99811

RE: Title 38 Review

Dear Senator Fahrenkamp:

The Kenai Peninsula Borough has reviewed the comments received and compiled by the Resources Committee concerning Title 38 and offers the following:

38.04.005	Agree with comments
38.04.020(e)	Agree with comments
38.04.020(f)	The annual assessment for demand for state lands does not seem to be effective.
38.04.020	Subdivisions in remote areas should consider access, type of access and topography.
38.04.021	Agree with comments
38.04.025	Agree-it is redundant
38.04.035(4)	Agree cabin lease system should be more broadly used.
38.04.040	Agree with comments
38.04.045 & .050	Although the state received the land using the rectangular survey system, it's no longer necessary to convey land using cadastral survey grid. Control monuments could be set in area which would eliminate a full cadastral survey for

	subdivisions. Cadastral grid does not take into consideration land patterns and topography. Subdivisions should be based on proper design taking into consideration topography and uses and not cadastral survey boundaries. The state, in all cases, should provide access to all subdivisions and should dedicate rights-of-way over the most feasible route rather than relying on section line easements. This would alleviate the burden on municipalities to obtain rights-of-way at a future date.
38.04.050	Agree with comments
38.04.055	Agree with comments
38.05.045	The state should sell a percentage of timber lands.
38.05.050	Agree with comments
38.05.057	Agree with comments
38.05.065(a)	Agree with comments
38.05.065(c)	Disagree - Suggest the real estate contracts be turned over to private companies or local banks for collection.
38.05.067	Sales to veterans should be left in.
38.05.069 (a)&(b)	Agree with comments
38.05.070 (b)&(c)	Agree with comments
38.05.079	More remote cabin sites should be offered on a lease system.
38.05.127	Agree with all comments
38.05.150(c)	Permits should be granted for 5 years with no extensions.
38.05.185-.275	Disagree with comments
38.05.190 (a)(1)	Agree with comments

38.05.195	Agree with comments
38.05.200-.210	Agree with comments
38.05.245	Agree - should be filed in District Recorder's Office.
38.05.250(b)	Agree as stated
38.05.310	Agree with statement
38.05.350	Agree with comment
38.05.365	Agree with comment, "public waters" should be clarified.
38.09.080(b)	Agree with comments
38.35.050(a)	Agree with comments
38.35.140(b)	Agree with comment
38.50.020(a)	Agree with comments. The administration should handle exchanges of land smaller than a certain size, but give the legislature 30 days when in regular session to review or 30 days from the start of a regular session. If legislature makes no comment within time frame, the exchange would be automatically accepted.
38.50.020(b)	Agree with comments
38.50.110-.130	Agree with comments
38.50.120	Recommend the minimum tract size be under 160 acres.

We appreciate the opportunity to review and comment on Title 38.

Sincerely

Stan Thompson
Mayor

:cm

Bear Creek Mining Company
Exploration Division of Kennecott Corporation

Anchorage Office

November 14, 1983

The Honorable Bettye Fahrenkamp, Chairman
Senate Committee on Resources
Pouch V, State Capitol
Juneau, AK 99811

Re: Comments and Suggested Changes - Title 38 (and 27)

Dear Senator Fahrenkamp:

We appreciate this opportunity to comment on proposed changes in the Title 38 statutes. We whole-heartedly support your efforts to get these statutes reprinted and updated, especially with regard to organizational and grammatical changes. However, we are less enthusiastic about proposing technical and substantive legislative changes where they are not needed. With regard to the statutes and regulations governing mineral entry, we currently have a workable system and, therefore, hesitate to propose legislative changes for fear of getting unwanted legislation. Opening the door for changes in these statutes will most likely result in an industry versus environmental debate on proposed changes, and potentially harmful legislation. The environmental community has already proposed that the current location system for mineral entry be changed to a leasing and royalty system similar to that governing the oil and gas industry. Such a system would be disastrous to the mining industry. Thus, we urge you to proceed carefully in proposing changes in these statutes.

Following are our general comments on the suggested changes made to the Resources Committee on Title 38 (and 27) statutes per your October 31, 1983 compilation. Our comments are primarily restricted to only those suggested changes in sections that will directly affect the mining industry.

38.04.005 - We agree that you may want to consider strengthening this section with more specific goals and policies. This may be the place to establish a strong State minerals policy to encourage mineral resource development on State lands. Sec. 38.05.350 should be incorporated into this section. All State statutes should be consistent with this policy.

38.04.065 - Land use planning is a good tool when conducted in a scientific and timely manner. However, these plans are often prepared by special interest groups and, thus, the plans are biased and often stress the conservation and/or use

1111 DOWLING ROAD • ANCHORAGE, ALASKA 99502 • PHONE: (907) 563-3225 • TELECOPIER: (907) 563-3941

of one resource over all others (i.e. Bristol Bay Plan). Land use planning should not be used as a tool (by environmentalists) to delay or prevent development that is in the best interest of the State or its citizens. Ideally, land use planning should involve a plan for managing the land, not establishing a series of once and for all special use classifications.

This section might be strengthened by requiring DNR to assume land management responsibilties of State lands immediately upon selection. All lands should be immediately classified for multiple purpose use unless specifically selected for a specific use not consistent with multiple use management. You may want to incorporate Sec. 38.05.300 in this section. Under the present system, a person can locate State mining claims on State-selected land prior to tentative approval and land classification. However, the claimant stakes at his own risk pending tentative approval and a favorable classification. The State could eliminate part of this risk by classifying lands at the time of their selection as either open to mineral entry or closed pending further classification. The latter should of course be kept to a minimum.

38.05.150(c) - We agree that coal prospecting permits should be granted for longer terms with one or more extensions if diligence is demonstrated.

38.05.185 - .275 - We strongly oppose substantive changes in this section. The current system governing mineral location and leasing is workable. The environmental community is proposing that this system be replaced with a leasing and royalty system similar to that for oil and gas. Such a system would be disastrous to the State mining industry and would provide no incentive for exploration. It would virtually eliminate the small miner and would discourage all development. The proposed 10-12% gross profits royalty would even make world-class deposits such as Red Dog and Quartz Hill uneconomic to mine. Leasing under such a system has the potential of being discretionary and will most certainly result in a drastic slowdown in mineral exploration and development due to administrative bottlenecks.

38.05.185 - We strongly oppose expanding lands available only for location leasehold mineral acquisition to include most, if not all, State land as proposed.

38.05.190(9)(1) - We have no objections to this proposed change.

38.05.195 - We have no objections to this proposed change.

38.05.200 or .210 - We support this proposed change to allow

affidavits of annual labor to be corrected by amendment.

38.05.205 - We have no objections to this proposed change.

38.05.240 - This statute requires "basic survey finds" for assessment work to be filed with DNR. "Basic survey finds" is presently interpreted by DNR/DMEM to mean all factual data such as geological maps, geochemical analyses assays, geophysical readings, etc. Such information is considered proprietary and filing such data can result in the "leaking" of sensitive company data to the competition. The initial intent of the legislature at the time this statute was written was to require that only a statement of the type and location of the survey work be filed with DNR along with a statement of how the work benefited the claim. Thus, we suggest that the regulations (11 AAC 86.220) for this statute be modified to better define the meaning of "basic survey find" and that the statute be unchanged.

38.05.245 (a) and (c) - We have no objections to these proposed changes.

38.05.250 (a) and (b) - We have no objections to these proposed changes.

38.05.265 - The "essential facts" that must be included in annual labor affidavits should be defined in Sec. 38.05.240 and not in this section. Otherwise we have no objections with the proposed changes.

38.05.275 - We have no objections to this proposed change.

38.05.300 - This statute should be incorporated in Sec. 38.04.065.

38.05.301 - "Boards" should not be given veto authority over proposed land sales or disposals.

38.05.350 - This statute should be incorporated in Sec. 38.04.005.

Title 38 -- General Comments - We are opposed to the State participating in the land bank program established under Section 907 of the ANILCA. The primary purpose of such a program is to discourage development.

Title 27 -- Mining - We strongly oppose the suggestion that reclamation requirements pertaining to coal be applied to all mining operations. Mining methods for placer and hard rock mineral deposits are generally unlike those for coal mining and, thus, require different reclamation practices. Existing reclamation statutes and regulations are more than adequate

and no new statutes need to be adopted under Title 27. Other than this, we have no major objections to the changes being proposed for Title 27; many of these statutes are outdated as pointed out and, thus, either need to be amended and/or repealed.

We hope these comments are useful to the Resources Committee in their deliberations. Should you have any questions or need elaboration on any of the issues commented on herein, let me know.

Again, we urge you to proceed cautiously with any changes in the Title 38 statutes that have the potential for adversely affecting the mining industry.

Sincerely,

Jan W. Hammitt for Russ Babcock

R. C. Babcock, Jr.
Vice President and Manager, Alaska

RCB:dk

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

P.O.BOX 3-2000
JUNEAU, ALASKA 99802
PHONE: (907) 465-4100

12

November 21, 1983

NOV 2 1 1983

The Honorable Bettye Fahrenkamp
Senator
Alaska State Legislature
4016 Evergreen Street
Fairbanks, AK 99701

Dear Senator Fahrenkamp:

My Department has reviewed the list of recommendations contained in your November 2, 1983, letter to me. In reviewing the list, I have categorized the recommendations concerning Title 38 within groups that generally reflect the following considerations: 1) public interest, 2) public access, 3) remote cabin permits, 4) leasing of mineral lands, and 5) fiscal administration. Our comments regarding each of the categories follow. I also refer you to the written testimony that we presented at your recent Fairbanks hearing for our Department's specific recommendations for changes in the statute.

1) Public Interest: 38.04.005, 38.04.010, 38.04.020, 38.04.820(e), 38.04.020, 38.04.020(g), 38.04.020(h), 38.04.021, 38.04.065, 38.05.035(a), 38.05.035(b)(5), 38.05.070(b), 38.05.070(c), 38.05.110, 38.05.301, 38.05.345, 38.50.020(a), 38.50.020(b), 38.50.110-130., 38.05.205, 38.09.050(d), 38.09.080, 38-35.140(b).

It is our belief, relative to the above citations, that a land management decision making process is needed in which the maximum amount of public input is incorporated into a land management decision while not causing unnecessary delays in arriving at such a decision. We also believe that for land management decisions to be responsible, all available lands (municipal, private, State and federal) must be included in an evaluation of demand for the use of these lands. An acceptable decision making process should provide for an evaluation and comparison of all natural resource values in an area and should also include consideration of the capability of the area to support local use of fish and wildlife resources.

2) Public Access: 38:04.050, 38:04.055, 38.05.127, 38.05.365

Trespass conflicts between public users and landowners are increasing dramatically in the State, particularly near urban centers. The Department has requested and received appropriations over the past few years for over 6.5 million dollars for acquiring

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land for public access and recreational purposes. It is the Department's view that fee simple retention of select, key recreational access lands provides a highly cost effective means of providing maximum opportunities for public use of fish and wildlife resources and will, in the long run, provide a substantial economic benefit to the people of the State.

The Department has recommended that the statutory language of AS 38.04.055 and AS 38.05.127 be amended to express a policy directive that "To the greatest extent feasible, the director shall reserve, in State ownership, sufficient land to maintain present and future public access across private use areas, and land along public waters to ensure present and future public uses of those waters. In the absence of preferred State ownership, the director shall reserve easements and rights-of-way on and across land which is made available for free public use..." These easements and rights-of-way should include language delineating a statutorily defined "free public use" which includes a reservation of sufficient public interest in lands to and along navigable and public waters, and tidal and submerged lands to accommodate recognized public uses of water resources such as access, fishing, hunting, viewing and other activities. AS 38.04.055 implies that such uses may be allowed for in making reservations of land for access purposes. A statutory clarification would be helpful.

3) Remote Cabin Permits: 38.04.035(4), 38.05.079.

The State has an interest in providing the public an opportunity to acquire a permit for the construction of recreational cabins on remote State lands. The Department has recommended a public use cabin program wherein the State, Borough, or possibly a private concessionaire would build and maintain recreational cabins which would be available on a first come basis. Please refer to our testimony for safeguards which were recommended to ensure that potential problems associated with the program would be minimized. The Department views remote cabin programs as potentially accommodating a major portion of the current demand for private recreational land while retaining future options for land management and development of public lands.

4) Leasing of Mineral Lands: 38.05.150, 38.05.185-275.

The Department suggests that a unified body of law should be considered for locatable and leasable minerals similar in structure to the Alaska Surface Coal Mining and Reclamation Act. A comprehensive mineral development program would address land use allocation, administration, environmental protection, and enforcement. By designing the program through close interagency coordination, the exercise of overlapping authorities could be minimized while at the same time allowing for more control over allocation and environmental impact problems.

5) Land and Fiscal Administration

The remaining comments or proposed changes deal primarily with the fiscal aspects of administering land disposals or surveys. The Department has no comment to make in this regard. These sections of the title do not directly affect the public interests for which the Department has been given responsibility.

Thank you for an opportunity to review the progress being made by your Committee on its review of the State's land management and disposal statutes. I will be happy to continue to assist you with this evaluation. Please do not hesitate to contact me in the future.

Sincerely,

Don W. Collinsworth
Commissioner

Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chairman • 1024 W. 6th Ave., Suite 204 C,
Anchorage, Alaska 99501
(907) 278-3654

Official Business

(14)

November 22, 1983

Senator Bettye Fahrenkamp
Senate Resources Committee
1024 W. 6th Ave.
Anchorage, Ak. 99501

Dear Bettye:

I must commend you for the excellent work you and your staff have done in compiling the Title 38 comments and suggested changes. I am impressed with both the "boiling down" of so much material into substance and the quality product that resulted.

After reading through the list of possible changes, I marked those that I particularly favored or disfavored. I used a "+" to indicate approval and a "-" for disapproval. As you will note, my marks are generally favorable and there are few proposed changes that I do not support. Those not marked one way or the other are those that are either of less concern to me or that I am not sufficiently knowledgeable about. I remain most interested in land planning, management, and disposal issues.

And I do appreciate the way in which my comments and suggestions submitted in the two previous letters have been incorporated into the proposed changes.

By the way, I'm struck by the generally consistency of the the comments and the fact that there are few areas where there are opposing suggestions. For the most part, there seems to be a consensus on needed changes.

It's good also that the committee report will include recommendations for administrative changes and DNR's budget.

I look forward to the compilation of a draft bill including agreed-upon changes and believe that the legislation will go a long way towards correcting problems with the management of state land, including disposals.

Best personal regards,

Vic Fischer

Senator Vic Fischer (cj)

Attachment

Alaska State Legislature

SENATE RESOURCES COMMITTEE

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

October 31, 1983

COMMENTS AND SUGGESTED CHANGES--TITLE 38

Chapter 04--Policy for Use and Classification of State Land Surface

38.04.005 More specific goals and policies need to be spelled out for managing and disposing of state land which take into better account the whole range of resource values and uses.

.04.010 This section articulates the policy of making year-round residential use near existing services and seasonal, recreational use disposals where future services will not be needed. Many emphasized the need for either applying this goal more strictly in the disposal program or strengthening the statutes to include such language in the specific disposal authorizations. See also 38.04.020 and 38.09.

.04.020(e) Despite the statute requirement that a budget for disposals be submitted to the Legislature, it was argued that insufficient monies are appropriated to ensure a stable, continuous program over several years. Also, some costs such as possible local services incurred by disposals are not accounted for nor the costs of enforcement of sale provisions. See also 38.08 and 38.09. Although the statute requires estimating costs of complying with local platting and subdivision ordinances, AS 29.33 exempts the state from having to provide capital improvements, such as roads, as part of its compliance with local platting requirements in the disposal of state land. See also 29.33.

.04.020(e)(4) allows DNR to submit a schedule for obtaining cost estimates of municipal regulation conformance in disposals if not available. This "loophole" should be deleted and estimates annually required.

.04.020(f) The statute requires an annual assessment of the demand for state land taking into account supplies of private and local lands. Some felt this is either not being done administratively or that the statute should be strengthened to require accurate market demand/supply/need for disposal

.04.020(g)(2) requires certain percentages of subdivision land be made available for homesites by particular disposal methods. One of these methods, by length of residency has been ruled unconstitutional. The arbitrary percentages to be disposed as homesites should be repealed as well as disposal methods to better reflect specific market demand and public policy.

.04.020(h) limits subdivision parcels to five acres unless local zoning ordinances, topography, sewer and water requirements dictate larger parcel. Remove limitation to enable larger parcels to reflect public desires, other resources in specific areas.

.04.020 Include new provision precluding subdivision disposals in "remote" areas or make such disposals take into account carrying capacities of local resources.

.04.020 The DNR administrative procedure currently calls for public hearings prior to land disposals. Public hearings should be required in the statutes.

.04.020 Although some disposal programs generally refer to making land available throughout the state, specific quotas or percentages of land by region should be required to ensure land disposal in all areas without disposing of a preponderance of land in a few regions as is the case currently.

.04.021 provides for grants to municipalities for the disposal of municipal entitlement lands. Much more money should be appropriated for this program and the statutory restrictions on the ratio of money from the state vis a vis municipal disposal money should be repealed (5 to 1 or 7 to 1). Grants should not be limited for entitlement land disposals, but any local lands. Some statutory provision should be made to encourage the joint participation of state and locals in the disposal of both state and municipal lands.

.04.025 requires DNR to assess the supply and demand for land in making lands available for private use. This section is redundant to a large degree to the assessment required in .04.020(f) and should be repealed or integrated and made more specific.

.04.035(4) prescribes a lease system for cabins in remote areas where survey and conveyance is impractical. Cabin lease system should be more broadly used instead of disposals when dealing with "trespass" cabins, recreational uses, resource conflicts and other factors. See also .05.079.

.04.040 authorizes the sale of University lands. With the passage of SB 41 last session removing University lands from "state" or public lands, this and other references to University lands should be repealed.

.04.045(a) permits the disposition of land in parcel sizes reflecting individual use needs or market supplies. This conflicts in part to the subdivision 5-acre limitation in .020(h) and should be either consolidated or made consistent with this section.

.04.045(b) requires surveying and platting prior to land disposal. Specifies land not to be conveyed unless within two miles of control monument. Requires state disposal plats to comply with local ordinances similar to private lands. This should be adhered to administratively and the exception for the state in complying with capital improvement requirements by locals in Title 29 should be repealed. See 29.33. See also .09, homestead survey requirements.

There is debate on the definition of "cadastral survey". Some want definition to include survey monumentation every section and quarter section, others prefer broader definition to expedite disposals in remote areas.

.04.050 provides for the reservation of easements and rights-of-way when lands are surveyed for disposal for access to each parcel of land. Surface access is to be developed where "necessary and appropriate" with costs to be borne by land recipients. Statutory changes recommended specifying that legal and feasible access be provided to and within subdivisions (not necessarily section-line easements, for example) and that access meeting local ordinances for subdivisions be required of the state. See also 29.33

.04.055 mandates the reservation of public use easements and rights-of-way in the disposition of private lands. This provision is very similar to the provisions of 38.05.127. More public easements and rights-of-way should be reserved administratively under this authority and state land reservations in fee simple should also be made to ensure access to public lands and waters. See also .05.127

.04.065 requires the development of regional or area plans to guide land classifications. Although land classifications must follow such plans, until they are completed (only a few are currently completed) localized "land planning reports" are the only plans currently required prior to disposals under current administrative regulations. Area or regional plans should be completed and required prior to land disposals to ensure that all resources are considered in a particular area or region.

This section also requires local government and public involvement in the planning process. The statutes should specifically mandate the holding of public hearings as part of the plan development and prior to any classification or disposal. See also .04.020 and .05.301 and .05.345.

.04.070 sets out several classifications for retaining land in public ownership. One or more of these such as "public reserve lands" should be further defined statutorially and lands included to more permanently retain them for a variety of public uses in contrast to more specific management systems such as state parks or state forests.

.04.910 is the definition section for .04. The definitions for "official cadastral survey" and "official control survey" should be reviewed in light of federal and state policies and most current applications. See also 04.045(b).

CHAPTER 05--ALASKA LAND ACT

.05.030(c) provides for the notification to DNR by other state agencies of any land acquisition, lease or exchange. Notification should include disposals also.

.05.035(a) requires DNR to make a "best interest" finding prior to sales, leases, or other land disposals, except for revocable permits, shore fishery sites leases, and certain negotiated contracts. All disposals, including permits and leases, should require "best interest" written findings. Such a finding should be further clarified in the statutes and include social and economic impacts and benefits of disposals.

.05.035(b) authorizes the granting of preference rights to land and property to persons adversely affected by state or federal errors or omissions. Limit rights to preferences to three years from date of error or state action in order to avoid long-standing claims with difficult record reconstruction.

(b)(5) authorizes direct negotiation with users or improvers of state land prior to statehood to convey title when in "best interest" of state. Provision of dubious legality and should be repealed

.05.045 authorizes the sale of all state land except tide, submerged, shorelands, timber and grazing lands. Timber lands should be allowed to be sold to enhance timber harvesting and reduce administrative costs.

.05.050 mandates that land disposals, including homesites under .04.020(g)(2)(C),

be held in the "municipality" closest to the land and in which regular sessions of a state court are held. Some feel that this requirement is unfair to residents from other areas of the state while others favor retention of the requirement as a form of resident preference. One suggestion is to permit teleconference participation at auctions or lotteries.

The reference to .04.020(g) should be deleted as part of the suggested repeal of that section.

Change "municipality" to "community" to take into account unincorporated locations.

.05.057 requires the consultation by DNR with the local assessor in the determination of purchase prices prior to disposal. This requirement should be eliminated as unnecessary.

.05.058 established a discount program for the purchase of land based on the number of years of residency. Discounts up to 50% of the purchase price were available. This provision was ruled unconstitutional and was repealed in the last legislative session. Some felt the resulting policy of disposing of land at fair market value will result in a more accurate picture of demand for state land, will enhance private land developments, and effect a better return for state resources. Others have recommended a replacement discount program not based on residency to continue to provide lower cost alternatives to state land acquisition. One suggestion is to give a "rebate" or a discount off a fair market value purchase price if certain specified improvements are completed. The value of the improvements up to a certain percentage of the purchase price could be permitted. Another suggestion is to establish a forgiveness system towards the purchase price in which payment are removed from the end of the payment schedule for each year of payments paid on a year-to-year basis. This concept is included in SB 280 currently pending before the Legislature.

.05.065(a) sets the interest rate to be paid on land disposal contracts to real estate mortgage loans made by the federal land bank for the farm credit district for Alaska. These rates have currently been more than 12%. A more appropriate guideline should be established which would more closely reflect rates for prevailing state programs such as housing, ag and fishery loans.

.05.065(c) provides a general action for contract violations. An appeal process should be enacted followed by the prerogative of the commissioner to foreclose and sell interest to a third party as if it were a deed of trust.

.05.067 provides for special sales of land for veterans. This provision is currently not being utilized by the DNR, nor has it been used to any extent in the past. It should be repealed.

.05.069(a)and (b) provide for a 60-day first option to adjacent landowners for ag land sales or leases and a method based on a "greatest need" or veterans preference to determine which of several adjacent landowners should be granted an option. To facilitate efficient administration and simplify the selection procedure ag land options for adjacent landowners should be exercised at the time of disposal and a single recipient selected by simple drawing of lots.

.05.070(b) authorizes the DNR to negotiate a land lease without advertisement if it involves less than $250/year. This limitation should be raised to $5000/year to expedite processing leases.

.05.070(c) authorizes DNR to grant land leases for up to 55 years if in best interest of the state. Limit should be raised to 99 years to be compatible with federal leases and to facilitate financing of development.

.05.077-.078 establishes the remote parcel leasing and conveyance program. The legislature repealed this program effective July 1, 1984 and substituted many of the provisions with the homestead program (see 38.09). The remote parcel program should be reenacted or extended another year or so to permit smoother transition to homestead program, ensure maximum land availability for remote recreational use and to permit stakers a 5 to 10 year lease prior to purchase of land.

.05.079 authorizes a remote cabin permit program. Although cabin permits are to be issued only for lands classified for this purpose, current classifications are too permissive in where remote cabins may be located. Others have felt that this program is underutilized and more remote cabins should be offered and encouraged in lieu of land disposals in many remote areas. The permit system should be replaced with a lease system to ensure that a "best interest" finding was required (see .05.035(a)). Also a public use cabin should either replace or supplement the remote cabin permit program to further reduce the need for land disposals.

.05.110 provides for the assessment of timber on state lands and recommendations for the sale of timber and other materials. This assessment and recommendations should take into account the availability and current markets for nearby private timber supplies.

.05.125 mandates the reservation of the mineral estate (subsurface) from all lands conveyed by the state. In the references to various disposal programs covered by this provision should be added 38.09 establishing the homestead program.

.05.127 requires the determination of "public waters" or "navigable waters" prior to the disposal of state land and the reservation of easements or rights-of-way to ensure public access to and along such waters. Regulations implementing this section have not been issued. Current applications of easement reservations for entitlement lands conveyed to municipalities have been too broad resulting in many unnecessary and burdensome easements in land titles. Statutes need further clarification on what "public waters" are and perhaps special provisions for municipal lands when it can be demonstrated that reasonable public access will be ensured. (The statute does provide for vacating of easements on municipal application "if consistent with the public interest".)

Oil and gas and mineral leases should be excepted from the application of the provision. As such leases only permit limited surface uses and do not bar public access, commonly are held for years without ever going to development or production stage, and involve time-consuming administrative work to identify public waters and easements, it is recommended that such easements and rights-of-way not be identified until a development or production plan is submitted for approval.

In addition to easements and rights-of-way, fee simple state land should be reserved in cases (see .04.055).

.05.140-.181 Authorizes leasing for coal, phosphates, oil shale, sodium, sulphur and other minerals on state lands. The terms for such leases vary somewhat including acreages and length of leases. These terms should be reviewed and made consistent if appropriate.

.05.150(c) authorizes a two-year coal prospecting permit with one two-year extension if diligence is demonstrated. Because of the lengthy prospecting time necessary for coal exploration, permits should be granted for longer terms (e.g. 3-5 years with one or more extensions).

.05.150 In the determination by the DNR to lease coal lands, nearby coal reserves on private lands should be taken into account.

.05.185-.275 governs the procedures for locating and administering mining claims on state land. Procedures are also contained in Title 27. Rather than a location, or claim-staking, system of establishing rights to mineral and possibly surface estates, all minerals should be leased under programs similar to those for oil and gas. Rather than the current Mining License Tax levied on net profits on a sliding scale up to 7% , a royalty system similar to oil and gas should be enacted (10-12% of gross profits). Such a system would discourage marginally economic operations , protect other resource values , and generate a fairer return on state-owned resources. (The current tax took in $158,000 in 1982--90% of the money from coal, sand and gravel and other non-locatable mineral production.)

.05.185 authorizes the leasing of minerals when DNR finds that potential use conflicts on state land would exist or that the land was mineral in character at the time of state selection. Such lease determininations must be consistent with the land classification procedures. Regulations for implementing a location leasehold system for conflict or mineralized state land areas are currently proposed. Lands available only for location leasehold mineral acquisition should be expanded to include most, if not all, state lands. This could be accomplished either through a broad administrative determination of "use conflicts" or through additional statutory language directing additional considerations in the classification of leasehold lands.

.05.190(a)(1) grants exploratory and mining rights to those at least 19 years of age. The current age of majority for most activities in Alaska is 18 years old, and this statute should be correspondingly changed.

.05.195 requires that mining claims be staked in the four cardinal directions (north, south, east, west). Amend provision to not apply to fractional claims or when the commissioner determines that such staking is impractical.

.05.200 or .210 Amend the requirements for amending claim locations or filing annual assessment work to allow affidavits of annual labor to be corrected by amendment thus providing a legal mechanism for correcting errors.

.05.205 directs the DNR to publish a notice of a mineral lease no later than two weeks before sending lease application. This publishing requirement should be deleted so that mining leases are treated like other noncompetitive mineral leases whereby the notice is published only when the finding mandated by 38.05.035(a)(14) is ready and no subsequent notice is required. See also .05. 345(e).

.05.240 provides for basic mineral survey finds for annual labor to be filed and kept confidential by DNR. Delete the provision as it can result in the "leaking" of proprietary information, the information is often of mixed quality, the date submitted serves no particular public benefit, and the requirement poses an administrative burden for claimants and DNR.

.05.0245(a) requires the filing of a certificate of mining location in both the recording district and also the DNR. Delete the requirement to file the certificate of location with the DNR as the District Recorders' Office is currently within the DNR.

.05.245(c) limits the number of prospecting sites that a person may locate in one calendar year in one recording district to six. It also prohibits the relocating of an expired prospecting site within two years. Change the number of prospecting site locations from six sites "located" in one year in one district to eight sites "held" at any one time in each township. This increase in the number of sites permitted will encourage the use of prospecting sites where a discovery has not been made yet and address a current loophole whereby employees of large companies locate sites and quitclaim deed them to company. Also change the waiting period for restaking sites from two years to one.

.05.250(a) provides for the issuance of prospecting permits for tide and submerged lands. Amend to clarify that the rental year for an offshore prospecting permit ends on the anniversary date of the permit, not at the end of the calendar year. This change would allow the rental year for permits and offshore leases to be computed in the same way.

.05.250(b) Provides for the obtaining of a noncompetitive lease to holders of prospecting permits. Amend to delete the first sentence of the provision which states that the "right to possess and extract the mineral may be acquired by noncompetitive lease." This sentence is redundant of the next sentence in the provision and may mislead people to believe that they can get a noncompetitive lease without first obtaining a prospecting permit.

.05.265 prescribes the basis for "abandonment" of a mining claim, location, or permit. Amend to define the "essential facts" that must be included in annual labor affidavits. Amend so the former owner of an abandoned mining location cannot acquire any direct or indirect beneficial interest in the location site during the one-year waiting period. Change the waiting period for prospecting site locations from two to one year consistent with .05.245(c). Amend to provide that abandonment of a mining lease or location constitutes abandonment of the interest in tailings mined and left on state land, unless the lessee or locator has purchased the materials in the tailings and has received authorization to store tailings on state land.

.05.275 Amend to eliminate the requirement of filing a certificate of location with the DNR as in 38.05.245(a). The district recorders office is in DNR.

.05.300 provides for the classification of state lands and bars the closure of state lands, except by the state legislature, to multiple purpose use if the area involved contains more than 640 acres. This prohibition should be strengthened to prohibit the DNR to administratively close more than 640 total acres by multiple 640-acre closures. See also .04.065. The authority to close lands to mineral entry should be broadened to enable the closure of lands conveyed to municipalities under the entitlement grants.

.05.301 requires an assessment of impacts of any land sale, lease or disposal on population and traditional land uses in the unorganized borough and necessary mitigation plans. Citizen review boards or perhaps the Coastal Resource Service Area Boards should be utilized in the review of all proposed land disposals in rural areas (or any areas). In addition to required input the Boards might be given veto authority over proposed land sales or disposals. See also .04.020.

NO MORE THAN BOROUGH ASSEMBLIES!

.05.310 requires an appraisal within 120 days of the sale or lease of state lands. Because of the delays often encountered in leasing and selling lands, costly reappraisals are often required by law. The 120-day limitation should be extended to one year.

.05.345 establishes the notice requirements for classification, sale, lease and disposal of state lands. (b) requires at least one of several different kinds of notice be given (e.g. newspaper publication, electronic media, posting, notification of affected parties). More than one such method of notification should be required.

(e) provides an exception for mineral leases issued under 38.05.205. This should be deleted to conform with change recommended for .05.205.

Amend to include provision for public hearing upon request subsequent to notification. See also .04.020 and .04.065.

.05.350 is a policy statement for the state to encourage settlement and develop resources consistent with public interest. This policy is incorporated in the policies contained in .04.005-.015 , is statutorially out of place and should be repealed.

.05.362 mandates the classification of at least 650,000 acres of agricultural land or no less than 50% of the lands having Class II or III soils by September 22, 1979. This requirement was met and the provision should be repealed.

.05.365 is the definitions section for chapter .05. Number 23, "public waters" should be reviewed for clarity particularly as it applies to the reservation of easements and rights-of-way for municipal grant lands under .05.127.

.07.030 provides for the clearing of ag lands owned or leased by private parties. A revolving loan fund should be established for clearing projects wherein monies could be continuously available to clear both state and privately owned or leased ag lands.

.08 Establishes the homesite disposal program under which title is obtained through "sweat equity" requirements of residency, dwelling construction and survey. One suggestion is to eliminate the permit system during the proving up period, provide an assumable and assignable contract at fair market value and a schedule of rebates or discounts based on improvements or actions taken on the land. This "carrot" approach would result in better ability to finance improvements and reduce administrative compliance actions.

Another recommendation is to make the requirements conform to the "sweat equity" features of the recently-passed homestead bill--residency from 35 months in 7 years to 25 months in 5 years; dwelling construction from five to three years.

If all requirements except the ones for residency have been met at the end of the permit term, amend the statute to permit the purchase of the parcel at fair market value. This would provide an expedient and equitable way of dealing with forfeiture of parcels with property improvements on them.

See also .04.020(g)(2).

.09.010(b) requires that lands available for homestead entry may not be located more than one mile from a survey control monument. .04.045(b) prohibits the disposal of state land further than two miles from a monument. This provision should either be eliminated in .09.010 or be made subject to an administrative determination that staking could be permitted up to two miles of a monument when geographic conditions warrant and excessive survey costs to stakers will not be incurred. This change would permit a full conversion of lands identified for remote parcel disposal (where monuments are generally located every four miles) to homestead disposal. (The remote parcel program is repealed effective July 1, 1984). This would eliminate the need for additional costly surveying in these areas.

.09.010(e) prescribes the procedures for staking of homestead entries. Staking procedures in remote areas should include a requirement that sufficient spacing between parcels occur to minimize the demand for future services and reduce conflicts with other resources and occupants. See .04.010.

.09.020 prescribes the obtaining of entry permits under which "prove-up" activities are to occur. Eliminate the permit system, provide an assumable and assignable contract at fair market value and a schedule of rebates or discounts based on the value of improvements or actions taken on the land. This approach would result in easier financing for improvements and less administrative compliance expense. See. also .08, homesite program.

.09.050(d) and (e) Prohibits the subdivision of lands obtained through sweat equity for five years and through purchase for ten years and the sale or lease of lands for five years regardless of method of acquisition. These prohibitions should be extended for longer time periods to prevent speculation and to ensure that the goals of the program are being met.

.09.080(b) subjects homestead disposals to local platting, recording and subdivision requirements under 29.33 and 40.15. 29.33 exempts state compliance from having to provide any capital improvements on land disposals. Disposals should be made subject to all local platting and subdivision ordinances, or be forced to negotiate with municipalities on the provision of access and other improvements. See also .104.020(e) and .04.045(b) and 29.33.

.09.090 authorizes the purchase of a homestead entry within two years subject only to the brushing and survey requirements. Purchase at fair market value should also be permitted at the end of the permit term if all but the residency requirements have been met. See .08.

.35.050(a) governs the application process for the construction of an oil and gas pipeline and/or transporation system across state lands. A minimum application fee (perhaps $1000) should be provided in statute to cover the administrative costs of processing a right-of-way application.

.35.140(b) provides that the lessee of a pipeline right-of-way shall reimburse the state for costs in monitoring the construction of the pipeline. Amend to provide for reimbursement for processing application, and for monitoring operation and maintenance of the pipeline.

.50.020(a) provides for the exchange of state land for other lands to be based on equal appraised values, or if not, to be submitted to the legislature for review and possible veto. One recommendation was to require that all proposed exchanges involving state lands be submitted for legislative review. Other recommendations were that the equal-appraised-value requirement is too strict and burdensome and discourages trades, especially small-tract exchanges even when public benefits are clear. The statute should be amended to permit the exchange of land smaller than a certain size (perhaps 640 acres or smaller) administratively regardless of equal appraised values.

.50.020(b) assumes an appraisal to be valid for six months and after such time a new appraisal for a proposed land exchange is required. Amend the statute to lengthen the "validity" of an appraisal to one year to permit the execution of trades which involve considerable administrative work and public review without incurring the costs of additional appraisal

.50.110-.130 dictates substantial requirements for the notice and data needed for a proposed land exchange. Amend the statute to streamline the notice and information requirements for land tracts under a certain size (perhaps 640 acres) to facilitate beneficial exchanges without large administrative costs. Make the notice requirements conform to those for land sales and leases in 38.05.345.

.50.120 requires that at least one public hearing be held on a proposed land exchang Amend to include a minimum tract size before a public hearing is required to minimize administrative costs for small exchanges.

.95.080 mandates the granting of a trapping cabin permit to qualified applicants. Amend language to grant DNR discretion to not issue a permit in consideration of existing land uses and resource values in the specific location.

Amend to apply the provisions to cabins and camps used for hunting, fishing or other guiding activities.

ADDENDUM

.20 This chapter describes the Alaska Coordinate System to be used in land surveying and descriptions. Changes in the federal datum used as a base for this system should be reflected in the state statutes.

.05.275 provides for mineral locations on submerged and tidelands. Amend to limit the staking system of locations to state uplands and to tidelands (between mean high and mean low tides) if part of the claim is on uplands. Staking on submerged lands (below mean low tide) would be disallowed and submerged lands would be available to mineral exploration and production by the state's offshore mineral leasing system.

TITLE 38--GENERAL COMMENTS

---Section 907 of the Alaska National Interest Lands Conservation Act (ANILCA) establishes a land bank program under which Native and other private lands can receive tax and other protections in exchange for non-alienation and non-development of the private lands and management in conformity with adjacent federal and state lands. The State is authorized to participate in the program if it adopts laws of general applicability to section 907. To promote cooperative land management among major landowners in the state, it was recommended to adopt enabling provisions for a land bank program.

---DNR regulations currently limit participation by most Division of Land and Water Management employees in land staking and over-the-counter programs. Such possible conflict-of-interest situations in land disposals should be identified and restricted by statute.

---Presently only the homestead program and the project ag leasing program have restrictions on the sale or subdivision of land after the conveyance of title. To further prevent speculation on state land several provisions were recommended: Increase anti-sale, anti-subdivide restrictions on homesteads and apply similar restrictions to all state land disposals; Strictly retain fair market value sales and/or require substantial residency and improvements of land; Broaden the coverage of the one homesite or homestead per lifetime proviso to all state land disposals.

---SB 41 which settled the University of Alaska/State land lawsuit by awarding the University exclusive ownership and management over certain state lands passed the Legislature last session. The removal of University lands from "public lands" necessitates that the references and treatment of University lands be changed in the statutes throughout Title 38.

COMMENTS ON RELATED SUBJECTS IN OTHER TITLES

Title 29--Municipal Code

29.18.201-.208 Under the municipal land grant entitlements the Municipality of Anchorage received 44,893 acres of state land, but to date has only received patent or tentatively approved title to 21,000 acres with virtually no additional state land for selection available. The statute contains a formula based on population and lands conveyed to compensate in cash municipalities who are unable to fulfill their entitlement. Under this formula Anchorage would be entitled to $35 million except that another provision limits the total any municipality can receive to $9 million. Anchorage has received $4 million to date of this compensation. Recommendations included: 1) payment of the balance of the $9 million; 2) removal of the cap and payment of the otherwise entitlement compensation under the formula; 3) Development of an alternative manner of conveying in-lieu lands to Anchorage from outside the municipal limits or proceeds from the sale or use of such lands.

Muncipal lands conveyed under this section have often remained open to mineral entry and created third-party interests prior to being studied, classified and utilized by the municipalities. Such lands should be closed upon conveyance to municipalities. See 38.05.300.

Conveyance of municipal grant lands has sometimes proceeded slowly and

patent to all municipal lands has not yet been conveyed due to the necessity to survey the lands prior to patent. If the municipality approves the conveyance of lands without a survey or with only partial survey, it should be permitted. Also, the municipalities have had to pay for surveys to expedite conveyance and more state assistance is required. See also 38.04.045(b)

29.33.150 requires the state to submit land disposal plats to local governments having appropriate authorities for approval, but "the platting board may not disapprove the subdivision plat on the basis of regulations which require capital improvements (e.g. roads) on or to state land included in the subdivision plat. Regulations adopted after the platting board is notified by the commissioner of natural resources of a proposed sale of subdivided state land under 38.05.005-38.05.370 or 38.08.010-.120 do not apply to the state land in the proposed sale." Repeal the exception for capital improvement requirements to enable local governments to minimize the future demand for access and services to state subdivisions and to ensure future residents satisfactory access and services. Removal of the exception would also put the state on the same footing with private land developers and ensure local control on community growth and lifestyle.

In an effort to reduce costs to the state of such a change in the statute and to ensure that disposals are not blocked by overly burdensome ordinances, capital improvement requirements could be limited to disposals on or near existing highways and roads; could be limited to some accepted standards, such as primitive road or local road, etc.; or funding could be through revolving fund incoporating receipts from land sales and possibly tied into the municipal grant program for local disposals. See 38.04.020(e), 38.04.021, 38.04.045(b), 38.04.050.

TITLE 27--MINING

---Title 27 also deals with many of the same mining procedures and rights (picked up from federal law) as are contained in Title 38. These apply to mining rights on fed la

---The reclamation statute dealing with coal mining formerly contained in Title 41 is now contained in Title 27. The reclamation requirements pertaining to coal should be applied in law to all mining operations.

---27.05.020 prohibits certain conflicts-of-interest. Recent interpretive problems point out the need for revision to clarify meaning and intent.

---27.05.080-.090 require four public assay offices with assayists in each office statewide. DGGS actually only maintains one assay lab on the UAF campus. The statute should be changed to reflect the realities of the situation. It might be preferable to enact an assay system based on private assaying with rebates to miners for private assaying.

---27.05.180-.210 authorizes the purchase of specific mineral prospecting equipment to be loaned out to private persons for exploration work. DNR no longer, if ever, conducted such an equipment lending program. The 1955 statute should be repealed.

---27.10 embraces the 1872 mining law as it governs mining on federal lands. Changes made in the 1976 Federal Land Policy and Management Act (FLPMA) are not incorporated in these statutes and should be.

---27.15.010 is the only provision in Title 27 dealing specifically with mining on state-owned lands. It requires "grubstaking" contracts be in writing. Should be repea

ADMINISTRATIVE AND BUDGETARY CONSIDERATIONS AND RECOMMENDATIONS

1) Concern was expressed over the amount of land which is currently being disposed. While most recommended that less land be disposed of, some felt more land should be sold or made available for private use. There is currently no statutory level of acreage disposal and annual offerings have ranged from almost nothing in 1976 to 100,000 acres in 1980 to approximately 60,000 acres for 1983.

2) Concern was expressed that land should be made available throughout the state, not just primarily in the Mat-Su Borough or the Tanana Basin. Also it was recommended that high-quality, accessible land be offered to a great extent.

3) While the need for remote recreational and residential lands was recognized, many expressed concern that spacing requirements be enforced to minimize population densities and corresponding impacts on the resources of the areas and to head off future demands for governmental services such as schools, roads and utilities.

4) It was recommended that much more planning preceed disposals. In most cases area or regional plans should be completed prior to land classifications and disposals to ensure protection of other resource values in the larger area.

5) If parcels are not sold or staked in a particular offering they should be retained in over-the-counter offerings.

6) There was considerable concern over the quality and application of market studies in the determination of the amount and locations of land to be disposed of. Althoug the statutes require a market analysis based on the demands for state land relative to the supplies of other public and private lands, such studies have been criticized as being inadequate, superficial or based on limited information. It is recommended that the DNR conduct a more accurate market study prior to disposals, especially in light of removal of the residency discount program.

7) Many felt that the state should fully comply with local platting and subdivision regulations, even if improvements such as roads were required. State subdivisions in the past were felt to create undue burdens on local governments and hardships on land "winners". Also, such subdivisions were blamed for undue competition with private land subdividers who must meet local ordinances.

8) It was felt that the state needs a well-planned, long-range program with consistent land disposal programs. Program changes and frequent amendments by the Legislature contribute to public confusion, false short-term demand, and high administrative costs.

9) Some felt that the DNR classifies too much land as available only to mineral lease-hold location system while others felt most, if not all, land should be so classifie Current law permits classification for leaseholds when resource conflicts are presen or the land was mineral in character at the time of state selection (38.05.185).

10) It was recommended that DNR consider supplies of timber, coal and sand and gravel on nearby private lands prior to sale of these materials and resources on state lands so as to not directly compete with private developments.

11) It was recommended that the remote cabin program authorized in 38.05.079 be utilized to a greater extent, possibly subject to certain classified areas, in lieu of disposal programs.

12) It was felt that the DNR should charge greater fees for the processing of permits and leases to help defray administrative costs.

13) It was recommended that the current work plans for ag lands not be required but that developments could be better effected through some program of monetary incentives. Others felt that improvement requirements reduced the speculative aspects.

14) It was recommended that DNR utilize its authority in 38.05.070(c) to cancel unused grazing leases.

15) The DNR and perhaps the Legislature should develop a trespass policy and procedure for state lands emphasizing priorities for administrative action due to time and manpower constraints.

16) Lands conveyed to municipalities under the entitlement program should be closed to mineral entry.

17) Additional monies are needed for the municipal land disposal fund program to assist the local governments in disposal of entitlement lands and remove pressures for similar state land disposals.

18) Money is needed for a state computerized system for handling land records and land disposal information. A full accounting of costs and revenues from sale and lease programs needs to be undertaken and retrievable information made available.

19) A more abundant and predictable source of money for land surveys is needed if a long-range, consistent program of land disposal is to be obtained. Surveys are needed several years in advance of disposals and also serve additional land planning and use needs.

20) More money is needed for completion of area or regional plans required in Title 38. The current schedule subject to annual appropriation levels will not allow completion of plans for most of the state before the end of the decade.

21) More money is needed for on-the-ground management of state lands, particularly in the area of enforcement and compliance.

22) Title 38 should be published in a larger format booklet for the public similar to the Title 29 publication produced by the Department of Community and Regional Affairs.

rec 11-18-83 (7)

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M November 18,1983

SUBJECT: AS 38

TO: Senator Bettye Fahrenkamp
Chairman, Senate Resources Committee

FROM: Richard A. Bradley
Legislative Counsel

Your November 2 letter asked that I comment on the recommendations for changes in AS 38 developed from your hearing on that title during the interim. As I advised Pat Pourchot, I consider it inappropriate to comment on the policy changes suggested to the legislature unless I consider them legally ineffective or unconstitutional.

AS 38.04.020(e): The section requires the commissioner of natural resources to submit a budget for the costs of "construction of access roads and capital improvements required by municipal subdivision ordinance or regulation of a platting board under AS 29.33.150". AS 29.53.150(b) provides, in part, that "The platting board may not disapprove the subdivision plat on the basis of regulations which require capital improvements on or to state land included in the subdivision plat."

Pat Pourchot invited me to comment on options open to the legislature for a resolution of the difficulty caused by the exemption in AS 29.33.150(b).

The options are endless. The legislature may

(1) Repeal the exemption in AS 29.53.150(b);

(2) Solve the budgetary aspect by eliminating that aspect of AS 38.04.020(e)(4);

(3) Shift in some respect the cost of the capital improvements from the state to purchasers of the state land.

The implementation of the third suggestion, perhaps the most useful, could be done either by the state absorbing the cost of the capital improvements from the sale prices of land sold or by adding those costs on to the sale price, presumably after disclosing to the purchasing public just what the costs would be.

Other alternatives would include abandoning state sales within municipalities, on the untested assumption that either the municipal land grants are generating adequate land for sales within municipalities-- or that there may be no land within the municipality; the municipality would then be implementing the capital improvement requirements as to itself.

Sec. 38.04.020: New language is suggested to make statutory the present DNR regulatory requirement of public hearings before land disposals. I suspect that the regulation was not self-generated but rather resulted from a Alaska Supreme Court decision that noted the requirement of "prior public notice" on "disposals or leases of state lands, or interests therein" in art. VIII, sec. 10, of the Alaska Constitution. See State V. Aleut Corporations, 541 P.2d 730, 736 (Alaska 1975) and compare AS 38,05.345 and former AS 38.05.305.

I agree with the suggestion, of course.

Sec. 38.05.020: A new section requiring quotas or percentages on the disposal of state land throughout the state is suggested. The ideal is desirable but you may recall the difficulties with the development of such a formula during the hearings on the homestead bill before the House Finance Committee.

AS 38.04.040: University land. I do not wish to quibble excessively with the suggestion that "references to University lands should be repealed" but I note that what SB 41 did was simply determine that "university land" was not included within the definition of "state land". The legislature retains the power to instruct the Board of Regents on the management of university land.

AS 38.04.055: This section deals with the reservation of public use easements and rights-of-way. One problem encountered concerns the identification of these ROWs in remote areas, with apparently some locals employing a reverse twist and putting "no trespassing" signs on public land near theirs. I suggest that DNR consider undertaking a marking of these ROWs on disposal to avoid future problems. I acknowledge that what is involved in "marking" has lots of options.

Sec. 38.05.035(a): The section requires a "best interests of the state" determination. I suggest that this determination finds its basis in art. VIII, sec. 10 of the Alaska Constitution; the latter section requires "prior public notice and other safeguards of the public interest as may be prescribed by law." While the Constitution leaves to the legislature the determination as to what the "other safeguards" might be, the mandate is found there.

AS 38.05.069: The section is somewhat garbled, confusing the statutory option of a holder of agriculture land to remove restrictions with the entirely separate concern of people using agricultural land to obtain additional agricultural land that is adjacent or approximately located. I expect such a reconciliation to appear in a bill introduced next session. In considering sec. 69, consider also AS 38.05.321(a).

AS 38.05.070(b): In raising the threshold for leases without negotiation, consider the problem of art. VIII, sec. 10, alluded to above. I do not suggest that $5,000 leases are not above the de minimis threshold but the question is close.

AS 38.50.120: The concern is for public hearings on a proposed land exchange. Again because of art. VIII, sec. 10 of the Constitution, I suggest that the notice aspects be dealt with by a published notice if the requirement of a public hearing is repealed.

If I may be of further assistance, please advise.

RAB:ojb
J1/035

(6)

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M

November 7, 1983

SUBJECT: Title 38

TO: Senator Bettye Fahrenkamp
Chairman, Senate Resources

FROM: David R. Dierdorff
Revisor of Statutes

Thank you for giving me the opportunity to comment on the recommendations for change in AS 38 received by your committee during the interim. Most of the recommendations involve policy or substantive changes and it would be inappropriate for me to comment on those. I do, however, have a few comments of a technical nature.

AS 38.04.020(g)(2). If you choose to bring this provision up to date to reflect the unconstitutional residency requirements, be sure to concentrate your efforts on the statutes that create the unconstitutional requirements and make sure that any changes in this section are accompanied by and consistent with changes in the operative sections relating to particular disposal methods.

AS 38.04.020 and 38.04.065. If you decide to include public hearing requirements, it might be best to do so in a section generally applicable to specific activities of the department, rather than to add individualized requirements in the sections relating to the activity that you desire to subject to the public hearing process. Also, it would be better to describe the activities than to refer to them as activities under a particular section or sections of the Alaska Statutes. In other words, decide which activities should include a public hearing before final decision and list those activities. The danger of referring to specific statutes is that the referenced statutes may change, and the danger of trying to find each section and adding a requirement is that you may miss a section.

AS 38.04.025. I recommend that you integrate the requirements of this section into AS 38.04.020(f) and repeal this section. Under the new style of the statutes, the repeal line will carry a cross-reference to the location of the current similar provisions.

AS 38.04.040. The other sections in the title that need to be amended to reflect the change in status of university lands are AS 38.05.030, 38.05.365 and AS 38.50.040.

AS 38.04.045(a). It appears that the simplest answer to the problem here is to add the considerations set forth in this section to the items listed in AS 38.04.020(h) allowing the commissioner, upon an appropriate finding, to increase the lot size above the statutory maximum.

AS 38.04.045(b) and 38.04.910. I am somewhat troubled by the use of the term "cadastral survey" in the statutes, as that term has a dictionary meaning that is quite different specific than the meaning it has been given here. Perhaps the best way around this problem is to talk in terms of a minimum acceptable survey for the purpose intended. In other words, in an activity where section corner locations are adequate, require that; in an activity requiring a metes and bounds survey, require that; and in the situations where something between the two extremes is adequate, require that. In any event, be very careful about the use of definitions that give a term a meaning that is very different than its ordinary meaning.

AS 38.05.077 and 38.05.078. If you decide to reenact the remote parcel program as recommended, do so by temporary law rather than by reenactment of the sections repealed.

With respect to the "administrative" suggestion that AS 38 be published in a booklet for the public, I would urge the consideration of including relevant regulations in the same booklet. Giving the public only the statutory provisions is giving them only some of the law relating to public lands.

In my work on the title, I discovered something that you may want to add to your list of necessary changes. In AS 38.04.030, the term "this section" is used. It occurs to me that this should be changed to"this chapter" or perhaps to"AS 38.04.020" rather than "this section." The present wording is that of the 1978 Act, but that doesn't necessarily make it right!

I applaud your committee's efforts to improve AS 38 and would be happy to add appropriate sections to the revisor's bill to assist you in your efforts. Those would include the repeal or amendment of obsolete provisions where the repeal or amendment does not create or change policy in any manner. It might expedite your work to do so, as the revisor's bill is in House Judiciary and we have been asked to provide an updated committee substitute for action early in the second session. While I want to minimize changes in order to maximize the chances for Senate concurrence in any amendments, as long as the changes made in the House reflect the wishes of your committee that should not be a major problem.

Please let me know if I can be of further assistance.

DRD:ojb
J1/017

(16)

LIVENGOOD/TOLOVANA MINING DISTRICT

P. O. BOX 73069 - FAIRBANKS, ALASKA 99705

November 17, 1983

Senate Resources Committee
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Bettye and Committee:

We have reviewed your document dated October 31 that requested comments and suggested changes to Title 38.

First of all, I would like to point out that many parts of this document do not pertain to the Mining Industry, and as such, we do not feel we can comment on them at this time.

Our main concern falls on any section where it leans toward or suggests that all mineral locations be turned into a leasing arrangement. At this time we should have leasing only where the surface has been reconveyed. We believe the "location system" is vital to the free-enterprise way of life. It is conceivable that the locatable mineral industry, under a leasing system, could evolve into seven large companies or consortiums as did the petroleum industry, with virtually no opportunity for new blood in the business.

One of the most important things that you could do is to insert a definition of the term "disposal", and how it pertains to the mining industry, into the new document. Hopefully, mining claims do not fall within the perimeters of "disposal", but if they do, or if there is a chance they might at a later date, it would throw a whole different light on Title 38.

In response to the questions that do pertain to mining, I would like to suggest that all except the most mondane housekeeping matters be delayed until we have our new Division of Mines and Minerals functioning; until we have a new Director and he has had time to give these changes his consideration; and until more information is available regarding the definition of "disposal". We fear that jumping into this in too hasty a manner could have far reaching and detrimental effects on the future well-being of the State of Alaska.

The Livengood/Tolovana Mining District would like to be included on your list of miners to be polled when items of such importance come up.

Thank you

Rose Rybachek

Rose Rybachek, President

(15)

L AND S OUTFITTERS

ALASKAN BIG GAME OUTFITTING
AND GUIDE SERVICE

NOV 2 2 1983

P.O. Box 1616
Fairbanks, Alaska 99707

November 18, 1983

Senator Bettye Fahrenkamp
Alaska State Senate
Juneau, Alaska 99811

Dear Senator Fahrenkamp,

I'm writing in response to your letter of November 2nd soliciting comments about the proposed land management and disposal statutes. I would like to specifically address .95.080 as president of the Alaska Professional Hunters Association (I do not have any association stationary with me at this time).

Comments concerning .95.080 -

Perhaps the biggest problem facing Alaska's wildlife resources today that has anything to do with the guiding industry is illegal and unlicensed guide activities. I refer to the unregulated commercial guiding activities which annually account for MORE animals being taken each year illegally than the legal harvest associated with legal and ethical guiding activities, under the guise of 'transporting' or 'outfitting' without benefit of a registered guide license nor any responsibility to adhering to the laws and regulations governing guiding in the State of Alaska.

Our association, and the industry, urges your committee to take the above situation into consideration when considering issuing cabin permits. We would support any protective measures you may be able to build into such legislation which would require proof of the permitee holding a valid registered or master guide license BEFORE any such permit were granted to erect or maintain a cabin to be used for the purpose of 'hunting,' and that reissuance of such a permit be dependent upon one's keeping his registered or master guide license current.

If something on this order cannot be accomplished, any permit system allowing non-licensed guides or persons acting as guides will greatly compound an already serious situation for in many cases the major deterent for a non-resident hunting client to not book a hunt with one of these illegal guides is that individual's lack of facilities and credentials. They currently advertise as 'licensed transporters and outfitters,' and if they can also advertise as having a camp or 'lodge' permit (which is exactely what the cabin permit will be called in advertising and presentations to potential clients) granted by the State of Alaska many potential clients will assume that the associated guiding activity is also sanctioned by the state.

Thank you very much for your consideration.

Sincerely,

Lynn M. Castle, President
Alaska Prof. Hunters Assoc.

cc: all APHA members
Guide Board

(3)

Bristol Bay Native Corporation
445 E. 5TH AVENUE / P.O. BOX 100220 / ANCHORAGE, ALASKA 99510 / (907) 278-3602

November 2, 1983

NOV 8 1983

Honorable Bettye Fahrenkamp
Alaska State Senate
Chairman,
Senate Resources Committee
Pouch V
State Capitol
Juneau, Alaska 99811

Re: Amendment of Title 38 of Alaska Statutes

Dear Senator Fahrenkamp:

Last month, Bristol Bay Native Corporation sent you written comments regarding your Committee's review of Title 38 and the State's land management and disposal practices. (See enclosed letter.) At this time, I would like to bring to your attention an additional matter which relates to your Committee's Title 38 review.

The State Commissioner of Natural Resources, Esther Wunnicke, recently announced that the State is formulating a new State land disposal policy: (1) in future land disposals the State will comply with local subdivision regulations and land use plans; and (2) future State subdivisions, except recreational subdivisions, will not be located in areas which lack existing road access and other property services. (See, Anchorage Daily News 10/5/83.) This proposed new policy raises serious questions regarding future land disposals in the Unorganized Borough. These new restrictions on State land disposals in boroughs may significantly increase pressure for inappropriate State land disposals in the Unorganized Borough -- land disposals of a type which would not be allowed in organized boroughs under the State's new policy.

Boroughs objected that local governments and local citizens should not be forced to bear the costs (roads, services, etc.) associated with inappropriate State land disposals. This argument applies with equal force to the Unorganized Borough: the impact of inappropriate State subdivisions will eventually fall on local citizens, whether

borough government is formed before or after such inappropriate State land disposals. Accordingly, Title 38 should be amended to include new minimum standards for land disposals in the Unorganized Borough which are equivalent to the standards that will apply to State land disposals in boroughs.

Sincerely,

Donald F. Nielsen

Donald F. Nielsen
Vice President

Enclosures

Joe Della
Stwentna, AK
99607

(9)

Nov. 11, 1983

Bettye Fahrenkamp,

I am no longer an officer in the Stw. Area Inc. but have turned your letter over to the new officers. Unfortunately because of the late freeze-up the corporation has been unable to get the representatives from the outlying areas of Stwentna together for a meeting.

Your letter was recieved on Nov. 10th and our next mail day is Nov. 17th, I'm not sure if they can make it and I can't answer for the corp.

As an individual I strongly oppose any more land disposals as this area has frankly been saturated to the point of severely affecting our life styles. On page 6 in Letters, Notes and Comments in Alaska Magazine for November 1983 there is a letter from Darrell Lee that well expresses the feelings of most older settlers outside of the big urban centers of the State.

. In my own area local residents can hardly find a place to fish because of the high concentration of fishing lodges on every stream. It's hard to find a lake of any size that's not all private land. State subsidized speculation is driving taxes up so high, many of us that came into this wilderness area and hacked out homes and raised a family are finding them hard to handle on our incomes.

Many residents no longer attend meetings because the state has just rolled right on over us regardless of what we have said. Way too little room has been left for wildlife and the values it offers Anch. residents. Some of the homestead areas that are supposedly to be opened south of Skwentna are the best moose range in the valley.

For my own part I didn't come to this country to make a pile of $ then move to Oregon, I came to make a home for life. "A Northern suburb" was not in my idea of a quality of ~~life~~ life.

Thank you for sending the information to us and we do understand your position and appreciate your help.

Respectfully,
Joe Delia

NOV 21

(10)

Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-3246

DEPARTMENT OF LAND MANAGEMENT

November 16, 1983

Alaska State Senator,
Bettye Fahrenkamp
State Capital
Pouch V
Juneau, Alaska 99811

Subject: Review of comments for round two concerning Title 38

Dear Bettye,

Thank you for the opportunity to continue to input our comments into your study of proposed changes to Title 38. We will address each item as listed in your letter to us dated, November 2, 1983.

ALASKA STATUTES TITLE 38 RECOMMENDED CHANGES

Chapter 04--Policy for Use and Classification of State Land Surface

38.04.005 The Borough supports more specific goals and policies which take into account the total range of resource values and uses concerning State lands.

.04.010 The Borough supports full compliance with the goal concerning year-round residential use, and recreational use in varying locations and the strengthening of statutes to include such language.

.04.020(e)The Borough feels that the State should not be exempt from having to provide capital improvements, such as roads, as a part of its compliance with local platting requirements in disposal of State lands.

.04.020(e)(4) The "loophole" should be deleted and estimates annually required.

.04.020(f)Accurate market demand should always be a necessity required by State Statutes prior to disposals. Its typical in the Mat-Su Borough that land is pretty much always in demand from any disposal source. This may result in continued more disposals at the State levels.

.04.020(g)(2) We agree that arbitrary percentages for disposal programs whether it be homesites or any other purpose should be repealed. Disposal methods should be able to take into account the economics and supply and demands of the time. The demand analysed should include the demand on services and the ability of the local municipality to supply those services.

.04.020(h) Should be allowed to exceed five acres; specifically in disposals which may be considered somewhat remote to remote the parcels should be larger than five acres in many cases; perhaps even ranging to the forty acre size.

.04.020 Subdivision disposals in remote areas should be precluded, unless road access or lake access is provided.

.04.020 While its beneficial to have public hearings in many disposal programs many times they are attended mainly by those who are against future disposals in there area. This is no surprise to anyone, but such local input which would prevent others from receiving benefits the same as those that are now living or owning property in those areas should be tempered with State wide demands and desires.

.04.020 The disposal of State land should definitely be done in an equitable basis throughout the State without being concentrated within one area.

.04.021 The appropriation of funds for disposal programs through the Municipal Entitlement Program should be continued and substantially increased. Additionally, the provisions concerning what the money may be spent for should be expanded and clarified substantially.

In many cases good and proper planning, prior to disposal, should be considered as proper expenditure of Municipal Entitlement Grant Funds.

.04.025 Any redundant statutes should be repealed.

.04.035(4) Any lease system should be a short term lease only. The leases for recreational uses are probably a good idea. The problem with the poorly thought out system here lends itself to an administration nightmare.

.04.040 No comment.

.04.045(a) This section should be made more consistent with the overall results of these studies and other statutes.

.04.045(b) Surveying and platting should definitely be required prior to land disposals, at least to the extent local municipalities are required to meet their own platting regulations. The Mat-Su Borough prefers survey monumentation every section and quarter section in the definition of cadastral survey.

.04.050 The Mat-Su Borough strongly favors the provision for the reservation of easements and rights-of-way when lands are surveyed for disposal for access to each parcel of land. In instances where section line easements do not allow feasible access, other feasible access should be provided to and within the subdivisions. These requirements should meet local ordinances.

.04.055 When appropriate and applicable easements insuring access to public lands and water should be reserved in fee simple; although this is a good approach it is also very expensive.

.04.065 The development of regional and area plans for providing guidance in land classification and subsequently land disposal should be encouraged. However, the plans should be kept at a level of guidance and not at a level such that future appropriate land disposal programs can not be accomplished. The major problem in doing too much planning is that it does not allow for the natural progression of required and demanded settlement by the residents of the State. Many times our plan today cannot forsee changes occurring in five to six years down the road.

.04.070 A word of caution; the concept of classification lands is good and proper but trying to define statutorily all conditions and needs for retaining public lands and uses at this time can also cripple future efforts at land disposal.

.04.910 Review of definitions for official cadastral survey and official control survey should be reviewed at this time.

CHAPTER 05--ALASKA LAND ACT

.05.030(c) DNR should be notified by other State agencies of land acquistions, leases or exchanges.

.05.035(a) The best interest concept if relative to highest and best use of the lands, deserves continued support.

.05.035(b) & (b)(5) No comment

.05.045 You will probably find continued disagreement here. On the one hand many people believe the timber only should be sold and the lands retained in State ownership. This approach has substantial merits in that an area which may be designated as forestry lands for timber management and forest management can be retained in State ownership, thus, providing an ongoing continued revenue to the State and controlled management of the States' natural resources. If timber lands and grazing lands are to be sold to private developers such sales should follow the same concept as previous Agricultural Rights Only Sales and developmental rights be specifically defined in such disposal.

.05.050 Leave this section as it is.
Retain the reference to .04.020(g) and the change to "community" in the statute seems appropriate.

.05.057 If the State is going to pursue a policy of obtaining market value for the lands and market value is considered equitable with assessed value then the consultation with local assessors in the determination of purchase prices is appropriate. However, if these two values are not to be related and appraisals are to be required to ascertain price levels of State disposed lands then the necessity to consult with local assessors is questionable.

.05.058 The Mat-Su Borough has no comment concerning a discount schedule for prices for State land disposals. However, it appears that if the State and the Borough are going to subsidize sales of lands to agricultural interests, the question arises as to whether or not we have the same responsibility to the other publics to allow obtaining land for a different purpose under the same philosophy. It appears only equitable to do so.

.05.065(a) Again, the interest rates to be paid on land disposal contracts should reflect equability with other State supported programs such as housing, ag and fishery.

.05.065(c) Actions on land sold by the State in which contract violations have occurred should be more clearly specified and upon proper foreclosure of previous disposed lands the commissioner should be able to sell the interest to a third party.

.05.067 No comment on the repeal of special sales for veterans.

.05.069(a) and (b) The concept of preference rights in "greatest need" is full of administrative complications. The "greatest need" is extremely difficult to determine and this could create delayed sales in substantial quantity. In disposing of State lands it appears that all persons should be on an equal footing in applying for State land.

.05.070(b) The public must have an opportunity to comment on all public land sales.

.05.070(c) In the Mat-Su Borough any lease exceeding ten years on parcels which have not been subdivided and been approved through the local platting authority are illegal. The Borough would support the State following the same process. Another thought, if lands are leased for ninety nine years they have in effect been disposed of. With this type of concept it makes more sense to go ahead and sell the land. It is hard to believe that ninety nine years allows any more financing than a fifty five year lease.

.05.077-.078 The remote parcel leasing and conveyance program should be phased out over a period of years as opposed to the swiftness of the repeal effective July 1, 1984. While the homestead program is intended to supplement that remote parcel program it is questionable whether it will do an effective job as quickly as deemed possible.

.05.079 While the remote cabin lease program makes sense for recreational needs it does not necessarily make sense as a replacement for a remote cabin permit program. It appears that in reality this program allows this person to locate and construct on State owned lands and if allowed to do so for many years may feel they have an unalienable right to the purchase of the land at a substantially discounted amount. This should definitely be accounted for in some way.
Short term leases not to exceed their years is recommended.

.05.110 The assessment of timber on State lands which are to be disposed of provides a difficult situation. If the assessment of the timber is for the purpose of adding to the value of the land this must be tempered with the likelihood of the timber being saleable and a paying market. It has been found that in many cases that the timber is not saleable and therefore the land sale should not be assessed by any additional value.

.05.125 The mineral estate should be defined as to whether or not it includes gravel extraction.

.05.127 See 11 AAC 53, which contains regulations implementing the determination of public waters or navigable waters prior to disposal of State lands. The statutes should clarify public waters, etc. Easements and rights-of-way crossing oil and gas mineral leases could well be held off concerning there specific identification until development or production plans are submitted for approval.

.05.140-.181 Consistent lease terms should be stipulated for all leases of coal, minerals, etc.

.05.150(c) Prospecting permits should not be extended for more than two years and no more than one extention should be allowed.

.05.150 In leasing coal lands, nearby coal reserves on private lands should be considered.

.05.185-.275 Changing the lease terms and tax levies on mining licenses, etc., may substantially end small mining developments and favor only larger companies. In many cases a small mining company is a viable entity unless tax and lease burdens are such that they can not operate profitably.

.05.185 Lands available for location or leasehold mineral acquisition should not be expanded to include most, or all State lands arbitrarily.

.05.190 No comment.

.05.195 Do not amend the provision for staking requirements for mining claims.

.05.200 or .210 No comment.

.05.205 The notices of mineral leases no later than two weeks before sending the lease applications should be continued.

.05.240 Retain provision for basic mineral survey finds for annual labor to be filed and kept confidential by DNR.

.05.0245(a) Continue the filing of certificate of mining locations in the recording district and DNR.

.05.0245(c) No comment.

.05.250(a) No comment.

.05.250(b) No comment.

.05.265 No comment.

.05.275 Because the district recorders office may be in a different location than DNR, at some future date, the filing certificate requirements should be retained.

.05.300 The authority to close lands to mineral entry should be broadened to enable closure of lands conveyed to municipalities under the entitlement grants program.

.05.301 Do not give Resource Service Area Boards the right to veto State sales or disposals. However, impacts of land sales should be required.

.05.310 Since appraisals are as of a specific date and disposal programs are approved as of a specific date, then the sales or leases should be based on that specific date and the 120 day limit should be extended to one year.

.05.345 Notice requirements for classifications, sale, lease and disposal of State lands should continue to be through one or more kinds of notice.

(b) no comment
(e) no comment
Provisions for public hearings upon request should be required.

.05.350 No comment

.05.362 No comment

.05.365 The Borough agrees with the clarity and further definition of public waters concerning reservations of easements and rights-of-way.

.07.030 Clearing of ag lands owned or leased by private parties which are previously owned by the State should only be required if subsequent tilling, planting, fertilizing follows such clearing requirements. Otherwise, substantial waste may be made upon the land. The ag revolving loan funds should be continued to provide funds for clearing projects. Other private financing sources are vertually nonexistent for this purpose.

.08. If residency requirements are met through "sweat equity" and fee simple title is transferred because of "sweat equity" then such homesite in a disposal program should be platted in accordance with local municipal requirements. Because of the nature of the homestead and remote parcels where many people have to work for the time period in which there attempting to obtain land under this program, the construction requirements should be moderated as opposed to being more stringent. Instead of allowing the purchase of a parcel at fair market

value, if the residency requirements have not been met, it may be more appropriate to allow for an extention of residency requirements. Otherwise, you don't have a homestead program, you have a remote parcel program; the homestead program should require residency, the remote parcel program should not. Perhaps in this light, it would be more beneficial to keep both programs for varying needs and demands of the public.

.09.010(b) Do not eliminate revision for homestead land one mile from a survey control monument. At least, do not leave it open to administration determination; Make it statute one way or another.

.09.010(e) What is sufficient spacing? In many case contiguous parcels may make it more feasible for an individual to obtain land through a homestead entry.

.09.020 The concept of a fair market value assumable and signable contract with scheduled rebates for actions taken on the land is attractive in that incentive is provided to get it accomplished. A cost is existing in case of non-compliance. This approach would result in financing capabilities and is a good concept to pursue. Such contracts though, would have to describe a platted subdivided parcel in accordance with local municipal codes.

.09.050(d) and (e) While it is understood that a prohibition against subdividing of land obtained through "sweat equity" or through purchase for five or ten years may prevent improper speculation such periods do not need to be extended beyond a reasonable time. Natural time constraints and barriers will prevent undue speculation occurring in remote areas. On the other hand, if an area begins to grow in population, ill perceived regulations which do not allow for the foresight of growth patterns could substantially impair reasonable growth at a future date.

.09.080(b) The Borough strongly supports the compliance to local platting, recording and subdivision requirements.

.09.090 Some residential requirements should be met even if they have been met through a granted extension of time to meet the residency.

.35.050(a) No comment.

.35.140(b) No comment.

.50.020(a) If all proposed exchanges involving State lands must receive legislative review this could substantially increase workload and delayed time in otherwise time consuming situations anyway. Property should be exchanged on value for value basis.

.50.020(b) It is realistic that the "validity" of an appraisal can be extended to one year in cases of exchanges involving substantially large amounts of land or substantially remote parcels where changes in value may occur in only two or three years increments.

.50.110-.130 The public should be continued the opportunity to review land exchanges.

.50.120 Retain the requirement for a least one public hearing concerning a proposed land exchange.

.95.080 The provisions for cabin permits should be extended to hunting, fishing and guiding activities.

ADDENDUM

.20 Changes in federal datum used as a base for the Alaska Coordinate System should be reflected in the State statutes.

.05.275 No comment.

TITLE 38--GENERAL COMMENTS

--Land bank program may be a good concept to pursue.

--Conflicts-of-interest situations in land disposals should be identified and restricted by statute.

--If sales of State owned land by private persons are by fair market value prices there should be no concern as to whether the person buying it is speculating or not. In most cases because the location of State owned lands somewhat removed from access, speculation or undue speculation will be prevented naturally. One of the freedoms and rights of a fee simple estate buyer is the right to sell that land or transfer it and this policy attempts to conflict with the State policy of getting the lands out to the ownership of the residents of the State. If the purpose is specific use purpose then write into the contract those specific uses but anti-sale, anti-subdivide restrictions appear to be unwarranted at this time.

--SB 41 reference: University lands/ treatment of University lands need to be changed in accordance with that senate bill.

COMMENTS ON RELATED SUBJECTS IN OTHER TITLES

Title 29-- Municipal Code

29.18.201.-.208 1) The payment of the balance of the $9 million to Anchorage should be accomplished as soon as possible.

Municipal lands conveyed under this section should be closed to mineral entry. The municipalities should not have to pay for surveys to expedite conveyance of land from the state.

29.33.150 Repeal the exception for capital improvements requirements to enable local governments to minimize future demand for access and services to state subdivisions. This repeal is supported by the Matanuska-Susitna Borough.

The Mat-Su Borough supports the concept of funding through a revolving fund which is to be built from the receipts from land sales in order to pay for the costs of meeting local ordinances for platting requirements.

TITLE 27-MINING

--Repeal the 1955 Statute 27.05.080-.210
--Do not repeal the title 27.15.010 which requires even "grubstaking" contracts to be in writing.

ADMINISTRATIVE AND BUDGETARY CONSIDERATIONS AND RECOMMENDATIONS

1) There should not be any automatic statuatory level of acreage quantity disposals. Such disposals should be based upon demand assessments each year.
2) Good quality land should be made available throughout the State without primary concentration in the Mat-Su Borough and the Tanana Basin.
3) The concentration of disposals in grouped areas would facilitate more efficient application of governmental services such as schools, roads and utilities.
4) Proper planning is needed proceeding disposals. At the same time a caveat is that planning for planning sake only gets in the way of appropriate state disposals of land.
5) Over the counter offerings should be retained.
6) In all cases an accurate market study prior to disposal is recommended.
7) Compliance with the local platting and subdivision regulations is definitely supported by the Matanuska-Susitna Borough.
8) Well-planned, long-range disposal program designed by the state administration could dissipate much confusion. However, if to much of this has to go through the legislative processes, it will contribute to public confusion and, as has been in the past, continue to contribute to poor disposal programs.
9) We agree that too much land is available only to mineral leasehold location. We do not agree that most land should be so classified.
10) The supplies of timber, coal and sand and gravel sources on nearby private lands should be considered relative to State disposals.
11) The remote cabin program as opposed to disposal programs may be a good idea if it is administrated adequately.
12) Within reason greater fees should be charged to help defray administrative costs for permits and leases.
13) The Borough has a system which provides good incentive for developmenting agricultural lands. That system is a lease with an option to purchase if certain conditions are met; those conditions include placing lands into specified productivity, proper payment of annual lease payments and no tax delinquent status. The State could develop a similar system which prevents the speculative nature of land disposals and provides substantial incentive to use the lands for the agriculture purpose.

14) Unused grazing leases should be cancelled. Any unused lease should be cancelled.
15) Trepass policies and procedures are fine if you can enforce them. The State should define them properly and enforce them.
16) Land conveyed to municipalities under the entitlement program should be closed to mineral entry.
17) Additional monies should be funded to assist the local governments in disposal of entitlement lands.
18) A good computerized system for land records and land disposal information by the State would probably cause much greater efficiency of operation.
19) While more monies are definitely needed for land surveys perhaps the placement of those monies should be divided between municipalities in their entitlement grant program and the State such that the municipalities would have monies to meet their own platting and subdivision requirements for disposal and the State would have monies to complete the surveys to transfer title to the municipalities.
20) Seems like always more money will help the situation; if area regional plans are in the process of being completed monies should be funded to make sure that they are completed properly.
21) Compliance and enforcement is becoming more and more important to reasonable land disposal program. It appears that more money is needed in this area.
22) Title 38 is as easily read in the Alaska Statute as it is outside of them.

We hope these comments prove beneficial to you in your endeavor to update the redraft of Title 38 such that many goals and objectives can easily be met and be met in a timely manner.

Thank you again, for this opportunity to provide input to your resource committee. Please do not hesitate to contact us if you have any further questions regarding this.

Sincerely,

Robert J. Stickles

Robert J. Stickles
Planning Director

cc: Gary Thurlow
Borough Manager

Tom R. Pitman
Land Management Officer

(8)

Resource Development Council
for Alaska, Inc.

444 West 7th Avenue, Anchorage, Alaska 99501-3512
Box 100516, Anchorage, Alaska 99510-0516 – 907/278-9615

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Governor Bill Sheffield
Senator Ted Stevens
Mayor Stan Thompson
Congressman Don Young

November 21, 1983

Mr. Pat Pourchot
Senate Resources Committee
1024 West 6th Avenue
Room 201 F
Anchorage, Alaska 99501

Dear Pat:

Please find enclosed the Resource Development Council comments regarding changes in Title 38.

Due to time contraints we were not able to provide indepth analysis as we normally like to do. However, we appreciate the opportunity to offer the comments we have and trust they will find support in making improvements to Title 38.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL
for Alaska, Inc.

James Jinks
Deputy Director

Resource Development Council
for Alaska, Inc.

444 West 7th Avenue, Anchorage, Alaska 99501-3512
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Resource Development Council
comments on
Title 38 Changes
November, 1983

The comments and suggested changes to Title 38 represent the thoughts and desires of a mixed review group. They do not provide enough direction to determine what is going to be done to fix the problem. **RDC's earlier comments recommended removing the over-involvement of government and provide for a less regulated and administratively involved land administration.** This would fix the problem.

The present Title 38 has been patched so much that the continued application of "quick fixes" will still result in a contradiction of intent and wide range of interpretation. The legislature must insure the existing law determines how each step of the land mangement process will be addressed. What arethe goals? Is the intent to dispose of land to the private sector? What lands will be retained and for what purpose? How much planning is going to be required and to what level?

RDC's recommendation is to simplify the law and provide congruity. The only new section recommended is a uniform appeal procedure.

The federal homestead act was an effective land disposal procedure. It had interpretive problems but it workd. Additionally, the states disposal of large parcels through the competitive bid process was very successful. In 1980-81, Alaska identified state interest lands with the idea the remaining lands would be placed in the land disposal bank. We should dispose of those lands. Flood the market instead of starving it.

State land mangement problems coincide with land ownership. Legislation must clearly define the state's land management goals to prevent game playing by the administrative body.

The definitions in A.S. 38.05.365 should be applicable to all the chapters in Title 38. Title 38 should be rearranged to provide more logical sequence of the chapters. Additionally, make land classification, locatable minerals, leasable

minerals, permits, etc., separate chapters. As more resource divisions are created, there must be statutory direction for their activities.

Time constraints do not allow all the comments that the Council finds could be made on Title 38. This is a monumental task similar to the proposed revision of Title 29. It is more than a one-session project.

Alaska State Legislature

Senate

Office of the President

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

October 14, 1983

Senator Bettye Fahrenkamp
4016 Evergreen
Fairbanks, Alaska 99701

Dear Bettye:

I understand that your hearings on Title 38 have been well attended and you have received many comments. I really appreciated having Wasilla hooked into your Anchorage hearing so that people in the valley could attend without having to drive to town. I know that Judith appreciated it and she said that there were about 15 people present at the hearing.

I have a comment to make that may or may not have been made at one of these hearings, but it is one of my concerns in regard to the state land disposal programs which I wish there were a way to address.

One of my staff members just staked land in a remote parcel disposal. She will be paying the state between $600 and $1,000 an acre after it is appraised. While she was out doing her staking, she noticed a realtor's sign on a tree in the remote parcel area. (There were a number of open to entry sites from previous land disposals in the area.) There were no improvements in the area at all nor anything to show that anyone had even been out there. Just out of curiosity she called the realtor to find out what the asking price was on the land. She was told by the realtor that the owner wanted approximately $51,000 for 15 acres. That is 3 to 6 times what the state is selling land for in the area at the present time. In addition, the open to entry programs were years ago and the land was practically given away at the time.

I support the land disposal program. I feel that the state should be getting land into the hands of the people. But I do not feel that people should be making money off the state, by speculating on the land. I feel that there should be steps taken to correct this situation. There have been over 70 land disposals held in the Mat-Su Borough since the

late 1970s. Many of these lots are not yet li d on by the owners. I daresay that much of the land is held by people who are speculating on it. Now, I also recognize that people are not living in some of the areas because there are no roads which is another problem, with which the Mat-Su Borough and its legislators are contending. But that does not negate the fact that speculation at the expense of the state and its citizens is going on.

I wanted to bring this to your attention because I feel that it is an issue related to Title 38 and the land disposal programs which should be addressed.

Sincerely,

Senator Jay Kerttula
Senate President

JK/jla

cc Governor Bill Sheffield
Commissioner Esther Wunnicke

(13)

John Strasenburgh
P.O.Box 100171
Anchorage, AK 99510
November 20, 1983

Bettye Fahrenkamp, Chairman
Senate Resources Committee
Pouch V
Juneau, AK 99811

Dear Sen. Fahrenkamp and members of Senate Resources Committee:

Thank you for giving me this opportunity to respond to "COMMENTS AND SUGGESTED CHANGES--TITLE 38" dated October 31, 1983.

38.04.020(f) We need an objective, comprehensive annual demand assessment with land priced at fair market value. An accurate demand assessment cannot be obtained unless land is priced at fair market value. Prices which reflect state subsidies will result in an artificially high demand which will include such motivating factors as speculation.

38.04.020(g)(2) Concur with the statement "arbitrary percentages to be disposed as homesites should be repealed as well as disposal methods to better reflect specific market demand and poblic policy."

38.04.020.(h) Agree, provided that larger parcels (or the 5 acre size as well) cannot themselves be further subdivided.

38.04.020 Agree, subdivision disposals should not be allowed in remote areas. But subdivisions are just one cause of density problems in remote areas. Other causes include allowing too many entrants in a remote parcel area and repeated offerings of the same disposal area. DNR has done all of these: urban style subdivisions in remote areas, high density remote offerings, and superimposing one disposal on top of another. Neither statues nor DNR has adequately addressed the density issue. Past disposals have demonstrated little concern for density and the carrying capacity of the land. What must be addressed are fish and wildlife impacts, availability of firewood and house logs, availability of drinking water, sewage and waste disposal, and, of course, consideration for the entrant who is investing time, effort, money and emotion in a remote recreational experience which could be ruined the next time the State has another disposal in the area. All of these problems can be solved, in fact they are not even problems if the density is kept low. Another important issue which should be addressed is the density time bomb of allowing entrants to subdivide their land after a specified period of time. No subdividing should be allowed, ever, and this should be specified by statute. The objective of a remote disposal is for a personal recreational experience, not to make a buck.

38.04.020 Agree, public hearings should be required by statute, with plenty of advance warning and a diligent effort (which could include radio messages such as KYAK's Bush Pipeline or KHAR's Northwind) to reach the local communities as well as the urban areas.

John Strasenburgh
P.O.Box 100171
Anchorage, AK 99510
November 20, 1983

38.04.020 Should not have quotas, regional or otherwise. Quotas can lock the state in to inappropriate or bad disposals.

38.04.035(4) Generally oppose remote cabin leases (strongly oppose remote cabin permits) unless density is strictly controlled.

38.04.045(b) Land disposal should not be tied to surveys or monuments. Disposals should occur where they are appropriate.

38.04.065 Agree, assuming that the plans are comprehensive in scope and depth and that all areas have such plans. I would like to see the land disposal program suspended until this is done.

38.04.070 Agree

38.05.030(c) Agree

38.05.045 I don't understand this. Does this authorize the sale of state parks, forests, recreation areas, etc.? Obviously there are many classifications which should remain closed to disposals.

38.05.057 There should be no discount program and no development credits. Land should be sold at fair market value with no exceptions. Public lands are a valueable resource and the State should not give it away or subsidize its disposal or encourage sporadic, unplanned development which could have lasting detrimental impacts and preclude other uses of the land. Any time improvements are required or there is an incentive to "improve" the land at least two things should be kept in mind: 1. improvements may not be compatible with the appropriate use of the land, whether it be fish and wildlife or the wishes or asthetic values of fellow entrants and 2. people often start something that they don't finish, for example the "clear cut" mentality seems to prevail when cutting house logs and the result is wasted wood and scars left on the land. People do enough damage on thier own without providing an incentive for them to do more. Instead of giving money away through discounts or credits, you should use the money to provide a class in basic woodsmanship and environmental sensitivity which all prospective entrants should be required to take.

38.05.065(a) Don't subsidize loans. That is like giving money away to specific people and is not fair to those not involved in the disposal program.

Sincerely,

John Strasenburgh

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
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VIC FISCHER
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Senate

Committee on Resources

June 4, 1984

SUMMARY OF MAJOR PROVISIONS OF FINAL VERSION OF SB 375
(HCS CS SB 375 2nd Res am H)

Access

EXISTING LAW	SB 375
AS 38.04.050 requires that wherever state land is surveyed for private use, adequate rights-of-way and easements be reserved to each parcel. Further, the director is required to arrange for the development of surface access "where necessary and appropriate."	Would specify that legal and feasible access be provided within subdivisions, and that surface access must meet local ordinances for subdivisions.
AS 29.33.150 exempts the state from compliance with local subdivision ordinances which require capital improvements.	This exemption would be removed.

Costs

EXISTING LAW	SB 375
Funds for implementation of land disposal programs and for grants to municipalities are provided through annual legislative appropriation, based on a request pursuant to AS 38.04.020(e).	Proposed AS 38.04.022 establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of state land.

AS 38.05.310(a) limits the length of time an appraisal is valid to 120 days.	Extends the length of time an appraisal is valid to one year.

Land Exchanges

EXISTING LAW	SB 375
AS 38.50.020(a) provides for legislative review of exchanges for other than equal appraised fair market value.	Legislative approval would also be required for any land exchange valued at more than $5 million.
AS 38.50.120(a) gives the commissioner discretion in holding public hearings on proposed land exchanges.	At least three public hearings would be required for exchanges valued at $5 million or more.
AS 38.05.110 establishes notice procedures (in addition to those required under AS 38.05.345) for land exchanges: provide notice to legislators, municipalities and Native Corporations in the area of the proposed exchange, the Governor's Office, and all state departments.	Notice requirements for land exchanges involving less than 500 acres or appraised at less than $100,000 would be only as required under AS 38.05.345 (electronic media, newspaper, posting, personal contact).

Notice

EXISTING LAW	SB 375
Under AS 38.05.345, public notice for classification, sale, lease, or disposal of state lands must be provided by one of the following methods: newspaper, electronic media, posting, or personal contact. See also "Land Exchanges."	Notice must be given by newspaper plus one other method.

Preference Rights

EXISTING LAW	SB 375
AS 38.05.035(b)(2) allows for granting of preference rights to correct errors or ommissions of a state of federal agency.	Would limit the right to apply for a preference to 3 years from the time of error.
AS 38.05.035(b)(3) allows for granting of preference rights to correct errors or omissions of others.	Would limit the right to apply for a preference to 3 years from the time of error. Adds a new preference, to be granted to long-term landholders who have derived business income from the land.
AS 38.05.069(a) grants owners or lessees of agricultural land a first option to purchase or lease unoccupied adjacent land and establishes a procedure for determining priority if more than one applicant is eligible for the option. This option must be exercised within 60 days after the auction.	Options must be exercised at the time of the auction. A single recipient would be selected by the drawing of lots.

Program Features

EXISTING LAW	SB 375
AS 38.04.020(h) establishes subdivision parcel size at five acres unless topographical features or water and sewage considerations suggest otherwise.	Would allow for consideration of resource values and land uses in determining parcel size.

AS 38.04.020(g)(2) requires that 20% of subdivision parcels be disposed of as homesites.	The number of subdivision parcels disposed of as homesites would be left to the discretion of the commissioner.
AS 38.04.035(4) limits issuance of remote cabin permits to areas where survey and conveyance is impractical.	Permits could also be issued in areas where resource and use conflicts, or a long-range interest in public ownership, exist.
Under AS 38.08.060, the following conditions must be met before a homesite patent can be obtained: Occupancy for 35 months within seven years, erection of a dwelling within five years, payment to the state for survey and platting.	Patent could be obtained prior to expiration of the entry permit through purchase at fair market value if all but the occupancy requirements have been met. In addition, the commissioner is authorized to extend the permit term if occupancy or dwelling requirements have not been met.
Under AS 38.09, the following conditions must be met before a homestead patent can be obtained: Occupancy for 25 months within five years, survey within two years, erction of a dwelling within three years.	AS 38.09.090 would allow the purchase of a homestead parcel at fair market value prior to expiration of the ertry permit if all but the occupancy requirements have been met.
AS 38.09.030(c) allows holders of homestead entry permits to transfer rights to another individual in the event of incapacitating illness or injury.	Grants homesite permit holders the same right to transfer.
Under AS 38.45.080(a), a trapping cabin permit must be issued if the applicant meets certain conditions.	The commissioner would have discretion in issuance of trapping cabin permits.

AS 29.18.210 authorizes the state to contract with a municipality to conduct an auction of state lands, and allows the municipality to retain expenses from the proceeds of the auction.	Clarifies that capital expenses may also be retained from auction proceeds. This will allow for joint disposals, whereby the municipality would construct the roads on state land and recoup its costs through auction proceeds.

Price of Land

EXISTING LAW	SB 375
AS 38.04.035 requires that, unless otherwise provided, lands be sold at fair market value.	AS 38.05.055 would allow bidding at auctions to begin at 70% of the appraised value of the land.
No general land discounts are currently offered.	AS 38.05.940 would grant a 25% discount on land sales to veterans.

Survey

EXISTING LAW	SB 375
AS 38.04.045(b) requires that all land disposed of must be within two miles of a survey monument. AS 38.09.010(b) requires that land made available for homestead entry be within one mile of a survey monument.	Eliminates the requirement that land made available for homestead entry be within one mile of a survey monument, and allows DNR to waive the 2-mile requirement.

Leasing Procedures

EXISTING LAW	SB 375
AS 38.05.070(b) establishes the conditions of a negotiated lease at a 15 year maximum term, and with a maximum appraised value of $250/year.	Increases the value of a lease that may be negotiated to $5000/year, and the term to 10 years.

AS 38.05.070 establishes 55 years as the maximum term of a lease.	In setting the term of a lease, requires the Commissioner to consider the useful life of any approved activities.
AS 38.05.075 establishes surface leasing procedures. Leasing is made at auction to the highest qualified bidder.	AS 38.05.075(c) provides a mechanism for DNR to negotiate leases for tide and submerged lands with upland owners without competitive biddings. AS 38.05.075(e)-(h) authorizes DNR to require prequalification of bidders for surface leases. Such a procedure is currently required administratively to ensure that applicants can meet the terms of the lease.

Agriculture

EXISTING LAW	SB 375
AS 38.05.020(b)(6) authorizes DNR to require development plans of participants in agricultural development projects.	Would allow DNR to waive, postpone, or modify agricultural development requirements if certain conditions are present.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
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Senate

Committee on Resources

June 4, 1984

Final version of SB 375 (HCS CSSB 375 2nd Resources am H), An Act relating to land disposal and management

Sec. 1 Spells out a policy for managing and disposing of state land which takes into account a range of resource values and uses.

Sec. 2 Spells out the policy of soliciting the views, including the holding of local public hearings when appropriate, of the residents of communities most affected by land classifications and disposals.

Sec. 3 Passage by the 1983 legislature of SB 41, which awarded the University of Alaska ownership and management of certain state lands, has rendered this provision obsolete.

Sec. 4 Requires that in determining sufficient separation between residences in "remote" areas, the resources in the area shall be considered.

Sec. 5 Requires that a cost estimate for access roads and capital improvements within disposal areas (as may be required by municipal ordinance) be submitted annually. This deletes the "loophole" which allowed for submittal of a schedule for obtaining cost estimates.

Sec. 6 Clarifies that DNR's budget request must include an assessment of the market demand for the land proposed for disposal. No annual, statewide demand assessment would be required, as this type of analysis is difficult and has had little impact on legislative appropriations for disposal programs.

Sec. 7 Repeals the arbitrary requirement that certain percentages of subdivision land be made available through the homesite method. This will allow disposal methods to better reflect market demand and public policy.

Sec. 8 Allows flexibility in subdivision parcel size to

better reflect resources and uses in the area.

Sec. 9 Establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of state land. Funds would be used for implementation of land disposal programs and for grants to municipalities for their disposal programs.

Sec. 10 Expands the authority in issuing remote cabin permits to allow their use where potential resource and use conflicts exist, or where a long-range interest in public ownership exists. Currently, these permits may be issued only where survey and conveyance is impractical.

Sec. 11 Clarifies that all land to be conveyed must have been surveyed, either through monumentation of section corners or monumentation of control points, with no land to be conveyed if it is more than two miles from a survey monument, unless this condition is waived by the commissioner.

Sec. 12 Specifies that legal and feasible access must be provided within subdivisions, and that access meeting local ordinances for subdivisions is required of the state.

Sec. 13 Clarifies that trails with an established history of use may be reserved as easements or rights of way across private land.

Sec. 14 Allows the Department to grant a lessee the right to restrict the use of an easement in order to protect public safety or property.

Sec. 15 Allows for a waiver or modification of agricultural development requirements if certain conditions are present.

Sec. 16 Requires that other state agencies notify DNR of any land disposals. This is currently required only for acquisitions, leases, and exchanges.

Sec. 17 Clarifies that lands assigned by DNR to DOT may be transferred to DNR when they are no longer needed.

Sec. 18 Conforming amendment per University settlement agreement. (see Section 3)

Sec. 19 Limits the right to apply for a preference to three years from the date of error or state action in order to avoid long-standing claims with difficult record reconstruction.

Sec. 19 Cont. Gives DNR the authority to convey to an adjoining landowner unmanageable remnants of land. Such remnants may be unusable and expensive to maintain in state ownership.

Provides a mechanism for correcting defects in the state's title to land by authorizing DNR to quitclaim land to the federal government on a determination that the land was wrongly or erroneously conveyed to the state.

Sec. 20 Clarifies the procedure for issuing a best interest finding, and clarfies that no finding is needed for mining claims and leases, and production licenses. Grants a preference right to long-term landholders who have derived business income from the land.

Sec. 21 Amends to require that disposals be held in the community, rather than the municipality, nearest the land to be disposed of, to take into account unincorporated locations.

Sec. 22 Authorizes bidding at auctions to begin at 70% of the current appraised fair market value of the land, rather than the current 100%.

Sec. 23 and 24 Establishes a notice of breach procedure for contract violations, followed by the prerogative of the commissioner to foreclose the interest of the purchaser.

Sec. 25 Simplifies the selection procedure for agricultural land options for adjacent landowners, by requiring that options be exercised at the time of the disposal and that a single recipient be selected by drawing of lots.

Sec. 26 Removes language regarding disposal of other interests on agricultural land.

Sec. 27 Increases from $250/year to $5,000/year the value of a lease that may be negotiated, which reflects the increase in land values since this statute was enacted in 1962. Increases the maximum term of a negotiated lease from 5 years to 10 years. Requires that reasonable and traditional access to public land be maintained as a term of the lease.

Sec. 28 Specifies that the term of a lease, while not exceeding 55 years, be for the useful life of the approved activity.

Sec. 29 Amends the surface leasing procedure to require

applicants to deposit with DNR a sum equal to any survey or appraisal costs incurred by another bidder. The successful applicant's deposit would be credited against lease rental payments. Survey and appraisal are required prior to leasing. In the interest of time, lease applicants will often conduct survey and appraisal at their own expense.

Sec. 30 Provides a mechanism for DNR to negotiate leases for tide and submerged lands with upland land owners without competitive bidding.

Authorizes DNR to require prequalification of bidders for surface leases. Such a procedure is currently required administratively to ensure that applicants can meet the terms of the lease.

Sec. 31 Requires that the assessment of timber and other materials on state lands, and the recommendation for the sale of materials, take into account the supplies of and markets for materials on nearby private land.

Sec. 32 thru 35 Technical: Substitute "commissioner" for "director".

Sec. 36 Clarifies that land quitclaimed back to the federal government (see section 18) and land transferred to the University in its settlement agreement (see Sec. 3) is not subject to the reservation of mineral rights to the state.

Sec. 37 Technical: substitute "commissioner" for "department", "ensure" for "insure".

Sec. 38 Provides that easements of rights-of-way to navigable and public waters for oil and gas and mineral leases need not be made until the leases are ready to be developed.

Sec. 39 and 40 Technical: substitute "commissioner" for"director" and "land" for "lands".

Sec. 41 Extends the length of time that an appraisal is valid from 120 days to one year, to avoid costly reappraisals in the event of a delay in selling or leasing lands.

Sec. 42 Conforming amendment per University settlement agreement (see Sec. 3)

Sec. 43 Exempts land quitclaimed back to the federal government (see Sec. 19) from the restriction on sale of agricultural land.

Sec. 44 Conforming amendment per relocation in statute of the best interest finding requirement.

Sec. 45 Amends the public notice requirements for classification, sale, lease, and disposal of state lands to require that notice be placed in the newspaper and that one of the following methods also be used: electronic media, posting, notification of interested parties. Current statute requires use of only one of the above methods.

Sec. 46 Clarifies that no notice need be given of negotiated sales of timber and materials.

Sec. 47 Adds the definition of "multiple use" and "university lands" as used in AS 38.04 to AS 38.05.

Sec. 48 Grants a 25% discount on the purchase price of state land to veterans.

Sec. 49 Conforming amendment per University settlement agreement. (see Section 3)

Sec. 50 Allows holders of homesite parcels to transfer rights to another individual in the event incapacitating illness or injury prevents the landholder from fulfilling residency requirements. This conforms with current homestead provisions.

Sec. 51 Allows the purchase of a homesite parcel at fair market value within 7 years of issuance of the permit if all requirements except the ones for occupancy have been met.

Sec. 52 Eliminates the requirement that land available for homestead entry be within one mile of a survey monument. This will allow for conversion of remote parcel lands to the homestead program. Authorizes DNR to waive the cadastral survey requirement if certain conditions are present.

Sec. 53 Provides that the amount of land to be cleared under agricultural homesteading requirements be based on soil classifications.

Sec. 54 Allows the purchase of a homestead parcel at fair market value within five years of issuance of the permit if all requirements except the ones for occupancy have been met.

Sec. 55 thru 66 Amends the Alaska Coordinate System to reflect changes in the federal datum used as a base for this system.

Sec. 67 Provides that the lessee of a pipeline right-of-way shall reimburse the state for costs not only in monitoring pipeline construction, but also for processing an application.

Sec. 68 Requires legislative approval of land exchanges valued at more than $5 million. Current statute requires legislative action on unequal value exchanges; this provision is maintained.

Sec. 69 Extends the length of time that an appraisal for a land exchange is valid from six months to one year to permit the execution of trades which involve considerable administrative work and public review.

Sec. 70 and 71 Conforming amendments per University settlement agreement. (see Section 3)

Sec. 72 and 73 Streamlines the notice requirements for land exchanges involving less than 500 acres of land or appraised at less than $100,000.

Sec. 74 Three public hearings would be required for land exchanges valued at more than $5,000,000. The Commissioner maintains discretion to hold hearings for other exchanges.

Sec. 75 Clarifies which land exchanges require legislative approval (see Section 68).

Sec. 76 Gives the Commissioner discretion in issuing trapping cabin permits.

Sec. 77 thru 80 Conforming amendments per University settlement agreement. (see Section 3)

Sec. 81 Clarifies that when the state contracts with a municipality to conduct an auction of state lands, the municipality may retain from the proceeds of the auction capital and other expenses. This will allow for joint disposals, whereby the municipality would construct the roads on state land and recoup its costs through auction proceeds.

Sec. 82 Amends the definition section in Title 29 to clarify that the University has management responsibility for certain state lands. (see Section 3)

Sec. 83 and 84 Requires compliance with local subdivision ordinances which require capital improvements.

Sec. 85 Specifies that the contract foreclosure procedure added in Sections 23 and 24 applies only to contracts entered into after the effective date of this act.

Sec. 86 Exempts from compliance with local subdivision ordinances those plats submitted to the platting board before the effective date of the Act. (see Sec. 84)

Sec. 87 Provides for extension of the time in which occupancy and dwelling construction requirements must be met under a homesite entry permit.

Sec. 88 Repealers:

AS 29.33.150(e) Conforming amendment requiring compliance with local subdivision ordinances.
AS 38.04.025 Requires demand assessment, reduntant to .04.020(f)
AS 38.04.040 Authorizes sale of University lands. Obsolete with passage of SB 41 in 1983.
AS 38.04.045(a) Conflicts with subdivision parcel size limitations in .04.020(h).
AS 38.05.030(a) Sale of University lands - obsolete per passage of SB 41 AS 38.05.035(a)(14) Embodied in .05.035 (best interest finding).
AS 38.05.069(b) Agricultural preference option - embodied in 05.069(a).
AS 38.05.362 Classification of 650,000 acres of agricultural land by 9/79 completed.

Sec. 89 Immediate effective date for Sections 19, 36 and 43.

Sec. 90 July 1, 1984 effective date for remainder of bill.

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Memo

To: Bettye

From: Pat

Subject: DNR Briefing on Land Disposal Program, Feb. 14, 1983 (House Comt.Rm.)

Title 38 requires that DNR have at least 500,000 acres classified for land disposal in a "bank" at all times. In DNR's yearly report on the bank they reported the following acreages in the bank:

Categories	Classified Acreage	Suitable
Remote Parcels	1,510,379	276,500
Subdivision Disposals	38,080 (lot acres)	same (surveyed lots)
Agricultural	423,624	393,000
Commercial/Industrial	1,000	1,000

The major questions involving the land disposal program have centered around: 1) The acreage actually put up annually for disposal; 2) The categories of this acreage (e.g. remote parcels, ag, etc.); 3) The locations of the disposal areas; 4) The quality of the lands being offered (e.g. access, high and dry vs. swamp, etc.); and 5) The conditions of disposal (over-the-counter sale, lottery, resident rebates, survey costs, appraisals, etc.).

GENERAL QUESTIONS

With the above in mind the following information should be brought out:

1) How much acreage in what categories is DNR anticipating to dispose of annually, and/or for the coming year?

2) With the increased opposition to disposals in rural areas of the state, how much acreage is intended to be disposed of west of the Alaska Range and north of the Yukon River (considered "rural")?

3) What changes, if any, are anticipated for the conditions or methods of sale? Specifically, with recent court cases what changes might have to be made in the residency discount program (5% discount in sale price for each year of residence up to 50% or 75% for veterans)?

   Also, what is DNR's position on the proposed legislation to permit potential buyers to participate in sales or lotteries via teleconferencing (as opposed to being there in person as now required)?

continued .

--Also, subdivision homesites now require a three-year residency; what changes are anticipated in this requirement?

4) There is currently no "homestead" classification; both the Administration and a House member have introduced legislation to establish a new homestead category to provide small agricultural tracts and which would allow some "sweat equity"; What are the DNR's views on the needs and objectives for this program?

SPECIFIC QUESTIONS

1) Persons who obtain homesites have been unable to obtain financing for house construction because they do not have title to the land prior to construction of a habitable dwelling; Does DNR have any plans or thoughts on how to overcome this Catch-22?

2) Potlatch Ponds. This ag lottery is still being challenged in court. The recipients have not obtained the land and can not participate in another lottery until this is resolved. What does DNR propose to do to ensure fairness to the lottery "winners" in this case?

3) There has been a problem with the construction of roads in subdivisions. What is DNR currently doing about providing access in subdivisions and what are the current budget limitations? (You are sponsoring SB 7 which appropriates $10 million for local roads and trails).

4) There has been complaints that local people are not getting sufficient input into the DNR's proposed disposal plans. What steps does DNR currently take to ensure local input? Would creation of local advisory committees or similar formalized mechanism assist this process?

5) There have been complaints that the disposals have typically taken place in advance of completion of regional or area plans and may have precluded certain other potential land uses; Although AS 38.04.065 provides that land classifications be in accord with regional or area plans <u>after</u> their completion, most plans have not yet been completed; What are the DNR's thoughts on more closely aligning disposal plans with overall resource planning efforts?

FOREST RELATED QUESTIONS

You may want to reserve these questions for our hearing on State Forests on Friday, February 25.

1) Fairbanks State Forest. There are currently plans for land disposals in the Hutlitakwa Creek area near Manley Hot Springs. The local people there strongly support inclusion of the area in the proposed State Forest to ensure continued local wood uses. What is DNR's position on this?

2) The Chase III Agricultural Land Disposal is scheduled for March. Much of this disposal area is in a potential Chunilna State Forest area favored by many local residents. Senator Kerttula has written DNR urging them to delay the sale, although he has serious reservations about the Forest. What is DNR's position?

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
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STATE CAPITAL
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Senate

Committee on Resources

September 19, 1983

Memo

To: Senate Resources Committee Members

From: Senate Resources Committee Staff

Subject: Overview of Preliminary Comments Received on State Land Management and Disposal Laws and Programs

Land Disposal Policy, Planning and Demand Assessment

AS 38.04.005--.015 and .025-.045 describe the broad policy of the state's land management and disposal programs. AS 38.04.020 requires DNR to place lands in a land disposal bank. DNR is to submit a annual budget for the disposal of lands in the bank by various programs based on an annual assessment of demand for land (.020(f)). AS 38.04.020(g)(2) prescribes certain percentages of lands to be disposed of in various programs and by various methods.

AS 38.04.060 and .065 require resource inventories and land use plans for state lands. Land classifications are to be based on these plans.

Comments:

Several persons commented that more specific goals and policies needed to be spelled out for managing and disposing of land and that these needed to be better integrated into the whole range of resource uses and values.

The demand assessment was criticized as being incomplete and misleading in both assessment of supply and demand. Information difficult to obtain.

Some felt arbitrary figures for disposal of certain lands (e.g. homesites) should be deleted as unrelated to specific needs and resources.

Policies of disposing land primarily in Fairbanks and Mat-Su areas and not west of Alaska Range or north of Yukon criticized as not balanced and reflective of demand and land supply.

Although land must be classified prior to disposal, this has sometimes been a quick, site specific process not taking into account regional resources. Some want planning (area or regional plans) to be completed and classification prior to any disposals.

Want more local input and role in disposal decisions.

Land Disposal Record System

The DNR currently maintains records of land sales and leases manually. Retrieval of information by different categories or groupings (e.g. disposals within a particular Borough or sizes of remote parcels) is often difficult. A proposed DNR budget item for FY 84 of $2.6 million for land records automation was deleted by the Legislature.

Comments:

Several commented that a computerized record keeping system was needed for both administrative and public use purposes.

Additionally, some felt additional information on the costs and impacts and revenues from land disposals and subsequent development was needed.

Access, Easements to and within Disposal Areas

AS 38.04.050 requires the reservation of easements and rights-of-way for utilities when state land is surveyed for private use. Where "necessary and appropriate" DNR shall "arrange for" development of surface access as part of land disposals, the cost of which is to be borne by land recipients.

AS 38.04.055 directs DNR to reserve easements and rights-of-way across disposal land for access to public and private lands and waters.

Although the state is required to comply with local platting requirements, it is exempted from local subdivision ordinances except in the recent homestead law where they must comply.

AS 38.04.021 authorizes municipalities to apply for grants from the state for expenses of surveying, platting and installing improvements for disposal programs of entitlement lands. A grant may not exceed five times the expenditures of a first-class city or Borough or seven times a second-class city's expenditures. The FY 84 appropriation for these grants was $700,000.

Comments:

Several commented that inadequate numbers and sizes of easements were being reserved in disposal areas by the state. Also, they felt that corridors of state lands, rather than easements, should be reserved in some situations.

The Boroughs were adamant in their comments that the state should be required to reserve legal and feasible access to and within disposal areas. They suggested that easements and rights-of-way in many past disposal areas was questionable from a legal and practical access standpoint, and that the eventual burden of access was falling heavily on the Borough's shoulders. Some suggested that the state be required to also construct access roads to and within disposal subdivisions and that in all cases be made to comply with local subdivision regulations.

(Access continued)

Relatively little money has been available for grants to municipalities to conduct disposals with entitlement lands. Municipalities believed much more money be made available and that the five and seven times limitation be eliminated. Also they felt that more cooperative disposals could be developed between the state and Boroughs with costs and lands pooled.

Other comments focused on the eventual costs of other public services such as schools, utilities, fire control from settlement of disposal lands and the disproportionment of burden on local governments.

Best Interest Findings

AS 38.05.035(a)(14) authorizes the Director (of Lands) to sell or lease lands when he makes a written finding that it is in the best interest of the state. A written finding is not required for certain negotiated contracts, shore fishery site leases and revocable permits.

Comments:

All forms of disposals, including permits, should have best interest findings.

The definition of "best interest" and the written requirements of the provision need to be clarified.

Social and economic impacts and benefits of disposals needs to be included in best interest findings.

Surveying

AS 38.04.045(b) requires that before conveyance of surface rights to state land, an official cadastral survey must be accomplished. The state generally conducts complete surveys and rolls costs into the purchase price of subdivision parcels. These revenues are not returned to DNR, but to the general fund. For remote lands, the state generally places monuments every 2-4 miles to facilitate staking and ultimate lot surveys by stakers. Ideally, survey funds should be appropriated 2-3 years in advance of sales. This year the DNR survey appropriation was reduced to $1.8 million, necessitating a reduction in acreage disposed of in FY 85.

The state generally has not paid for a cadastral survey for entitlement lands conveyed to municipalities.

The homesite program requires a state cadastral survey in advance of staking and that parcels be no further than one mile from a monument.

(Surveying continued)

Comments:

The annual fluctuation and reduction of DNR survey funds makes planning and predictability in the disposal program difficult and delays conveyances to municipalities.

There is debate over the definition of "cadastral" and the number and location of monuments required. Some would like all sections and quarter sections surveyed by the state in advance of disposals or conveyances.

The survey requirements in the homestead bill appear to prevent full conversion of exisiting and programmed remote parcel areas to homesteading without additional monumentation when the remote parcel program expires 7/1/84.

Remote Cabin Permits

AS 38.05.079 limits the location of remote cabins to lands classified for that purpose. However, current regulations allow for remote cabins on most land classifications.

Comments:

In an effort to exercise control over the location of such cabins, commenters have urged that lands be identified specifically for remote cabins, and that the current permit system be replaced with a lease system. A lease system would ensure that a "best interest" evaluation be performed prior to siting a cabin, as permits are currently exempt from the best interest requirement.

A suggestion to replace the remote cabin system with a public use cabin system (cabins to be built by the state, and rented to the public) would allow for greater use of choice remote sites, while minimizing impact.

It was suggested that fuller use of both a remote cabin and public cabin program would reduce demand for land disposals.

Cost Effectiveness

Several current programs, including homesite, homesteads and agricultural disposals, require "prove-up", which requires policing and certifying activities by DNR.

AS 38.05.057(a) requires that land lotteries be held in the locality of the disposal. Current regulations require local public hearings prior to disposals. In FY 83, 66 public hearings were held.

(Cost Effectiveness, continued)

Comments:

Besides the legislature's failure to appropriate adequate funds to carry out mandated functions (such as surveying and preference rights), there are many secondary costs that make the program expensive. It has been suggested that costs of enforcement, lotteries, post-entry compliance determinations, and casefile work could be eliminated if the state were to merely sell land.

In addition, the disposal program's public input process is highly demanding of staff time and contributes to personnel and travel costs.

Initial expenditures are sometimes wasted, when a project is lost to political or environmental pressures, or superseded by projects such as the marine park bill, the Tanana Valley State Forest, and the University settlement.

Legislative amendments to the programs demand that funds be used for implementation of new procedures. In addition, legislative and administrative changes can contribute to public confusion over disposal programs and fear of continuity leading to artificially high demand for state land.

Land Disposal Methods

The statute provides for several methods of disposal, including lottery, staking and auction, which are generally tied to specific disposal programs.

AS 38.05.070 provides for 55-year leases for state land, except for the extraction of natural resources. Similar federal lease programs generally call for a 99 year lease.

A discount program based on residency (AS 38.05.058 repealed) was recently struck down by the courts and currently disposals are based on appraised values unless "sweat equity" provisions apply.

Although survey and dwelling contract requirements can be extended an additional year in the homestead and homesite programs, the residency requirements must be strictly met for the conveyance of patent.

AS 38.50 provides for a strict procedure for the notification and review of proposed state land trades. Unless trades are of equal appraised value, they must be submitted to the legislature for approval.

AS 38.05.065 ties the interest rate on state disposals to the prevailing rate for real estate mortgage loans made by the federal land bank, which currently is at an all-time high of 12.25%.

(Land Disposal Methods continued)

AS 38.04.020(h) requires subdivision parcels to be no greater than 5 acres except when specific conditions are present.

AS 38.05.057(a) provides that land lotteries must be held in the locality of the disposal area. In the past, administrative and legislative acreage quotas led to the closure and subsequent reopening of disposal areas to enhance acreage figures.

Comments:

Extend the 55-year lease to 99 years to be compatible with federal leases in order to facilitate financing of development.

It has been suggested that a program be developed to replace the residency discount program. Others have suggested that no discount apply so demand can be more accurately measured and state revenues can be maximized.

Commenters suggested that all land trades be brought before the legislature regardless of equal value. Others feel the appraised value criterion is too strict for many small diverse-value trades, and that trades of under 640 acres should be allowed to be done administratively.

There may be better ways to set the interest rate on state disposals so it is more compatible with current state interest rates on other programs.

Flexibility should be allowed in disposal methods for the various programs. For example, sealed bid or outcry auctions may be more appropriate than lottery for agricultural disposals; subdivision plots should not be limited to 5 acres.

It was also suggested that conversion of homesite and homestead entry permits to purchase contracts be allowed if all but the residency requirements have been met.

Unsold lots should be continuously available, rather than opening new areas for disposal.

Some favor local lotteries as granting a form of resident preference; others criticize local lotteries as expensive and unfair to residents from other areas of the state.

Mineral Leasing and Location

AS 38.05 describes a variety of mineral location and leasing systems and requirements on state lands.

(Mineral Leasing and Location continued)

Comments:

The Department of Minerals and Energy Management has suggested that some requirements in the current law seem to be no longer needed or require clarification.

In addition, there is interest in amending the coal prospecting permit statutes to extend the time period allowed for exploration under a permit from 4 to 5 years to allow adequate time for exploration and delineation of an area.

RECEIVE.2

from DNR

INFORMATION REQUESTED FOR LAND DISPOSAL REVIEW

I. By year, by particular disposal program, by geographic area, how many acres and how many parcels of state land have been offered for sale, staking or leasing?

Specific years: Prior to 1978, 1978, 1979, 1980, 1981, 1982, 1983 (FY or calendar)

Specific programs: O-T-E, subdivision, homesite, remote parcel, former homestead, project ag lands, small ag, commercial and industrial sales or leases, other sales and leases of state land, remote cabins.

Specific geographic areas: Fairbanks North Star Borough; Tanana Valley (including Steese Highway); north of the Yukon River; west of the Alaska Range and south of the Yukon River; Mat-Su Borough; Kenai Peninsula Borough; Copper River Basin; Prince William Sound; Kodiak; Southeast Alaska.

a. Are these "gross" acres or "net acres? If "net" acres, what is definition and what percentage is this of "gross" acres?

b. What is the average parcel size for each of the several programs?

c. How many separate parcel units for the several programs in each geographic area have been offered?

d. How many acres/parcels of those offered by geographic area have been "road accessible"?

e. How many acres and how many parcels, by program, have been initially offered by lottery, how many by auction, and how many over-the-counter?

f. How much land, by program, has been offered under the veterans preference provisions of 38.05.067?

II. Of the acres and parcels for the breakdowns listed above which have been offered, how many acres and how many parcels have ben "sold" (contracts signed), permitted or leased?

a. How many acres and parcels have been sold or leased by lottery, how many by auction, and how many over-the-counter?

b. By program, what have been the terms of purchase (e.g., interest rates, length of payments, monthly payments)?

c. What are some examples in the range of numbers of persons applying for lotteries by program and geographic area relative to the number of parcels offered?

d. By municipality or region, where do persons reside who are buying or leasing land in various geographic areas?

e. By disposal category and geographic area, what have been the average appraised values per acre and/or per parcel? What is the total value of the sales by year, program and geographic area?

f. Of the parcels sold, how many have been purchased utilizing the residency discount program and what has been the average percentage reduction in appraised purchase prices for those utilizing the discount program? What is the total monetary value of all discounts offered?

g. For the homesite program, how many or what percentage of "sales" have been "proven up" on? What requirements have been hardest to meet?

h. For remote parcels, how many or what percentage of those under permit have gone to patent?

i. How many contracts of what percentage of land sales have been canceled or revoked for non-payment or other contract violation?

III. For the various disposal categories, what have been the costs to the state for disposal? Total costs? Survey costs? Platting costs? Road costs? Planning costs? Hearing costs? Lottery/auction costs? Filing costs? Contract management costs? Other costs?

a. For those programs such as subdivision and homesites where survey costs are reimbursed by buyers, what has been the range and average survey costs charged buyers?

b. What have been the survey costs averaged per parcel or anticipated to average per parcel for remote parcel stakers and any others required to do their own surveying?

c. To maintain a 60,000 acre per year disposal program similar to FY83, what are the annual survey monies required by the Department?

IV. a. How much land is currently classified by the various state land categories?

b. How much land is currently classified for disposal in the land disposal bank by various disposal categories?

c. What is the timeframe for identifying and putting up lands for disposal for the various programs?

d. What are the provisions for local input into the selection of disposal land? How many public hearings are held?

e. How is demand for land by various categories and geographic location currently being assessed by the Department?

V. a. How much land has been conveyed to each of various eligible municipalities?

b. How much entitlement remains to be conveyed to eligible municipalities? Are there any outstanding problems in meeting this remaining entitlement?

c. How much money has been requested and how much money provided to what municipalities for roads pursuant to 38.94.021?

VI. a. How much land is currently available or could be made available for remote parcel staking for FY84?

b. How much of this land meets the requirements of the new homestead program (i.e., is within one mile of a survey monument)?

c. What are the approximate survey costs per acre or per parcel unit to add additional monuments to meet the requirements of the homestead program?

d. What are the potential problems involved in staking lands by aliquot parts and by meets-and-bounds further than one mile from a survey monument?

e. What is the difference in average survey costs for a purchaser of a homestead or remote parcel between a parcel described by aliquot parts or by meets-and-bounds?

f. What are the advantages to the Department or the public in describing staked lands by aliquot parts?

Bristol Bay Native Corporation
445 E. 5TH AVENUE / P.O. BOX 100220 / ANCHORAGE, ALASKA 99510 / (907) 278-3602

September 16, 1983

Honorable Bettye Fahrenkamp
Alaska State Senate
Chairman,
Senate Resources Committee
Pouch V
State Capitol
Juneau, Alaska 99811

Re: Amendment of Title 38 of Alaska Statutes

Dear Senator Fahrenkamp:

I was very pleased to hear that the Senate Resources Committee will be reviewing State land management and disposal practices and law as part of its review of Title 38. It is Bristol Bay Native Corporation's (BBNC) view that the State should place greater emphasis on the desires and views of local residents in State land disposal areas and that the State's present unwritten practice regarding consultation and coordination with nearby communities and local governments should be elevated to State law. (As you are aware, it is now the unwritten policy of the State Department of Natural Resources to coordinate with nearby communities regarding the timing, the size, and the layout of proposed land disposals and also to consult with local communities regarding the demand for such disposals in the local area.)

The Alaska Federation of Natives Resolution 82-12, a copy of which is enclosed, proposes that State legislation be enacted that would create citizen review boards in rural areas to advise the Department of Natural Resources on the need for land disposals and related potential land use conflicts in rural areas. Legislation implementing this Resolution would meet the concerns of BBNC regarding State land disposals. The draft Bristol Bay Cooperative Management Plan, if finally approved by the Governor and the Secretary of the Interior, would require such consultation and coordination with local Coastal Resource Service Area Boards before future land disposals in the Bristol Bay region. The inclusion of this provision in the Cooperative

Management Plan indicates that the Department of Natural Resources is able to meet BBNC's concerns about land disposals; it is appropriate that this requirement be included in Title 38 and given the greater dignity of State law.

BBNC looks forward to working on legislation governing State land disposals.

If you have any questions, please call me.

Sincerely,

H. Noble Dick
President

Attachment

ALASKA FEDERATION OF NATIVES, INC.

1982 ANNUAL CONVENTION

RESOLUTION NO. 82-12

TITLE: STATE LAND DISPOSAL

WHEREAS, LARGE ARBITRARY LAND DISPOSALS BY THE STATE OF ALASKA IN REMOTE RURLA AREAS HAVE SIGNIFICANT ADVERSE IMPACTS ON THE NATIVE ALASKAN LIFESTYLE, SUBSISTENCE RESOURCES AND WELFARE; AND

WHEREAS, SUCH PROGRAMS STIMULATE LAND SPECULATION AND ARTIFICALLY CREATE NEW CENTERS OF DEVELOPMENT WITHOUT ADEQUATE INFRASTRUCTURES; AND

WHEREAS, NO LEGITIMATE NEED FOR LARGE LAND DISPOSALS IN RURAL ALASKA IN THE NEAR FUTURE HAS BEEN DEMONSTRATED; AND

WHEREAS, LOCAL GOVERNMENTS AND EXISTING LANDOWNERS CAN PROVIDE FOR THE VERY LIMITED LEGITIMATE PRIVATE LAND NEEDS FOR THE FORESEEABLE FUTURE;

BE IT RESOLVED BY DELEGATES TO THE 1982 ANNUAL CONVENTION OF THE ALASKA FEDERATION OF NATIVES THAT: THE ALASKA FEDERATION OF NATIVES URGE THE STATE OF A ALASKA TO:

1. DRAMATICALLY REDUCE ITS EMPHASIS ON LAND DISPOSAL PROGRAMS FOR REMOTE RURAL AREAS;
2. GENERALLY LIMIT ITS DISPOSAL PROGRAMS TO LANDS NEAR THE EXISTING ROAD SYSTEMS, URBAN ALASKA AND DEVELOPING REGIONAL CENTERS;
3. PLACE A GREATER EMPHASIS ON LOCAL DESIRES REGARDING LAND DISPOSALS IN RURAL ALASKA; AND
4. BASE ALL LAND DISPOSAL PROGRAMS ON ACTUAL NEED, AND NOT ARTIFICIAL QUOTAS.

BE IT FURTHER RESOLVED THAT THE ALASKA FEDERATION OF NATIVES DRAFT AND SUBMIT TO THE ALASKA LEGISLATURE PROPOSED LEGISLATION WHICH WOULD ESTABLISH RURAL ALASKA CITIZENS REVIEW BOARDS TO ADVISE THE STATE DEPARTMENT OF NATURAL RESOURCES ON RURAL LANDS NEEDS AND POTENTIAL CONFLICTS BETWEEN TRADITIONAL LAND USES AND PROPOSED STATE LAND DISPOSAL PROGRAMS IN THE UNORGANIZED BOROUGH.

BE IT FURTHER RESOLVED THAT THE ALASKA FEDERATION OF NATIVES URGE THE ALASKA LEGISLATURE TO ANACT SUCH LEGISLATION CREATING RURAL ALASKA LAND DISPOSAL CITIZEN REVIEW BOARDS.

AFN ANNUAL CONVENTION
RESOLUTION NO. 82-12

CERTIFICATION OF RESOLUTION

I hereby certify that the foregoing is a full, true, and correct copy of the resolution adopted by the delegates to the 1982 Annual Convention of the Alaska Federation of Natives, Inc., October 20, 21, and 22, 1982, Anchorage, Alaska, at which a quorum was present and voting and that said resolution was spread upon the record of said convention and is now in full force and effect.

WITNESS my hand and seal this 26th day of October, 1982.

SIGNED:

Janie Leask
Executive Vice President
ALASKA FEDERATION OF NATIVES, INC.

WITNESSED:

Sylvia Carlsson
Special Assistant
ALASKA FEDERATION OF NATIVES, INC.

Municipality of Anchorage

POUCH 6-650
ANCHORAGE, ALASKA 99502-0650
(907) 264-4431

TONY KNOWLES, MAYOR

OFFICE OF THE MAYOR

September 19, 1983

Senator Bettye Fahrenkamp
Senate Resources Committee
Legislative Information Office
1024 West 6th Avenue
Anchorage, Alaska 99501

Dear Senator ~~Fahrenkamp~~ Betty:

We are pleased to learn that your committee is researching the State's land disposal programs with the intention of proposing ways to improve these programs. The Municipality of Anchorage has a singular, overriding complaint: We have a 44,893-acre municipal entitlement under AS 29.18.201, but only half that amount of State land is available for our selection and eventual ownership. Our municipal land entitlement is unfulfilled and cannot be fulfilled through the selection of the State land within our boundaries.

In a state in which public land is generally plentiful, Anchorage is spending millions of dollars annually on land acquisitions and falling farther and farther behind in meeting local needs for school sites, neighborhood parks, and land for other public facilities. Our public land deficiency and the inability of the State to offset that deficiency through conveyance of our entire land entitlement should be primary considerations in reviewing the State's land disposal programs.

Recently Anchorage has acted to alleviate its shortage of necessary public land and land acquisition funds. Our Heritage Land Bank program commits receipts from the disposal of municipal real property to the acquisition of land for "public use and enjoyment" (see attached).

But, we need more money immediately. Under the formula in AS 29.18.208(b), Anchorage is owed $35 million. We acknowledge that this same paragraph limits our deficiency payment to an additional $5 million. However, in consideration of the demand for more public land and the essential inequity of our land grant relative to other municipalities, we believe that Anchorage's entitlement deficiency must be the first order of business in addressing substantive changes in the State's land disposal programs.

Thank you for the opportunity to bring this matter to your attention. If your staff wishes to discuss this matter further, please contact Peter Scholes (264-4806) in the Property Management Division.

Sincerely,

Tony

Tony Knowles
Mayor

cc: Senator Vic Fischer
Senator Arliss Sturgelewski

Betty,

This is an extremely high priority for us. Any help would be much appreciated

best,

Tony

AMENDED AND APPROVED
DATE 8-1-83

Submitted by: Chairman of the Assembly at the Request of the Mayor
Prepared by: Department of Property and Facility Management
For reading: June 7, 1983

ANCHORAGE, ALASKA
AO NO. 83- 86

AN ORDINANCE REPEALING AND REENACTING CHAPTER 25.40 OF THE ANCHORAGE MUNICIPAL CODE AND ESTABLISHING A HERITAGE LAND BANK

THE ANCHORAGE ASSEMBLY HEREBY ORDAINS:

Section 1. Anchorage Municipal Code, Chapter 25.40 is hereby repealed and reenacted as follows:

Chapter 25.40

HERITAGE LAND BANK

Sections:

25.40.010 Heritage Land Bank established--Purpose
25.40.020 Heritage Lands--Designation and withdrawal
25.40.030 Heritage Land Bank revenue--Accounting and appropriation
25.40.040 Heritage Land Bank operating budget
25.40.050 Heritage Land Bank annual report

25.40.010 Heritage Land Bank established--Purpose.

~~There is established a Heritage Land Bank. The purposes of the Land Bank are to provide an inventory of municipal land necessary to achieve the goals and objectives of the Comprehensive Plan and its approved subelements; to promote orderly community development; and to ensure acquisition and continued public ownership of municipal land required for public use and enjoyment.~~

** SEE Last Page for 25.40.010

25.40.020 Heritage Lands--Designation and withdrawal.

A. The Mayor with Assembly approval may designate any municipal land or interest in land for placement in the Heritage Land Bank; however, land placed in the Land Bank generally will be of commercial, residential or industrial value, and will not have been acquired for a specific public purpose nor be required for such a purpose by the Municipality.

B. The Mayor with Assembly approval may withdraw land from the Heritage Land Bank for any lawful public purpose, provided that the Heritage Land Bank Advisory Commission shall be notified of the proposed withdrawal not less than 30 days before its

C. The Mayor shall periodically review lands identified for public use and actively managed by municipal agencies, including the Anchorage School District, to determine if any lands are excess to municipal needs. After having conducted any such review and having made a written finding as to which lands are excess to municipal needs, if any, the Mayor with Assembly approval may designate excess lands for placement in the

effective date. No land may be withdrawn from the Land Bank and reserved for a nontax supported public purpose without equal value compensation to the Land Bank or one of its revenue accounts.

25.40.030 Heritage Land Bank revenue--Accounting and appropriation.

A. Revenue received by the Municipality through the sale, lease, other disposal or use of land or interest in land that has been placed in the Heritage Land Bank shall be accounted for separate of all other revenues; provided, however, that revenue from other sources also may be dedicated to Heritage Land Bank accounts. The accounting for Land Bank revenue shall be sufficiently detailed to provide an annual financial audit to the Assembly, pursuant to the annual reporting requirements of this Chapter.

B. Revenue accruing to the Heritage Land Bank accounts shall be available for appropriation for the acquisition of municipal land for public use and enjoyment.

C. Heritage Land Bank revenue not appropriated pursuant to paragraph B, above, shall be invested prudently consistent with public interest ~~at the highest feasible interest rate.~~ Interest derived from such investments shall be reinvested or appropriated for municipal land acquisitions pursuant to this Chapter.

25.40.040 Heritage Land Bank operating budget.

Notwithstanding Section 25.40.030 of this Code, revenue accruing to the Heritage Land Bank accounts shall be appropriated annually for the management of the Land Bank in fulfillment of the purposes of this Chapter, and for the administration of any disposal of municipal land or interest in land.

25.40.050 Heritage Land Bank annual report.

A. The operation of the Heritage Land Bank shall be reviewed and reported on annually, and appropriate findings and recommendations shall be made.

B. The annual report shall include, but not be limited to:

* 1. A financial audit of all Land Bank accounts, including all income, expenditures and investments.

* 2. An inventory of municipal land in the Heritage Land Bank, including a summary of each land transaction involving the Land Bank.

* 3. An inventory of municipal land acquired with Heritage Land Bank revenue during the preceding year.

4. Pertinent discussion of Land Bank operations.

*Assembly amend: Quarterly reports shall be furnished on items 1, 2, and 3.

C. The annual report, including any recommendations, shall be completed and submitted to the Assembly not later than the last regularly scheduled Assembly meeting in May of each year.

Section 2. Anchorage Municipal Code, Chapter 4.60 is hereby amended as follows:

4.60.200 Heritage Land Bank Advisory Commission.

There is established a Heritage Land Bank Advisory Comission consisting of seven members to advise the mayor and Assembly on matters pertaining to the acquisition, management and disposal of municipal land in the Heritage Land Bank and on the allocation of Land Bank revenue. In selecting members, consideration shall be given to establishing a commission with a broad range of professional skills in relevant fields, such as appraisal, planning, real estate brokerage and finance, as well as citizens interested in the acquisition and management of parks and other public lands.

The manager of the Property Management Division shall be the executive secretary and technical advisor to the commission.

The commission shall:

A. Advise and make recommendations on the designation of municipal land for placement in the Heritage Land Bank, and on the withdrawal of designated land from the Land Bank.

B. Advise and make recommendations on the scheduling and method of disposal of municipal land in the Heritage Land Bank.

C. Advise and make recommendations on the allocation of Heritage Land Bank revenue, particularly the apportionment of the revenue between savings and current land acquisition projects.

D. Review the annual budget for operation of the Heritage Land Bank.

E. Review the Heritage Land Bank annual report and provide comment for inclusion in the published report.

PASSED AND APPROVED by the Anchorage Municipal Assembly, this 1st day of August, 1983.

Chairman

ATTEST:

Municipal Clerk

25.40.010. There is established a Heritage Land Bank. The purposes of the Land Bank are to manage and dispose of land determined to be surplus to the Municipality of Anchorage's needs and to ensure that funds obtained therefrom, or funds obtained in lieu of land entitlement, are used for acquisition of future municipal land needs, thereby promoting orderly development and achievement of the goals of the Comprehensive Plan.

arctic slope regional corp.

P.O. BOX 129 BARROW, ALASKA 99723
PHONE (907) 852-8633 OR 852-8633
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SEP 2 1983

September 19, 1983

Senator Bettye Fahrenkemp, Chairman
Senate Committee on Resources
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Bettye:

Thank you for your letter of September 2 concerning the Senate Resources Committee review on state land management provisions in Title 38 of the Alaska Statues. Unfortunately, I will not be able to attend the September 21 hearing, but there are several comments I would like to make. Also, I would appreciate notification of subsequent hearings which may be planned by your committee.

The main focus of Arctic Slope Regional Corporation's business efforts are in the North Slope of the State where most of our land holdings are located. The major non-oil and gas leasing activity for the State of Alaska in our area has been for sand and gravel. As an Alaskan Native Corporation, ASRC is seeking to maximize its own economic future and develop stable business enterprises, such as through the development of sand and gravel resources located on Arctic Slope lands. In this regard, there have been times when we have found state sand and gravel disposals frustrating our efforts to develop our lands. While we recogonize the need of the State to develop its natural resources and maximize the returns thereon, we also feel there is a need for the state to acknowledge the role and importance of private enterprise developing its own land in the State. Where there are available or potentially available private sources of materials such as sand and gravel, some balance should be struck between the States need to develop its resources and to support private enterprise. Putting aside for the moment environmental concerns which might affect either the private or the public sand and gravel enterprise, state disposal statues and policies should be designed to facilitate the success of the Native Land Claims Act and support private enterprise, not lead to its demise. Possibly, some threshold of the availablity of other sources of sand and gravel or similiar resources might be made before the state disposal is considered. Also in this regards, attempts to dispose of offshore sand and gravels should not be pursued while adequate onshore private materials are readily available.

The second area of state leasing activities that will be of upmost concern to Arctic Slope is in the area of coal. Though little activity has occured to date, tremendous coal resources on the Arctic Slope will undoubtedly be developed sometime in the future. Again, some accomodation of the interests of the private landowners and the interest of the state as a mineral landowner should be reached. None of us should be allowed to unreasonably infringe or destroy the economic value of the other. Rather, we would encourage and support development senariols that facilitate making needed resources available to consumers and others in a manner in which both the private and state resource owners will benefit. In the area of infrastructure development for example, the state can play a tremendous role in coordinating public improvement plans and development activities with those of the private land owners in the region. Leasing and location policies and statutory provisions should be designed with such sensitivity in mind. Leasing programs, for example, should be planned in manner consistent with those of other land owners in the area - this would include private as well as other governmental land owners. Sporadic and unsound exploration and/or development can prove costly resulting in less resources for the state rather than an improved resource and economic base.

In the area of general land disposal, classification and planning, Arctic Slope Regional Corporation's primary concern is to insure local desires and plans be accomodated. While we support the desirability of placing increased lands into the hands of private ownership, this should be done in manner consistent with the residents living in the area that have made a significant investment in time and effort to already settle there. Disposal decisions can not ignore the ultimate utilization of the land and its impact on local infrastructure and service demands. Ultimate use of the land should be anticipated and subdivision regulations and other land use requirements at the local jurisdiction be fully complied with in the state disposal decisions and actions. In our region, I do not feel that disposal of state lands into private hands is warranted at this time. Given the remoteness of the area, as well as the significant amount of land that has moved into private hands through native corporations, allotments and other disposal programs, patterns of land use should be allowed to develop somewhat before further disposals by the state. Also, given the uniqueness of the environment on the Slope and the singular importance of subsistence for the many residents that now make the Arctic Slope their home, further disposal of state lands into individual ownership through remote subdivisions or homesteading or other means should not be made at this time. This is a both a wise planning policy for the state to pursue as well as an accomodation of the desires of the local residents. In this regard, the adopted plans of the local government of the Arctic Slope area would discourage land disposals by the state on any large scale in this area at this time.

I hope these observations are of some assistance to your committee in its deliberations. Again, please keep me advised as the work of your committee progresses and further hearings that you may schedule.

Sincerely,

Jacob Adams
President

University of Alaska
Statewide Office of Land Management
3354 College Road
Fairbanks, Alaska 99701
474-7421

September 23, 1983

Senator Bettye Fahrenkamp, Chairman
Senate Committee on Resources
State Capital
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

Thank you for providing us with the opportunity to identify problem areas in, and to suggest possible changes to, Title 38 of the Alaska Statutes. My staff and I have reviewed the chapters and articles identified in your letter of August 9, 1983, and identified those areas of the laws which we believe contain problems. Attached are our general comments concerning these particular areas.

Attached also is a list of specific statutes containing references to the University which have been rendered obsolete by the successful passage of the Settlement Agreement this session. For these particular statutes we have suggested actual wording changes, additions, and deletions. We have not yet had these revisions reviewed by our attorney so they should not be considered as an exhaustive list. We will send you a final copy of our specific comments when the review is complete.

We hope that you will find both our general and specific comments useful in your committee's work in revising Alaska's land laws. If you have any questions concerning our recommendations, please let us know. Thank you for the opportunity to comment.

Sincerely,

Merry Tuten
Director

MT/cr
Enclosures
cc: Patrick Pourchot w/ enclosure

GENERAL COMMENTS AND PROBLEM AREAS

Chapter 5 - Alaska Land Act

Article 1
Administration

AS 38.05.035(5) provides the director with the power to prescribe fees for any public service rendered. In many cases the fees required for land actions (land use permits, trapping, cabin permits, etc.) are not large enough to even cover the cost of issuing the permit or other document. At a minimum, the director should be required to charge a fee sufficient to cover the administrative costs involved in processing the public's request.

Article 3
Leasing of Lands

AS 38.05.085 (a) 1-3, which provides for lease payments based on less than fair market value, is in conflict with AS 38.05.105 (a) which requires that the State lease land at fair market value. AS 38.05.070 (c), requiring that unused grazing leases be cancelled by the State, is not being enforced.

Article 4
Timber and Materials

Existing statutes (38.05.115) appear to give the State the necessary authority to negotiate long-term timber sales. It is our understanding that the statutes were changed to allow negotiated timber sales to last longer than one year, rather than by simply amending the regulations of the Division of Land and Water Management. AS 38.005.115 could be repealed and the Division's regulations be amended to allow negotiated timber sales to last longer than one year.

Article 5
Reservations of Rights

The State needs to adopt regulations to enforce AS 38.05.127. The State should define "affected owner of land." The statutes allow such an owner to apply for a vacation of a right of way/easement but leave unclear exactly to whom such a definition applies.

Article 6
Leasing of Mineral Land

The acreage limitations for leases of coal, sodium, and phosphate are significantly different (AS 38.05.140). Are these

limitations realistic and based on actual differences in the resources or are they arbitrarily or politically determined. If the latter is true the acreage limitations should be changed to be equal or to reflect actual resource differences.

Why does the provision allowing for the reduction of royalties apply only to minerals (AS 38.05.140(d)) and not to other natural resources?

Article 7
Mining Rights

Mineral resources are not handled equitably with other natural resources owned by the State. For all other natural resources (oil and gas, timber, coal, gravel, land), the State requires payment through sale contracts and leases. On the majority of State lands, however, minerals may be taken without leases or contracts, and without payment to the public for these resources. On the remaining portion of State land which does require that minerals be leased, the lease terms, lease rates, labor offsets, labor requirements and royalty payments are not consistent with those required for other natural resources.

The statutes should be rewritten to require that minerals be leased on all State lands, and statutory lease terms and rates, labor offsets, labor requirements and royalty payments should be changed to be more equitable with other natural resources.

Article 11
Miscellaneous Provisions

The notice requirements, as currently written, require undue expense by the State, are required for land transactions of a minor nature, and often do not reach that portion of the public for which they are intended and who are most affected by an action. A more appropriate method of informing affected property owners of pending land transactions would be as follows:

1. For all land transactions (sales, leases, easements, exchanges, timber sales, material sales etc.) any and all adjacent property owners should be notified in writing.

2. For all land transactions, the property to be affected should, where practicable, be physically posted with a sign indicating the type and date of the proposed action.

3. For sales, leases and exchanges only, a notice of the intended action should be published in a newspaper of general circulation in the area of the transaction.

Article 12
General Provisions

AS 38.05.362 The 650,000 acre minimum classification has been nearly accomplished. It would seem appropriate to repeal this statute, as it has served its purpose.

Chapter 7 - Clearing and Draining of Agricultural Land

The definition of "agricultural land" appears in 38.05.365. This definition should be extended to apply to this chapter as well.

The State's subsidization of agricultural land clearing favors larger farm operations. Large subsidies to individual operators could mean large losses to the State. Smaller farms should be encouraged by permitting farmsteads on agricultural lands on something less than a half section.

Chapter 8 - Homesites

Current law requires that the distribution of homesites be on the basis of population. This appears to skew the distribution of homesites such that the vast majority are now in the Mat-Su Valley. It would serve the broader interests of the State if homesites and State subdivisions were located near all the urbanized regions of the State on a more equal basis.

AS 38.08.040 (a) and (b) should be repealed, if not already done so, in light of recent supreme court rulings regarding residency preferences.

AS 38.08.070-.080 should be re-enacted, as it is most appropriate for the State to be required to coordinate its land disposal activities within municipalities with the planning departments of those municipalities, particularly where planning and zoning is concerned.

AS 38.08.090- At a minimum, the State should be required to construct access into subdivisions proposed for disposal within municipal jurisdictions, with the pro-rata cost of road construction passed on to the eventual purchaser of the property. This will lead to better subdivisions and wiser land use.

Chapter 9 - Homesteads

The requirement that land for this program be located within one mile of a cadastral survey will severely limit the

University of Alaska

availability of land for this program. The commissioner should be free to classify all State land appropriate for this purpose, regardless of its proximity to a survey monument.

Chapter 10- Transfer of Tide and Submerged Lands

The limitation of the provisions of this program to municipalities with less than 5000 people seems arbitrary. If the program has merit, which we believe it does, it should be available to all municipalities regardless of population.

Chapter 20 - The Alaska Coordinate System

Updates which the U.S. Geodetic Survey has proposed should be incorporated into this statute.

Chapter 50 - Land Exchanges

The six month useful life of an appraisal is somewhat arbitrary. The director/commissioner should be able to use reasonable judgment to determine if land values have been significantly affected since the appraisal was prepared.

The notice requirements outlined in 38.50.110 are grossly out of proportion with the notice requirements for disposals of State land through other programs. If this extensive notice requirement must remain, it would be appropriate to develop a streamlined process for land exchanges involving only minimal acreage/value while preserving the existing notice requirements for only very large or politically sensitive land exchanges.

Chapter 95 - Miscellaneous Provisions

AS 38.95.050 appears to be designed to permit Native corporations to contract with the State for management of their lands. This statute is superfluous since AS 38.05.027(a) provides the commissioner with the power to enter into management agreements with individuals (which includes corporations under AS 01.10.060(7)). The statute should be deleted.

AS 38.95.080 deals with trapping cabin permits. Permit fees should be sufficient to cover the cost to the State for processing these permits.

Article 3
Steering Council for Alaska Lands

Is this necessary any longer, now that ANILCA has passed and the Alaska Land Use Council has been created?

DRAFT
9/26/83

PROPOSED CHANGES TO STATUTES CONCERNING UNIVERSITY LANDS

What follows is a partial list of the statutes which should be amended to reflect recent legislation (CSSB 41) removing University land from public domain land. In each case, actual wording changes, additions and deletions have been suggested for the relevant statute.

Note: words to be deleted are capitalized and enclosed in parentheses. Words to be added are underlined.

1. AS 29.18.206(a) (b) (d) and (e) is amended as follows:

School, university and mental health land, (a) If an entitlement determined as AS 29.18.201 or 29.18.202 results in a per capita entitlement for the municipality of less than one and one-half acre, the municipality may select vacant school (,UNIVERSITY,) or mental health land within the municipality in partial fulfillment of its land entitlement under this chapter. School (,UNIVERSITY,) or mental health land may be selected notwithstanding the fact that these lands are not unappropriated and unreserved within the meaning of this chapter and AS 29.18.190 and 29.18.200, repealed by this act, but each selection of school (,UNIVERSITY,) or mental health land by a municipality must be vacant, unappropriated, or unreserved land as defined in this chapter, except that it need not be general grant land.

(b) The acreage of school (,UNIVERSITY,) or mental health land, if any, within a municipality may not be included in the determination of entitlement under AS 29.18.201 or 29.18.202.

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

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

2. AS 29.18.213(4) is amended as follows:

"General Grant Lands" means land patented or tentatively approved to the state from the United States under 6(a) or (b) of the Alaska Statehood Act <u>except university lands and replacement lands</u>.

3. AS 38.04.040 is repealed.

4. AS 38.04.020(g) is amended by adding a new paragraph to read:

(5) <u>University trust land or replacement land</u>.

5. AS 38.05.030(a) is repealed.

6. AS 38.05.030(c) is amended as follows:

(c) In addition to the requirements specified in AS 38.50.090, the agencies referred to in ((A) AND) (b) of this section and other state agencies with authority to acquire or dispose of land shall give written notification of the fact of acquisition, lease or exchange to the Division of Lands within three months after the date that they make the acquisition, lease or exchange.

7. AS 38.05.030(d) is amended as follows:

(d) Real property acquired by, and under the management of, the agencies referred to in ((A) AND) (b) of this section, which is no longer needed for its intended use, shall be returned to the jurisdiction of the Division of Lands, except that the Department of Highways may dispose of real property acquired by it under AS 19.05.040(2) and AS 19.05.080 - 19.05.120.

8. AS 38.05.030 is amended by adding a new paragraph to read:

(f) University trust lands and replacement lands are not considered public lands and are not subject to the provisions of this chapter.

9. AS 38.05.035(a) (7) is amended to read:

Have jurisdiction over state lands, except university trust lands and replacement lands, lands acquired by the Alaska World War II Veterans Board and the Agriculture Loan Board or the departments or agencies succeeding to their respective functions through foreclosure or default; to this end the director possesses the powers and, with the approval of the commissioner, shall perform the duties necessary to protect the state's rights and interest in state lands, including the taking of all necessary action to protect and enforce the state's contractual or other property rights;

10. AS 38.05.125 is amended by adding a new paragraph to read:

(a) Conveyance of title to university trust lands and replacement lands to the University Board of Regents is not subject to the reservations of this section.

11. AS 38.05.315(d) is amended as follows:

(d) The director may lease the land to an eligible applicant at a reasonable annual rental, taking into consideration the purposes for which the land is to be used and the financial resources of the applicant. The rental may not be less than one percent of the fair market value on lands acquired primarily for development, or less than five percent of the fair market value on (UNIVERSITY OR) acquired lands.

12. AS 38.05.365(16) is amended as follows:

(16) "state lands" or "lands" means all lands, including shore, tide and submerged lands, or resources belonging to or acquired by the state (.), except university lands.

13. AS 38.05.365(20) is amended as follows:

(20) "university lands" means all sections 33 reserved to the University under 38 Stat. 1214, as amended (48 U.S.C. 353), all lands reserved for or granted to the Territory and State of Alaska for the benefit of the University by the Act of 1929 (45 Stat. 1091), as amended, and section 6(k) of the Alaska Statehood Act (72 Stat. 339), as amended, which retain such designation, and all other lands owned in fee by the university, including state lands which have been transferred in fee to the university through its Board of Regents, as trustee, to replace former university lands which have been otherwise managed or disposed of. (AND ALL LANDS GRANTED TO OR RESERVED FOR THE BENEFIT OF THE UNIVERSITY);

14. AS 38.50.040 is amended as follows:

Except as otherwise provided in AS 38.50.010 - 38.50.170 the director is authorized to convey for purposes of exchange any state land or interest in land regardless of the authority under which the land or interest was obtained by the state. (THE CONVEYANCE OF UNIVERSITY LAND SHALL BE APPPROVED IN THE MANNER PRESCRIBED IN AS 38.05.030 (1 CH 240 SLA 1976; AM 13 CH 181 SLA 1978; AM 17 CH 182 SLA 1978))

(17)

Tanana Chiefs Conference, Inc.

Doyon Building
201 First Avenue
Fairbanks, Alaska 99701
Phone (907) 452-8251

November 16, 1983

Ms. Bettye Fahrenkamp
Alaska State Senator
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

We have received the compilation of comments concerning Title 38 and enclose our responses. In some case we have chosen not to comment at this time.

We feel very strongly about the administrative and budgetary considerations and recommendation #6 on page 13 and #18 on page 14. Specifically, the following information should be available to the general public:

By sensibly sized areas,

- How much land has been offered in an area, updated annually.
- How much land was actually purchased and for what sum of money.
- How much remains unsold.
- Where these lands are and an approximation of how much land is already privately owned in the area.

Your consideration of our concerns is much appreciated.

Sincerely,

TANANA CHIEFS CONFERENCE, INC.

William C. "Spud" Williams
President

Enclosure

112J12

(17)

Alaska State Legislature

SENATE RESOURCES COMMITTEE

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

October 31, 1983

COMMENTS AND SUGGESTED CHANGES--TITLE 38

Chapter 04--Policy for Use and Classification of State Land Surface

38.04.005 More specific goals and policies need to be spelled out for managing and disposing of state land which take into better account the whole range of resource values and uses.

agree

.04.010 This section articulates the policy of making year-round residential use near existing services and seasonal, recreational use disposals where future services will not be needed. Many emphasized the need for either applying this goal more strictly in the disposal program or strengthening the statutes to include such language in the specific disposal authorizations. See also 38.04.020 and 38.09.

agree

.04.020(e) Despite the statute requirement that a budget for disposals be submitted to the Legislature, it was argued that insufficient monies are appropriated to ensure a stable, continuous program over several years. Also, some costs such as possible local services incurred by disposals are not accounted for nor the costs of enforcement of sale provisions. See also 38.08 and 38.09. Although the statute requires estimating costs of complying with local platting and subdivision ordinances, AS 29.33 exempts the state from having to provide capital improvements, such as roads, as part of its compliance with local platting requirements in the disposal of state land. See also 29.33.

.04.020(e)(4) allows DNR to submit a schedule for obtaining cost estimates of municipal regulation conformance in disposals if not available. This "loophole" should be deleted and estimates annually required.

.04.020(f) The statute requires an annual assessment of the demand for state land taking into account supplies of private and local lands. Some felt this is either not being done administratively or that the statute should be strengthened to require accurate market demand/supply/need for disposal

agree

.04.020(g)(2) requires certain percentages of subdivision land be made available for homesites by particular disposal methods. One of these methods, by length of residency has been ruled unconstitutional. The arbitrary percentages to be disposed as homesites should be repealed as well as disposal methods to better reflect specific market demand and public policy.

agree

.04.020(h) limits subdivision parcels to five acres unless local zoning ordinances, topography, sewer and water requirements dictate larger parcel. Remove limitation to enable larger parcels to reflect public desires, other resources in specific areas.

.04.020 Include new provision precluding subdivision disposals in "remote" areas or make such disposals take into account carrying capacities of local resources.

agree

.04.020 The DNR administrative procedure currently calls for public hearings prior to land disposals. Public hearings should be required in the statutes.

agree

disagree .04.020 Although some disposal programs generally refer to making land available throughout the state, specific quotas or percentages of land by region should be required to ensure land disposal in all areas without disposing of a preponderance of land in a few regions as is the case currently.

New quotas in areas where few or no disposals have taken place would likely prove as disastrous as the old 100,000 acre quota

.04.021 provides for grants to municipalities for the disposal of municipal entitlement lands. Much more money should be appropriated for this program and the statutory restrictions on the ratio of money from the state vis a vis municipal disposal money should be repealed (5 to 1 or 7 to 1). Grants should not be limited for entitlement land disposals, but any local lands. Some statutory provision should be made to encourage the joint participation of state and locals in the disposal of both state and municipal lands.

agree

.04.025 requires DNR to assess the supply and demand for land in making lands available for private use. This section is redundant to a large degree to the assessment required in .04.020(f) and should be repealed or integrated and made more specific.

agree

disagree .04.035(4) prescribes a lease system for cabins in remote areas where survey and conveyance is impractical. Cabin lease system should be more broadly used instead of disposals when dealing with "trespass" cabins, recreational uses, resource conflicts and other factors. See also .05.079.

This system has the same impact on resources as disposals and should be planned for as such.

.04.040 authorizes the sale of University lands. With the passage of SB 41 last session removing University lands from "state" or public lands, this and other references to University lands should be repealed.

.04.045(a) permits the disposition of land in parcelsizes reflecting individual use needs or market supplies. This conflicts in part to the subdivision 5-acre limitation in .020(h) and should be either consolidated or made consistent with this section.

agree

.04.045(b) requires surveying and platting prior to land disposal. Specifies land not to be conveyed unless within two miles of control monument. Requires state disposal plats to comply with local ordinances similar to private lands. This should be adhered to administratively and the exception for the state in complying with capital improvement requirements by locals in Title 29 should be repealed. See 29.33. See also .09, homestead survey requirements.

There is debate on the definition of "cadastral survey". Some want definition to include survey monumentation every section and quarter section, others prefer broader definit on to expedite disposals in remote areas.

.04.050 provides for the reservation of easements and rights-of-way when lands are surveyed for disposal for access to each parcel of land. Surface access is to be developed where "necessary and appropriate" with costs to be borne by land recipients. Statutory changes recommended specifying that legal and feasible access be provided to and within subdivisions (not necessarily section-line easements, for example) and that access meeting local ordinances for subdivisions be required of the state. See also 29.33.

.04.055 mandates the reservation of public use easements and rights-of-way in the disposition of private lands. This provision is very similar to the provisions of 38.05.127. More public easements and rights-of-way should be reserved administratively under this authority and state land reservations in fee simple should also be made to ensure access to public lands and waters. See also .05.127

agree

.04.065 requires the development of regional or area plans to guide land classifications. Although land classifications must follow such plans, until they are completed (only a few are currently completed) localized "land planning reports" are the only plans currently required prior to disposals under current administrative regulations. Area or regional plans should be completed and required prior to land disposals to ensure that all resources are considered in a particular area or region.

agree

This section also requires local government and public involvement in the planning process. The statutes should specifically mandate the holding of public hearings as part of the plan development and prior to any classification or disposal. See also .04.020 and .05.301 and .05.345.

.04.070 sets out several classifications for retaining land in public ownership. One or more of these such as "public reserve lands" should be further defined statutorially and lands included to more permanently retain them for a variety of public uses in contrast to more specific management systems such as state parks or state forests.

agree

.04.910 is the definition section for .04. The definitions for "official cadastral survey" and "official control survey" should be reviewed in light of federal and state policies and most current applications. See also 04.045(b).

CHAPTER 05--ALASKA LAND ACT

.05.030(c) provides for the notification to DNR by other state agencies of any land acquisition, lease or exchange. Notification should include disposals also.

agree

.05.035(a) requires DNR to make a "best interest" finding prior to sales, leases, or other land disposals, except for revocable permits, shore fishery sites leases, and certain negotiated contracts. All disposals, including permits and leases, should require "best interest" written findings. Such a finding should be further clarified in the statutes and include social and economic impacts and benefits of disposals.

agree

.05.035(b) authorizes the granting of preference rights to land and property to persons adversely affected by state or federal errors or omissions. Limit rights to preferences to three years from date of error or state action in order to avoid long-standing claims with difficult record reconstruction.

(b)(5) authorizes direct negotiation with users or improvers of state land prior to statehood to convey title when in "best interest" of state. Provision of dubious legality and should be repealed.

disagree .05.045 authorizes the sale of all state land except tide, submerged, shorelands, timber and grazing lands. Timber lands should be allowed to be sold to enhance timber harvesting and reduce administrative costs.

The multiple use of that land is often best.

.05.050 mandates that land disposals, including homesites under .04.020(g)(2)(C),

be held in the "municipality" closest to the land and in which regular sessions of a state court are held. Some feel that this requirement is unfair to residents from other areas of the state while others favor retention of the requirement as a form of resident preference. One suggestion is to permit teleconference participation at auctions or lotteries.

We would like to see the requirement retained.

The reference to .04.020(g) should be deleted as part of the suggested repeal of that section.

Change "municipality" to "community" to take into account unincorporated locations.

agree

.05.057 requires the consultation by DNR with the local assessor in the determination of purchase prices prior to disposal. This requirement should be eliminated as unnecessary.

.05.058 established a discount program for the purchase of land based on the number of years of residency. Discounts up to 50% of the purchase price were available. This provision was ruled unconstitutional and was repealed in the last legislative session. Some felt the resulting policy of disposing of land at fair market value will result in a more accurate picture of demand for state land, will enhance private land developments, and effect a better return for state resources. Others have recommended a replacement discount program not based on residency to continue to provide lower cost alternatives to state land acquisition. One suggestion is to give a "rebate" or a discount off a fair market value purchase price if certain specified improvements are completed. The value of the improvements up to a certain percentage of the purchase price could be permitted. Another suggestion is to establish a forgiveness system towards the purchase price in which payments are removed from the end of the payment schedule for each year of payments paid on a year-to-year basis. This concept is included in SB 280 currently pending before the Legislature.

.05.065(a) sets the interest rate to be paid on land disposal contracts to real estate mortgage loans made by the federal land bank for the farm credit district for Alaska. These rates have currently been more than 12%. A more appropriate guideline should be established which would more closely reflect rates for prevailing state programs such as housing, ag and fishery loans.

.05.065(c) provides a general action for contract violations. An appeal process should be enacted followed by the prerogative of the commissioner to foreclose and sell interest to a third party as if it were a deed of trust.

.05.067 provides for special sales of land for veterans. This provision is currently not being utilized by the DNR, nor has it been used to any extent in the past. It should be repealed.

.05.069(a)and (b) provide for a 60-day first option to adjacent landowners for ag land sales or leases and a method based on a "greatest need" or veterans preference to determine which of several adjacent landowners should be granted an option. To facilitate efficient administration and simplify the selection procedure ag land options for adjacent landowners should be exercised at the time of disposal and a single recipient selected by simple drawing of lots.

disagree .05.070(b) authorizes the DNR to negotiate a land lease without advertisement if it involves less than $250/year. This limitation should be raised to $5000/year to expedite processing leases.

disagree .05.070(c) authorizes DNR to grant land leases for up to 55 years if in best interest of the state. Limit should be raised to 99 years to be compatible with federal leases and to facilitate financing of development.
Some such leases are already exempt from best interest findings.

.05.077-.078 establishes the remote parcel leasing and conveyance program. The legislature repealed this program effective July 1, 1984 and substituted many of the provisions with the homestead program (see 38.09). The remote parcel program should be reenacted or extended another year or so to permit smoother transition to homestead program, ensure maximum land availability for remote recreational use and to permit stakers a 5 to 10 year lease prior to purchase of land.

disagree

.05.079 authorizes a remote cabin permit program. Although cabin permits are to be issued only for lands classified for this purpose, current classifications are too permissive in where remote cabins may be located. Others have felt that this program is underutilized and more remote cabins should be offered and encouraged in lieu of land disposals in many remote areas. The permit system should be replaced with a lease system to ensure that a "best interest" finding was required (see .05.035(a)). Also a public use cabin should either replace or supplement the remote cabin permit program to further reduce the need for land disposals.

Remote cabin permits must be treated like disposals and carrying capacity + so forth considered.

.05.110 provides for the assessment of timber on state lands and recommendations for the sale of timber and other materials. This assessment and recommendations should take into account the availability and current markets for nearby private timber supplies.

Agree

.05.125 mandates the reservation of the mineral estate (subsurface) from all lands conveyed by the state. In the references to various disposal programs covered by this provision should be added 38.09 establishing the homestead program.

.05.127 requires the determination of "public waters" or "navigable waters" prior to the disposal of state land and the reservation of easements or rights-of-way to ensure public access to and along such waters. Regulations implementing this section have not been issued. Current applications of easement reservations for entitlement lands conveyed to municipalities have been too broad resulting in many unnecessary and burdensome easements in land titles. Statutes need further clarification on what "public waters" are and perhaps special provisions for municipal lands when it can be demonstrated that reasonable public access will be ensured. (The statute does provide for vacating of easements on municipal application "if consistent with the public interest".)

agree

Oil and gas and mineral leases should be excepted from the application of the provision. As such leases only permit limited surface uses and do not bar public access, commonly are held for years without ever going to development or production stage, and involve time-consuming administrative work to identify public waters and easements, it is recommended that such easements and rights-of-way not be identified until a development or production plan is submitted for approval.

In addition to easements and rights-of-way, fee simple state land should be reserved in cases (see .04.055).

.05.140-.181 Authorizes leasing for coal, phosphates, oil shale, sodium, sulphur and other minerals on state lands. The terms for such leases vary somewhat including acreages and length of leases. These terms should be reviewed and made consistent if appropriate.

.05.150(c) authorizes a two-year coal prospecting permit with one two-year extension if diligence is demonstrated. Because of the lengthy prospecting time necessary for coal exploration, permits should be granted for longer terms (e.g. 3-5 years with one or more extensions).

.05.150 In the determination by the DNR to lease coal lands, nearby coal reserves on private lands should be taken into account.

agree

.05.185-.275 governs the procedures for locating and administering mining claims on state land. Procedures are also contained in Title 27. Rather than a location, or claim-staking, system of establishing rights to mineral and possibly surface estates, all minerals should be leased under programs similar to those for oil and gas. Rather than the current Mining License Tax levied on net profits on a sliding scale up to 7% , a royalty system similar to oil and gas should be enacted (10-12% of gross profits). Such a system would discourage marginally economic operations , protect other resource values , and generate a fairer return on state-owned resources. (The current tax took in $158,000 in 1982--90% of the money from coal, sand and gravel and other non-locatable mineral production.)

.05.185 authorizes the leasing of minerals when DNR finds that potential use conflicts on state land would exist or that the land was mineral in character at the time of state selection. Such lease determininations must be consistent with the land classification procedures. Regulations for implementing a location leasehold system for conflict or mineralized state land areas are currently proposed. Lands available only for location leasehold mineral acquisition should be expanded to include most, if not all, state lands. This could be accomplished either through a broad administrative determination of "use conflicts" or through additional statutory language directing additional considerations in the classification of leasehold lands.

.05.190(a)(1) grants exploratory and mining rights to those at least 19 years of age. The current age of majority for most activities in Alaska is 18 years old, and this statute should be correspondingly changed.

.05.195 requires that mining claims be staked in the four cardinal directions (north south, east, west). Amend provision to not apply to fractional claims or when the commissioner determines that such staking is impractical.

.05.200 or .210 Amend the requirements for amending claim locations or filing annual assessment work to allow affidavits of annual labor to be corrected by amendment thus providing a legal mechanism for correcting errors.

.05.205 directs the DNR to publish a notice of a mineral lease no later than two week before sending lease application. This publishing requirement should be deleted so that mining leases are treated like other noncompetitive mineral leases whereby the notice is published only when the finding mandated by 38.05.035(a)(14) is ready and no subsequent notice is required. See also .05. 345(e).

.05.240 provides for basic mineral survey finds for annual labor to be filed and kept confidential by DNR. Delete the provision as it can result in the "leaking" of proprietary information, the information is often of mixed quality, the date submitted serves no particular public benefit, and the requirement poses an administrative burden for claimants and DNR.

.05.0245(a) requires the filing of a certificate of mining location in both the recording district and also the DNR. Delete the requirement to file the certificate of location with the DNR as the District Recorders' Office is currently within the DNR.

.05.245(c) limits the number of prospecting sites that a person may locate in one calendar year in one recording district to six. It also prohibits the relocating of an expired prospecting site within two years. Change the number of prospecting site locations from six sites "located" in one year in one district to eight sites "held" at any one time in each township. This increase in the number of sites permitted will encourage the use of prospecting sites where a discovery has not been made yet and address a current loophole whereby employees of large companies locate sites and quitclaim deed them to company. Also change the waiting period for restaking sites from two years to one.

.05.250(a) provides for the issuance of prospecting permits for tide and submerged lands. Amend to clarify that the rental year for an offshore prospecting permit ends on the anniversary date of the permit, not at the end of the calendar year. This change would allow the rental year for permits and offshore leases to be computed in the same way.

.05.250(b) Provides for the obtaining of a noncompetitive lease to holders of prospecting permits. Amend to delete the first sentence of the provision which states that the "right to possess and extract the mineral may be acquired by noncompetitive lease." This sentence is redundant of the next sentence in the provision and may mislead people to believe that they can get a noncompetitive lease without first obtaining a prospecting permit.

.05.265 prescribes the basis for "abandonment" of a mining claim, location, or permit. Amend to define the "essential facts" that must be included in annual labor affidavits. Amend so the former owner of an abandoned mining location cannot acquire any direct or indirect beneficial interest in the location site during the one-year waiting period. Change the waiting period for prospecting site locations from two to one year consistent with .05.245(c). Amend to provide that abandonment of a mining lease or location constitutes abandonment of the interest in tailings mined and left on state land, unless the lessee or locator has purchased the materials in the tailings ahd has received authorization to store tailings on state land.

.05.275 Amend to eliminate the requirement of filing a certificate of location with the DNR as in 38.05.245(a). The district recorders office is in DNR.

.05 300 provides for the classification of state lands and bars the closure of state lands, except by the state legislature, to multiple purpose use if the area involved contains more than 640 acres. This prohibition should be strengthened to prohibit the DNR to administratively close more than 640 total acres by multiple 640-acre closures. See also .04.065. The authority to close lands to mineral entry should be broadened to enable the closure of lands conveyed to municipalities under the entitlement grants

.05.301 requires an assessment of impacts of any land sale, lease or disposal on population and traditional land uses in the unorganized borough and necessary mitigation plans. Citizen review boards or perhaps the Coastal Resource Service Area Boards should be utilized in the review of all proposed land disposals in rural areas (or any areas). In addition to required input the Boards might be given veto authority over proposed land sales or disposals. See also .04.020.

agree

.05.310 requires an appraisal within 120 days of the sale or lease of state lands. Because of the delays often encountered in leasing and selling lands, costly reappraisals are often required by law. The 120-day limitation should be extended to one year.

.05.345 establishes the notice requirements for classification, sale, lease and disposal of state lands. (b) requires at least one of several different kinds of notice be given (e.g. newspaper publication, electronic media, posting, notification of affected parties). More than one such method of notification should be required.

agree

(e) provides an exception for mineral leases issued under 38.05.205. This should be deleted to conform with change recommended for .05.205.

Amend to include provision for public hearing upon request subsequent to notification. See also .04.020 and .04.065.

agree

.05.350 is a policy statement for the state to encourage settlement and develop resources consistent with public interest. This policy is incorporated in the policies contained in .04.005-.015 , is statutorially out of place and should be repealed.

.05.362 mandates the classification of at least 650,000 acres of agricultural land or no less than 50% of the lands having Class II or III soils by September 22, 1979. This requirement was met and the provision should be repealed.

.05.365 is the definitions section for chapter .05. Number 23, "public waters" should be reviewed for clarity particularly as it applies to the reservation of easements and rights-of-way for municipal grant lands under .05.127.

.07.030 provides for the clearing of ag lands owned or leased by private parties. A revolving loan fund should be established for clearing projects wherein monies could be continuously available to clear both state and privately owned or leased ag lands.

.08. Establishes the homesite disposal program under which title is obtained through "sweat equity" requirements of residency, dwelling construction and survey. One suggestion is to eliminate the permit system during the proving up period, provide an assumable and assignable contract at fair market value and a schedule of rebates or discounts based on improvements or actions taken on the land. This "carrot" approach would result in better ability to finance improvements and reduce administrative compliance actions.

Another recommendation is to make the requirements conform to the "sweat equity" features of the recently-passed homestead bill--residency from 35 months in 7 years to 25 months in 5 years; dwelling construction from five to three years.

agree

disagree This contradicts the intention of the homestead program in the first place. If all requirements except the ones for residency have been met at the end of the permit term, amend the statute to permit the purchase of the parcel at fair market value. This would provide an expedient and equitable way of dealing with forfeiture of parcels with property improvements on them. See also .04.020(g)(2).

.09.010(b) requires that lands available for homestead entry may not be located more than one mile from a survey control monument. .04.045(b) prohibits the disposal of state land further than two miles from a monument. This provision should either be eliminated in .09.010 or be made subject to an administrative determination that staking could be permitted up to two miles of a monument when geographic conditions warrant and excessive survey costs to stakers will not be incurred. This change would permit a full conversion of lands identified for remote parcel disposal (where monuments are generally located every four miles) to homestead disposal. (The remote parcel program is repealed effective July 1, 1984). This would eliminate the need for additional costly surveying in these areas.

.09.010(e) prescribes the procedures for staking of homestead entries. Staking procedures in remote areas should include a requirement that sufficient spacing between parcels occur to minimize the demand for future services and reduce conflicts with other resources and occupants. See .04.010.

agree

disagree .09.020 prescribes the obtaining of entry permits under which "prove-up" activities are to occur. Eliminate the permit system, provide an assumable and assignable contract at fair market value and a schedule of rebates or discounts based on the value of improvements or actions taken on the land. This approach would result in easier financing for improvements and less administrative compliance expense. See. also .08, homesite program.

.09.050(d) and (e) Prohibits the subdivision of lands obtained through sweat equity for five years and through purchase for ten years and the sale or lease of lands for five years regardless of method of acquisition. These prohibitions should be extended for longer time periods to prevent speculation and to ensure that the goals of the program are being met.

agree

.09.080(b) subjects homestead disposals to local platting, recording and subdivision requirements under 29.33 and 40.15. 29.33 exempts state compliance from having to provide any capital improvements on land disposals. Disposals should be made subject to all local platting and subdivision ordinances, or be forced to negotiate with municipalities on the provision of access and other improvements. See also .104.020(e) and .04.045(b) and 29.33.

agree

.09.090 authorizes the purchase of a homestead entry within two years subject only to the brushing and survey requirements. Purchase at fair market value should also be permitted at the end of the permit term if all but the residency requirements have been met. See .08.

disagree

.35.050(a) governs the application process for the construction of an oil and gas pipeline and/or transporation system across state lands. A minimum application fee (perhaps $1000) should be provided in statute to cover the administrative costs of processing a right-of-way application.

.35.140(b) provides that the lessee of a pipeline right-of-way shall reimburse the state for costs in monitoring the construction of the pipeline. Amend to provide for reimbursement for processing application, and for monitoring operation and maintenance of the pipeline.

.50.020(a) provides for the exchange of state land for other lands to be based on equal appraised values, or if not, to be submitted to the legislature for review and possible veto. One recommendation was to require that all proposed exchanges involving state lands be submitted for legislative review. Other recommendations were that the equal-appraised-value requirement is too strict and burdensome and discourages trades, especially small-tract exchanges even when public benefits are clear. The statute should be amended to permit the exchange of land smaller than a certain size (perhaps 640 acres or smaller) administratively regardless of equal appraised values.

agree

.50.020(b) assumes an appraisal to be valid for six months and after such time a new appraisal for a proposed land exchange is required. Amend the statute to lengthen the "validity" of an appraisal to one year to permit the execution of trades which involve considerable administrative work and public review without incurring the costs of additional appraisal

agree

.50.110-.130 dictates substantial requirements for the notice and data needed for a proposed land exchange. Amend the statute to streamline the notice and information requirements for land tracts under a certain size (perhaps 640 acres) to facilitate beneficial exchanges without large administrative costs. Make the notice requirements conform to those for land sales and leases in 38.05.345.

.50.120 requires that at least one public hearing be held on a proposed land exchang Amend to include a minimum tract size before a public hearing is required to minimize administrative costs for small exchanges.

.95.080 mandates the granting of a trapping cabin permit to qualified applicants. Amend language to grant DNR discretion to not issue a permit in consideration of existing land uses and resource values in the specific location.

agree →

Amend to apply the provisions to cabins and camps used for hunting, fishing or other guiding activities.

disagree

ADDENDUM

.20 This chapter describes the Alaska Coordinate System to be used in land surveying and descriptions. Changes in the federal datum used as a base for this system should be reflected in the state statutes.

.05.275 provides for mineral locations on submerged and tidelands. Amend to limit the staking system of locations to state uplands and to tidelands (between mean high and mean low tides) if part of the claim is on uplands. Staking on submerged lands (below mean low tide) would be disallowed and submerged lands would be available to mineral exploration and production by the state's offshore mineral leasing system.

TITLE 38--GENERAL COMMENTS

---Section 907 of the Alaska National Interest Lands Conservation Act (ANILCA) establishes a land bank program under which Native and other private lands can receive tax and other protections in exchange for non-alienation and non-development of the private lands and management in conformity with adjacent federal and state lands. The State is authorized to participate in the program if it adopts laws of general applicability to section 907. To promote cooperative land management among major landowners in the state, it was recommended to adopt enabling provisions for a land bank program.

agree

---DNR regulations currently limit participation by most Division of Land and Water Management employees in land staking and over-the-counter programs. Such possible conflict-of-interest situations in land disposals should be identified and restricted by statute.

---Presently only the homestead program and the project ag leasing program have restrictions on the sale or subdivision of land after the conveyance of title. To further prevent speculation on state land several provisions were recommended: Increase anti-sale, anti-subdivide restrictions on homesteads and apply similar restrictions to all state land disposals; Strictly retain fair market value sales and/or require substantial residency and improvements of land; Broaden the coverage of the one homesite or homestead per lifetime proviso to all state land disposals.

agree

---SB 41 which settled the University of Alaska/State land lawsuit by awarding the University exclusive ownership and management over certain state lands passed the Legislature last session. The removal of University lands from "public lands" necessitates that the references and treatment of University lands be changed in the statutes throughout Title 38.

COMMENTS ON RELATED SUBJECTS IN OTHER TITLES

Title 29--Municipal Code

29.18.201-.208 Under the municipal land grant entitlements the Municipality of Anchorage received 44,893 acres of state land, but to date has only received patent or tentatively approved title to 21,000 acres with virtually no additional state land for selection available. The statute contains a formula based on population and lands conveyed to compensate in cash municipalities who are unable to fulfill their entitlement. Under this formula Anchorage would be entitled to $35 million except that another provision limits the total any municipality can receive to $9 million. Anchorage has received $4 million to date of this compensation. Recommendations included: 1) payment of the balance of the $9 million; 2) removal of the cap and payment of the otherwise entitlement compensation under the formula; 3) Development of an alternative manner of conveying in-lieu lands to Anchorage from outside the municipal limits or proceeds from the sale or use of such lands.

Muncipal lands conveyed under this section have often remained open to mineral entry and created third-party interests prior to being studied, classified and utilized by the municipalities. Such lands should be closed upon conveyance to municipalities. See 38.05.300.

Conveyance of municipal grant lands has sometimes proceeded slowly and

patent to all municipal lands has not yet been conveyed due to the necessity to survey the lands prior to patent. If the municipality approves the conveyance of lands without a survey or with only partial survey, it should be permitted. Also, the municipalities have had to pay for surveys to expedite conveyance and more state assistance is required. See also 38.04.045(b)

29.33.150 requires the state to submit land disposal plats to local governments having appropriate authorities for approval, but "the platting board may not disapprove the subdivision plat on the basis of regulations which require capital improvements (e.g. roads) on or to state land included in the subdivision plat. Regulations adopted after the platting board is notified by the commissioner of natural resources of a proposed sale of subdivided state land under 38.05.005-38.05.370 or 38.08.010-.120 do not apply to the state land in the proposed sale." Repeal the exception for capital improvement requirements to enable local governments to minimize the future demand for access and services to state subdivisions and to ensure future residents satisfactory access and services. Removal of the exception would also put the state on the same footing with private land developers and ensure local control on community growth and lifestyle.

agree

In an effort to reduce costs to the state of such a change in the statute and to ensure that disposals are not blocked by overly burdensome ordinances, capital improvement requirements could be limited to disposals on or near existing highways and roads; could be limited to some accepted standards, such as primitive road or local road, etc.; or funding could be through revolving fund incoporating receipts from land sales and possibly tied into the municipal grant program for local disposals. See 38.04.020(e), 38.04.021, 38.04.045(b), 38.04.050.

TITLE 27--MINING

---Title 27 also deals with many of the same mining procedures and rights (picked up from federal law) as are contained in Title 38. These apply to mining rights on fed la

---The reclamation statute dealing with coal mining formerly contained in Title 41 is now contained in Title 27. The reclamation requirements pertaining to coal should be applied in law to all mining operations.

agree

---27.05.020 prohibits certain conflicts-of-interest. Recent interpretive problems point out the need for revision to clarify meaning and intent.

---27.05.080-.090 require four public assay offices with assayists in each office statewide. DGGS actually only maintains one assay lab on the UAF campus. The statute should be changed to reflect the realities of the situation. It might be preferable to enact an assay system based on private assaying with rebates to miners for private assaying.

---27.05.180-.210 authorizes the purchase of specific mineral prospecting equipment to be loaned out to private persons for exploration work. DNR no longer, if ever, conducted such an equipment lending program. The 1955 statute should be repealed.

---27.10 embraces the 1872 mining law as it governs mining on federal lands. Changes made in the 1976 Federal Land Policy and Management Act (FLPMA) are not incorporated in these statutes and should be.

---27.15.010 is the only provision in Title 27 dealing specifically with mining on state-owned lands. It requires "grubstaking" contracts be in writing. Should be repea

ADMINISTRATIVE AND BUDGETARY CONSIDERATIONS AND RECOMMENDATIONS

DNR statewide quota for FY 86 is 51,600 which is still too high.

1) Concern was expressed over the amount of land which is currently being disposed. While most recommended that less land be disposed of, some felt more land should be sold or made available for private use. There is currently no statutory level of acreage disposal and annual offerings have ranged from almost nothing in 1976 to 100,000 acres in 1980 to approximately 60,000 acres for 1983.

Land disposals in new areas must be done with much regard to carrying capacity.

2) Concern was expressed that land should be made available throughout the state, not just primarily in the Mat-Su Borough or the Tanana Basin. Also it was recommended that high-quality, accessible land be offered to a great extent.

3) While the need for remote recreational and residential lands was recognized, many expressed concern that spacing requirements be enforced to minimize population densities and corresponding impacts on the resources of the areas and to head off future demands for governmental services such as schools, roads and utilities.

Agree

4) It was recommended that much more planning preceed disposals. In most cases area or regional plans should be completed prior to land classifications and disposals to ensure protection of other resource values in the larger area.

Agree

Up to a certain degree. Some areas should be reviewed periodically.

5) If parcels are not sold or staked in a particular offering they should be retained in over-the-counter offerings.

6) There was considerable concern over the quality and application of market studies in the determination of the amount and locations of land to be disposed of. Although the statutes require a market analysis based on the demands for state land relative to the supplies of other public and private lands, such studies have been criticized as being inadequate, superficial or based on limited information. It is recommended that the DNR conduct a more accurate market study prior to disposals, especially in light of removal of the residency discount program.

Agree

See comment on cover letter.

Agree in part. New roads into remote areas should not be routinely considered.

7) Many felt that the state should fully comply with local platting and subdivision regulations, even if improvements such as roads were required. State subdivisions in the past were felt to create undue burdens on local governments and hardships on land "winners". Also, such subdivisions were blamed for undue competition with private land subdividers who must meet local ordinances.

Agree

8) It was felt that the state needs a well-planned, long-range program with consistent land disposal programs. Program changes and frequent amendments by the Legislature contribute to public confusion, false short-term demand, and high administrative costs.

9) Some felt that the DNR classifies too much land as available only to mineral lease-hold location system while others felt most, if not all, land should be so classifie Current law permits classification for leaseholds when resource conflicts are presen or the land was mineral in character at the time of state selection (38.05.185).

Agree

10) It was recommended that DNR consider supplies of timber, coal and sand and gravel on nearby private lands prior to sale of these materials and resources on state lands so as to not directly compete with private developments.

This program should be considered as a disposal program

11) It was recommended that the remote cabin program authorized in 38.05.079 be utilized to a greater extent, possibly subject to certain classified areas, in lieu of disposal programs.

12) It was felt that the DNR should charge greater fees for the processing of permits and leases to help defray administrative costs.

13) It was recommended that the current work plans for ag lands not be required but that developments could be better effected through some program of monetary incentives. Others felt that improvement requirements reduced the speculative aspects.

14) It was recommended that DNR utilize its authority in 38.05.070(c) to cancel unused grazing leases.

agree

15) The DNR and perhaps the Legislature should develop a trespass policy and procedure for state lands emphasizing priorities for administrative action due to time and manpower constraints.

16) Lands conveyed to municipalities under the entitlement program should be closed to mineral entry.

agree

17) Additional monies are needed for the municipal land disposal fund program to assist the local governments in disposal of entitlement lands and remove pressures for similar state land disposals.

agree

18) Money is needed for a state computerized system for handling land records and land disposal information. A full accounting of costs and revenues from sale and lease programs needs to be undertaken and retrievable information made available.

agree

See comment in Cover letter.

19) A more abundant and predictable source of money for land surveys is needed if a long-range, consistent program of land disposal is to be obtained. Surveys are needed several years in advance of disposals and also serve additional land planning and use needs.

20) More money is needed for completion of area or regional plans required in Title 38. The current schedule subject to annual appropriation levels will not allow completion of plans for most of the state before the end of the decade.

agree

21) More money is needed for on-the-ground management of state lands, particularly in the area of enforcement and compliance.

agree

22) Title 38 should be published in a larger format booklet for the public similar to the Title 29 publication produced by the Department of Community and Regional Affairs.

agree

FEB 21 1984

Bristol Bay Native Corporation

445 E. 5TH AVENUE / P.O. BOX 100220 / ANCHORAGE, ALASKA 99510 / (907) 278-3602

February 14, 1984

Adelheid Herrmann
District 26
Pouch V
Juneau, Alaska 99811

Re: PROPOSED POLICIES TO GUIDE STATE LAND OFFERINGS AND DISPOSALS

Dear Adelheid:

Thank you for requesting our comments on the above referenced subject. There are a few areas of the policies that we must comment on as we believe that the present draft have certain deficiencies that must be changed.

1. The basic premise that the State should identify specific land-use needs and determine the effects on the land markets are two areas that State land disposal policies should not be involved.

2. The land disposal policies should focus on a land disposal program that will effectively place State lands in private ownership at a minimal cost to the State and let the buyer bear the costs of survey, access and development. The buyer should be required to pay fair market value and agree to stipulations that would prevent subdivision of acquired lands for a certain period of time and to a minimum lot size of future subdivision.

3. Since tourism is one of the fastest growing industries of our State, land disposals should not be allowed in areas that are wild in character, support fish populations that are needed for subsistence and sport hunting. Presently, many of these areas have sufficient private lands to provide facilities to accomodate the tourism industry.

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4. Where State land disposal programs are limited to a certain acreage figure, such as in the BBCMP, local advisory panels should be involved in developing a State land disposal program for that certain area.

5. The subdivision land disposal should be scrapped unless the State is willing to fund the costs of providing access roads and utilities as other land developers are required to do by State or local subdivision regulations. We strongly urge that this program be discontinued because of the high cost of maintaining this program.

Because of the projected decline in State revenues, a high cost land disposal program is not in the best interest of the State.

Sincerely,

Donald F. Nielsen
Vice President

Resource Development Council for Alaska, Inc.

444 West 7th Avenue, Anchorage, Alaska 99501-3512
Box 100516, Anchorage, Alaska 99510-0516 – 907/278-9615

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April 5, 1984

Senator Bettye Fahrenkamp
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

Here are the comments and recommendations of the Resource Development Council on CSSB 375 (RES), an act relating to land disposal and management. Please make special note of our response to Section 81 AS 38.05.350.

Section 1 AS 38.04.005 (b) The added wording places more restraint on classifying land for private use. There are no limits as to what is meant by "shall seek to minimize the effect of private settlement on wildlife, fishery, mineral, timber and other significant measures and scenic quality of the land." This wording should be deleted. As a policy statement, it totally excludes private settlement and negates subpart (d) of this section. See comments for Section 81.

Section 2 AS 38.04.005 (e) What is meant by "a proximately located municipality," and when is it "appropriate" to hold public hearings? The original wording is more satisfying and it is already implemented by AS 38.05.345.

Section 3 AS 38.04.005 (f) It is not appropriate to make this a part of the policy statement. It is more appropriate to make it a section in AS 38.95 and have it apply to all of Title 38, not just Chapter 04. Another alternate is to make this clear in AS 14.40.

Section 4 AS 38.04.010 (b) The added wording does little to enhance the law. This seems to presume that state settlement cannot take place where there are no trees for building or firewood. It even rules out living in Bethel. The amendment is not needed.

Section 6 AS 38.04.020 (f) This is a good simplification of the existing section. A shortcoming of the amendment centers around determining demand if the program offered is less than satisfactory.

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Section 7 AS 38.04.020 (g)(2) The deleted portion fostered a poor disposal program. We are in agreement to see it go. The surviving portion could be further shortened by deleting the words subdivision and homesite and subdivided. Subdividing is surveying.

Section 8 AS 38.04.020 (h) Delete the added words at end of the paragraph. This is a planning process to be reckoned with at the time of picking the land disposal site. It could be said this added wording will be used to eliminate all disposals. The wording does not allow for people.

simply allows flexibility in parcel size

Section 9 AS 38.04.022 The creation of a separate land disposal fund opens a can of worms. State land as defined in AS 38.05.365 (16) would then include the revenue from oil and gas to be used only for land disposal programs. This section seems to be saying that the land disposal program is costing the state money and that if it cannot support itself, there should not be any land disposals. It also fits in with the proposed repeal of the land policy fund in AS 38.05.350. The whole tone of this section and many others is to retain state land in public ownership.

Section 10 AS 38.04.035 (4) The wording would be more meaningful if the cabin development would be allowable within parks and game refuges designated by the legislature. It seems that all of the state public domain is a potential conflict with other resources.

Section 11 AS 38.04.045 (b) Recommend the amendment if the distance is not made less by administrative decision.

Section 12 AS 38.04.050 Legal access is not necessarily adequate access. A section line easement is legal but does not provide adequate access if it goes through a lake.

"adequate" → "flexible"

Section 13 AS 38.04.055 The amendment is nothing but surplus wording.

Section 14 AS 38.04.058 This may be public appropriation for a private gain, but it does have merit.

Section 21 AS 38.05.055 The 85 percent of FMV will take a lot of regulation to be implemented. This sounds good but probably won't happen. The law presently allows for reduced appraisals. It was used twice in Kodiak land sales. The auction bidding took the sale price up past the FMV in each instance.

Section 22 AS 38.05.065 This whole procedure would be simplified if the state used a deed of trust secured by a promissory note. It would give the purchaser working title and simplify foreclosure if it was necessary.

Section 25 AS 38.05.070 (b) The change of the $5,000 a year value is very favorable. This would allow for land parcels worth $50,000 to be negotiated.

Section 26 AS 38.05.070 (c) Amendment is recommended

Section 27 AS 38.05.075 Amendment is recommended

Sealaska

Section 28 AS 38.05.075- New subsections. Amendments are recommended.

Section 29 AS 38.05.110 The requirement to "assess the supply of and current markets..." is an undue burden if it is used to allow the state's timber resource to go to waste. Timber and materials should be separated.

38.04.005
38.04.010

Section 81 AS 38.05.350 The repeal of the land policy providing for the state to encourage the settlement of its land and development of its resources by making them available for maximum use consistent with the public interest removes one of the basic building blocks of this great state. The substitute land policies found in AS 38.04.005 may interpret AS 38.05.350 but do not provide a clear mandate as to why the state got into the land business to begin with. The record is clear that resource development and land settlement have been frustrated and stymied since AS 38.04.005 has been adopted.

If RDC can be of further assistance to you concerning these comments, please call on us any time.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL
for Alaska, Inc.

Paula Easley

Paula P. Easley
Executive Director

alaska survival

OCT 12 1983

Oct. 3, 1983

Box 343 Talkeetna, AK 99676

Senate Resources Committee
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Senate Resources Committee:

I am pleased to learn that the State has intentions of reforming its land disposal program. The present program has proved both ineffective in providing land to meet the needs of the people seeking land and disruptive to those who reside in land disposal areas. As a resident of Chase, I feel that I have become an expert on bad planning. I regret that much of my imput here will include listing the ways in which the state should not handle land disposals, and examples of past offenses, but hopefully, assuming man can learn from past mistakes, these will serve as a guide of actions to avoid in the future.

We offer the following suggestions:
(1) Develop a more reasonable method of assessing overall need for privately-owned land in the state. I understand that the present policy of determining need is made by looking at the numbers of people who entered past lotteries, and by asking the land office workers approximately how many people inquired about land. Neither of these methods reveal the true need for private lands and both can and do lead to erroneous conclusions upon which the entire land disposal program is based. The lottery is too much a gambler's paradise to be indicative of land meeds. This method is equivalent to determining how many people are in need of TV's by counting the number of entrants in a $2 lottery to win a TV set. The second method is even less reasonable. I find this method particularly disturbing because I have several times enquired about land disposals in the areas where I live in an attempt to find out the state's future plans for the area, only to find that my enquiry may have counted as a vote to open more land disposals in this area which was exactly what I did not want.

Certainly a better method of determing land need must be established. Unfortunately I do not have the one perfect solution to this problem. The state has created, or contributed to the creation, of a land madness in Alaska; to seperate that from true need will certainly be difficult.

One possible method may be to assess the available land in an area and what proportion of that is occupied. In most, if not all, areas where land disposals have taken place, at least 90% of the privately-owned parcels now set empty. In areas where this is the case, it seems only sensible to cease to dispose of further land there. If the state got out of the real estate business for the next decade or even two, it seems likely that few, if any, people of Alaska would go homeless for that reason. Only the land speculators may suffer, which leads me to wonder who the state is trying to satisfy with all these land sales.

(2) If a real need for additional land has been determined, the second task will be to evaluate the existing situation in each local area to decide if land disposals would be reasonable and acceptable there. This would involve a detailed assessment of the A) available natural resources, finite and renewable, B) the population and character of the human community that exists in the area, including what degree of dependency it has on the native resources and how that balances with the available resources, C) the possible human population if all the privately-owned land were to become occupied and how that population would balance with the resources of the area, D) access. This assessment should allow the planner then to make an evaluation of the effects that a land disposal would have on the existing community and the resources, and how it would affect the balance between the two. A similar evaluation should be made using the possible future human populations and expected availability of resources as a base.

The constitution of the State of Alaska states "Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses." Because so many of Alaska's residents depend upon the resources of the land for their survival, this section of the constitution should be foremost in the land planner's mind when determining land disposals. As long as the sustained yield principle is adhered to, there exists a balance of man and nature, both surviving indefinitely without the necessity of intervention—such as costly projects—by the state. But when planners choose to overpopulate an area with people beyond the sustainable yield of resources, the state suddenly becomes responsible for the disruption and destruction of the way of life and the means of survival of the residents. And therefore, it is responsible for meeting the needs of those who once provided their own sustenance from the land.

(3) The state must identify the true cost of land disposals prior to sale, publicly acknowledge the liabilities, and offer just compensation to those adversely affected. For example, if planners cause the human population in an inaccessible area to exceed that which can be sustained by the moose for meat and firewood for fuel, the state then becomes under pressure and obligated to build a road or provide other means of access to the area, as well as to make available fuel and food from some other area, provide the residents with suitable employment so that they may make enough money to buy that food and fuel to make up for that which was destroyed by bad planning, or the state must provide some form of welfare to provide these necessities for the people who cannot afford them.

At the time of the land disposal, the state should provide funds for those needs, such as roads, schools, that it made inevitable by its actions. To unload a host of problems on a community and then to step back and pretend innocence is not the function of government.

The state of Alaska must begin to take responsibility for its actions. Right now, before another single parcel of land is sold by the state, the government should assess the damages created by past disposals and try to mitigate these. I am convinced that if the real effects of each land disposal were acknowledged and brought to light—with the knowledge that the State was strictly liable for all costs and compensation—a majority of planners' errors would be eliminated.

(4) One vital step in identifying the true costs and effects of land disposals would be to allow and encourage more realistic public involvement in the actual decisionmaking process. This should begin with a survey of the attitudes of people concerning a land disposal in their local area. If the consensus is against land disposals there, that area should be dropped from the disposal bank. It is well known that this generally is the procedure that already exists for determining disposals west of the Alaska range and in other non-organized borough lands. We who live in the more remote areas of the railbelt, and who have been suffering the brunt of the state's land giveaway, ask to be given equal voice in determining the future of our homes.

Major reform is definitely needed in the area of public involvement. For too long the state of Alaska has treated the residents of a proposed disposal area as nothing more than obstacles in the path of "progress." They have simply been pushed aside. Those who wish to obtain land have been considered to be the "clients" of the state agencies—this was precisely the term used by a state representative at one land meeting in Talkeetna. And thosewho live in the area of the planned disposal are considered the "niggers"—this is the term used by a resident of Chase. Obviously no improvement can be expected until this attitude changes.

At present the gap between the actual lives of the people in rural Alaska and the understanding of planners living in Anchorage is so abysmal that there seems no possible reasonable method of planning for the disposal of land except to let the residents of each recognizably distinct area and/or community draw up the land plan for their area. Multiple-choice ballots written by the planners to be checked or Xed by attendants of public meetings does not meet the need of public involvement. It often seems only to occupy the time of both the residents and the planners so that the true situation can not be revealed.

I will give an example here of the misunderstanding or lack of understanding that exists between planners and the residents of an area. Once again, it involves the Chase area—scene of every experimental land disposal program imagined by the State.

In the 1970's, the State representatives came to Talkeetna for a meeting to discuss the Chase II subdivisions and future land disposals. This, at the onset, was a mistake. To determine Chase land planning in Talkeetna is equivalent to determing Anchorage city planning in Talkeetna. For many residents of Chase, it is a four-hour or longer walk to Talkeetna, less than the time it takes to drive from Anchorage to Talkeetna. At this meeting of multiple-choice ballots, the residents of Chase marked a preference for larger parcels in future disposals, because this was the listing that seemed to be the least offensive. It was not their preferred plan for Chase—to give out large acreage—but it was preferable to the other alternatives such as the state's proposed disposal plan at that time which was to give out 400 or 500 subdivision lots. The residents knew that such an influx of people would completely destroy their ability to survive in this area by wiping out the moose population upon which they depend for meat, and by threatening the wood supply upon which they depend for fuel, and generally by tearing apart a small subsistence-oriented community of people. They knew that any major disposals would have this effect.

The Chase residents tried to explain this to the State people but apparently there was no understanding of the true situation, of the way that the people do and must live to survive here. All the planners saw was an overwhelming preference for large parcels on their ballot sheets.

In 1982, when the state introduced the Chase III Agriculture disposal, the residents were shocked and outraged at the proposed disposal of 500 acre hobby farms in the middle of a subsistence-oriented community of people, many of whom would be left with no place to hunt, cut firewood, or even any access to their homes if the disposal went through. The state people , as they said, were confused at the residents' reaction. The planners said they thought they had done what the people wanted.

This review, I do hope, reveals the inadequacy of present public involvement methods and the degree of the lack of understanding between planners and residents. Again, I will state that the only alternative is to allow the residents of an area, such as Chase, to develop their own land plan with ample guidance from the state.

(5) Aim for stability. The constant disruption and upheavel of communities and families in Alaska is tearing the state apart. It is destroying the hope, homes, and lives of the people of Alaska. Past landdisposals have been some of the greatest offenders. A land disposal should be compatible with the existing community and resources of an area. Again I will use Chase as an example.

First the state gave out land for recreation, hunting, fishing. People settled into the area for those uses. Then the state decided Chase was an urban area (I assume); it gave out hundreds of subdivision lots. Then it decided this was a farming area; it tried to dispose of "hobby farms" (this was the term used by Sharon Barton, Special Asst. to Wunnicke). People who have lived here for ten or fifteen years, built a home, had children, made their lives here, now find themselves uncertain from day to day if the state is going to allow them to continue living here in a way that is traditional in Alaska and still compatible with the area,(also the desired way of life of them.)

Many residents of Chase find themselves going to the land office in Anchorage and asking about disposals in other areas, preferably some place like what Chase could be if the state would leave it alone. Some have already moved away. By past land disposals, the state has created an unnecessary fluctuation of the population; it has made homeless dispirited refugees of many of its people for no reason but to satisfy the madness to "dispose" of land.

Here again is an example of the state not acknowledging cause and effect. When a land disposal disrupts the present population in an area, the people begin to demand land in other areas, which creates a need for disposals in other areas, which in turn, disrupts the people there, causing those people to demand land in some other area, ad infinitum.

Replacing one community of people with another is not a solution to the land needs of Alaskans.

In Chase, there remains a vestige of the community of people who settled here in harmony with the land, the resources, the traditional way of life in Alaska, and the state's original land disposal program in the area. Some continue to grow a garden in the summer, kill a moose in the fall, trap in the winter, cut wood, teach their children to read, and live a simple, reasonable, and pleasant life. But some are already too fraught with uncertainty for the future to live easily; they remain in debt to a lawyer hired to deal with the madness of the Chase II disposal, they spend too much of their time writing letters to the state begging them not to destroy their lives, crying over the telephone to Anchorage planners, yelling at their kids, getting drunk in Talkeetna because they don't know from day to day how they will manage to live next year if the Agricultural, Chase III, disposal goes through and wipes out their hunting grounds or if the subdivision should become inhabited and the population pressure should drive them out.

And on a warm Saturday in June, you can see, a whole family disembark the train at the gravel pit and look around, look for the grocery store, the post office, the road, the town of Chase that they expected to find here. They own a subdivision lot in Chase II. On the following day, you can watch them get back on the train at the gravel pit, tired, unhappy, mosquito-bitten. They never found their lot; they never found the subdivision. It doesn't matter anyway. This is not what they wanted, not what the ad for Chase II led them to believe they would find.

The people in these scenes are real. If Chase III goes through, there will be more such victims and I will be one of them. I will be in the land office in Anchorage asking for land on the Yukon or the Kuskokwim. I will have no choice but to find another home. The trail to my cabin will be blocked by a farm, my moose hunting place will be in a farm, my trapline will be cut off by several farms, my drinking water will be tainted with agricultural chemicals.

I hope this does not happen.

Judy Price

Alaska Society of Professional Land Surveyors

AFFILIATE OF AMERICAN CONGRESS OF SURVEYING AND MAPPING
MEMBER OF WESTERN FEDERATION OF PROFESSIONAL LAND SURVEYORS

P.O. BOX 2106
ANCHORAGE, ALASKA 99510

S.R. 10113
Fairbanks, AK 99701

February 22, 1984

Sen. Bettye Fahrenkamp
Chair, Senate Resources Committee
Pouch V
Juneau, AK 99811

Ref: SB 375

Dear Bettye:

We in the Fairbanks Chapter of A.S.P.L.S. have carefully reviewed the proposed language changes in Title 30 to the Alaska State Plane Coordinate System, required to legally establish the 1983 North American Datum in Alaska.

Professor William Mendenhall agrees that, to the best of his knowledge, no typographical errors have been made in the portions dealing with the 1927 NAD and the 1983 NAD.

We commend the Legislative staff on its careful work and we hope that the Legislature as a whole acts this year on SB 375.

Sincerely yours,

Patrick H. Kalen, RLS
Legislative Chair, ASPLS
President, Fairbanks Chapter

PHK/skk

FEB 24 1984

TESTIMONY OF
ROBERT W. LOESCHER
VICE PRESIDENT, RESOURCE MANAGEMENT
SEALASKA CORPORATION
ON
SENATE BILL 375,
AN ACT RELATING TO LAND DISPOSAL AND MANAGEMENT

FEBRUARY 20, 1984

MY NAME IS ROBERT W. LOESCHER, VICE PRESIDENT OF RESOURCE MANAGEMENT FOR SEALASKA CORPORATION. I AM HERE TODAY TO TESTIFY ON SENATE BILL 375, AN ACT RELATING TO STATE LAND DISPOSAL AND MANAGEMENT.

SEALASKA CORPORATION IS THE SOUTHEAST ALASKA REGIONAL NATIVE CORPORATION WHICH REPRESENTS OVER 15,000 SHAREHOLDERS. SEALASKA WILL ULTIMATELY OWN APPROXIMATELY 330,000 ACRES OF SURFACE ESTATE AND 600,000 PLUS ACRES OF SUBSURFACE ESTATE IN SOUTHEAST ALASKA. SEALASKA LANDS BORDER IN EXCESS OF 1,000 MILES OF STATE OWNED AND MANAGEMENT TIDELANDS. THE MANAGEMENT AND DEVELOPMENT OF OUR UPLAND RESOURCES IS VIRTUALLY DEPENDENT UPON ACCESS TO AND USE OF STATE OWNED AND MANAGED TIDELANDS.

ON JANUARY 20, 1984, SEALASKA SUBMITTED FOR CONSIDERATION, A SERIES OF PROPOSED AMENDMENTS TO SENATE BILL 375. SINCE THAT TIME, WE HAVE DISCUSSED OUR PROPOSED AMENDMENTS WITH VARIOUS INTERESTED PARTIES. AS A RESULT OF THESE DISCUSSIONS, WE SUBMITTED A SECOND LETTER DATED FEBRUARY 15, 1984 MAKING TWO CHANGES TO THE JANUARY 20, 1984 AMENDMENTS.

WE HAVE BEEN ADVISED THAT THE RESOURCES COMMITTEE IS USING THIS HEARING TO BECOME FAMILIARIZED WITH VARIOUS AMENDMENTS BEING PROPOSED TO SB 375 AND WILL NOT ENTERTAIN MOTIONS TO AMEND SB 375 UNTIL THE HEARING SCHEDULED FOR FRIDAY, FEBRUARY 24, 1984.

DURING THIS PERIOD, SEALASKA CORPORATION WILL BE WORKING WITH THE ADMINISTRATION, ALASKA DEPARTMENT OF NATURAL RESOURCES AND OTHERS WHO HAVE EXPRESSED AN INTEREST IN OUR PROPOSED AMENDMENTS TO DEVELOP COMPROMISE LANGUAGE TO OUR AMENDMENTS WHICH WILL BE SUBMITTED TO THE COMMITTEE AT THE FEBRUARY 24, 1984 HEARING.

AT THIS TIME, I WISH TO BRIEFLY EXPLAIN THE INTENT AND EFFECT OF THE SEALASKA PROPOSED AMENDMENTS:

SECTION 1, AS 38.04 IS AMENDED BY ADDING A NEW SECTION .058 RESTRICTIONS ON EASEMENT OR RIGHT-OF-WAY USE. UNDER EXISTING LAW, ALASKA DEPARTMENT OF NATURAL RESOURCES IS AUTHORIZED TO RESERVE EASEMENTS ACROSS STATE LANDS (INCLUDING TIDELANDS) AS PART OF A LAND DISPOSAL OR TIDELAND LEASE. EXISTING LAW DOES NOT PROVIDE AUTHORITY FOR THE DEPARTMENT TO CONDITION A RESERVED EASEMENT TO RESTRICT PUBLIC ACCESS IN ORDER TO PROTECT PROPERTY OR PUBLIC SAFETY. THIS AMENDMENT WILL ALLOW THE PRIVATE OWNER OR LESSEE TO COOPERATE WITH THE DEPARTMENT IN SETTING TERMS AND CONDITIONS FOR PUBLIC USE OF RESERVED EASEMENTS TO PROTECT PROPERTY OR PUBLIC SAFETY.

* * *

SECTION 2, AS 38.04.065(a). THE DEPARTMENT OF NATURAL RESOURCES IS REQUIRED TO PREPARE REGIONAL AND AREA LAND USE PLANS. THESE PLANS INCLUDE RULES OF GENERAL APPLICABILITY FOR THE USE, MANAGEMENT AND PROTECTION OF STATE LAND WITHIN THE PLANNING AREA. THESE RULES OF GENERAL APPLICABILITY, IN ACCORDANCE WITH A RECENT COURT DECISION KENAI PENINSULA FISHERMAN'S COOP ASSOCIATION V. STATE, MUST BE ADOPTED UNDER THE ADMINISTRATIVE PROCEDURES ACT. IN LIGHT OF THIS RECENT COURT DECISION IT IS NECESSARY TO ENSURE THAT ADOPTION OF REGIONAL AND AREA LAND USE PLANS OCCURS IN ACCORDANCE WITH THE APA.

* * *

SECTION 3, AS 38.05.070(c). SEALASKA PROPOSES TO AMEND AS 38.05.070 TO ENSURE THAT THE LENGTH OF THE LEASE IS NOT LESS THAN THE PROJECTED USEFUL LIFE OF ANY IMPROVEMENT APPROVED UNDER THE LEASE. THIS AMENDMENT IS NECESSARY BECAUSE THE DEPARTMENT OF NATURAL RESOURCES PERIODICALLY ISSUES LEASES FOR A LENGTH OF TIME SHORTER THAN THE ANTICIPATED USEFUL LIFE OF THE FACILITY. FOR EXAMPLE, SEALASKA CORPORATION CONSTRUCTED A MAJOR DOCK FACILITY ON KLAWOCK ISLAND WITH A USEFUL LIFE OF 55 YEARS, HOWEVER, THE DEPARTMENT ISSUED A TIDELAND LEASE FOR ONLY 30 YEARS.

* * *

Sounds pretty important.

SECTION 4, AS 38.05.075. THIS AMENDMENT MAKES SEVERAL CHANGES TO SURFACE LEASING PROCEDURES.

THE FIRST CHANGE ESTABLISHES A PROCEDURE FOR PRE-QUALIFICATION OF BIDDERS FOR TIDELAND LEASES. UNDER PRESENT PERMITTING PROCEDURES, AN APPLICATION TO CONSTRUCT FACILITIES ON STATE TIDELANDS WILL HAVE ALL NECESSARY APPROVALS (EXCEPT A TIDELAND LEASE) TO START CONSTRUCTION ON THE PROJECT WITHIN 60 DAYS OF APPLICATION. THESE PERMITS ARE OF LITTLE VALUE TO THE APPLICANT IF A NECESSARY TIDELANDS LEASE HAS NOT BEEN OBTAINED. CURRENTLY, IT TAKES ALMOST ONE YEAR TO OBTAIN A TIDELANDS LEASE EVEN THOUGH ALL OF THE SUBTANTIVE DECISIONS REGARDING THE ISSUANCE OF THE LEASE ARE CURRENTLY MADE WITHIN 50-60 DAYS. THE REMAINING TIME IS SPENT IN SURVEY, APPRAISAL AND PUBLIC AUCTION.

UNDER EXISTING PROCEDURES THE DEPARTMENT ALLOWS AN APPLICANT TO ENTER THE PROPERTY, UNDER LEASE APPLICATION, ONCE ALL PERMITS ARE RECEIVED AND A DEPARTMENTAL DECISION TO LEASE HAS BEEN MADE. HOWEVER, THE APPLICANT HAS NO ASSURANCE THAT HE WILL ULTIMATELY RECEIVE THE LEASE FOR ALMOST ONE YEAR FROM DATE OF APPLICATION OF THE LEASE. THUS, AN APPLICANT IS RELUCTANT TO MAKE ANY IMPROVEMENTS ON THE LEASED PROPERTY FOR FEAR THAT AT THE TIME OF AUCTION HE MAY BE OUTBID FROM A PREVIOUSLY UNIDENTIFIED PARTY. THIS IS BECAUSE EXISTING LAW DOES NOT REQUIRE POTENTIAL

COMPETITIVE BIDDERS TO IDENTIFY THEMSELVES BEFORE THE DATE OF THE AUCTION. THUS, ALTHOUGH THE INITIAL APPLICANT HAS ENDURED THE TIME AND EXPENSE OF INTERAGENCY AND PUBLIC REVIEW, AND HAS SUFFERED PERHAPS A YEAR'S DELAY, HE MAY LOSE HIS PROJECT TO A VIRTUAL LAST MINUTE BIDDER.

THE PURPOSE OF THIS AMENDMENT TO CURE THIS PROBLEM BY REQUIRING ANY PERSON WISHING TO COMPETE FOR THE LAND TO BE LEASED WOULD BE TO SUBMIT HIS OWN APPLICATION WITHIN THE PUBLIC NOTICE PERIOD PROVIDED.

UNDER THIS PROCEDURE AT THE END OF FIFTY DAYS, THE APPLICANT WILL KNOW WHETHER HE HAS QUALIFIED FOR THE LEASE AND WILL ALSO KNOW WHETHER THERE ARE OTHER COMPETITIVE BIDDERS. IF THERE ARE NO OTHER "PREQUALIFIED" BIDDERS, THIS AMENDMENT WOULD DIRECT THE DEPARTMENT TO ALLOW THE INITIAL APPLICANT TO ENTER ONTO THE LANDS. ALL THAT WOULD REMAIN PRIOR TO FINAL CONVEYANCE OF THE LEASE WOULD BE A SURVEY TO ESTABLISH PRECISE BOUNDARIES, AND AN APPRAISAL WHICH WOULD SET THE LEASE FEE.

ANOTHER IMPORTANT PROVISION OF SEALASKA'S AMENDMENTS TO AS 38.05.075 IS THE CREATION OF AN UPLAND OWNER'S PREFERENCE--UNDER CERTAIN SPECIFIC CONDITIONS--FOR LEASE OF ADJACENT TIDE OR SUBMERGED LANDS. TRADITIONALLY, THE GOVERNMENT'S OWNERSHIP OF TIDE AND SUBMERGED LANDS HAS BEEN VIEWED AS A TYPE OF TRUST FOR CERTAIN SPECIAL PURPOSES. THE MOST WELL ESTABLISHED OF THOSE PURPOSES IS FACILITATING TRANSPORTATION AND COMMERCE FROM ADJACENT UPLANDS, WHICH IS VITAL TO UPLAND ECONOMIC DEVELOPMENT. THE PROPOSED AMENDMENTS CONFINE THE PREFERENCE TO ONLY THESE TYPES OF USES, AND IS THUS NOT ONLY CONSISTENT WITH, BUT FURTHERS THOSE TRUST RESPONSIBILITIES. UNDER THE AMENDMENTS, NO PREFERENCE IS AVAILABLE IF THE INTENDED USE IS INCONSISTENT WITH THE CLASSIFICATION OF THE LAND OR ANY APPLICABLE LAND USE PLANS.

THIS AMENDMENT FURTHER ENVISIONS THAT IF AN UPLAND OWNER IS ENTITLED TO A PREFERENCE, HE WILL NORMALLY BE ABLE TO OBTAIN A

LEASE AT FAIR APPRAISED MARKET VALUE WITHOUT COMPETITIVE BIDDING.

THE FINAL AMENDMENT TO THIS SECTION WOULD ALLOW A CREDIT FOR SURVEYING COSTS INCURRED BY THE LESSEE, WHEN FILING FOR A TIDELAND LEASE. SEALASKA BELIEVES THAT THIS SURVEY PROVIDES OBVIOUS LONG TERM BENEFITS TO THE STATE AS THE LANDOWNER AND IF THE APPLICANT UNDERTAKES THESE ADMINISTRATIVE MATTERS ON BEHALF OF THE STATE THEN THESE COSTS SHOULD BE REIMBURSED THROUGH TIDELAND LEASE FEE CREDITS, EQUAL TO THE DOCUMENTED COST OF THE SURVEY.

* * *

SECTION 5 IS SIMPLY CONFORMING LANGUAGE TO MAKE THE EXISTING STATUTE CONFORM WITH THE PROPOSED AMENDMENTS IN SECTION 4.

* * *

SECTION 6 THROUGH 10 OF SEALASKA'S PROPOSED AMENDMENTS DEAL WITH THE STATE'S LAND EXCHANGE (TITLE 38) AND CONDEMNATION AUTHORITIES (TITLE 9). CONGRESS AND THE STATE RECOGNIZED THAT BOUNDARY CHANGES DUE TO STATE AND NATIVE CONVEYANCES MAY BE NECESSARY TO PROMOTE SOUND LAND USE MANAGEMENT. BOTH ALSO RECOGNIZED THAT A EXCHANGE WAS THE MOST EFFECTIVE AND FAIR VEHICLE TO ACCOMPLISH THAT RESULT.

HOWEVER, THE STATE'S CURRENT LAND EXCHANGE AUTHORITY, AS 38.50, CONTAINS SEVERAL PROVISIONS WHICH DISCOURAGE PRIVATE LANDOWNERS FROM ENTERING INTO EXCHANGE NEGOTIATIONS WITH THE STATE. THE SECOND THEME OF SEALASKA'S AMENDMENTS IS TO CURE THOSE DEFICIENCIES, AND PROVIDE A MORE FLEXIBLE AND FAIR PROCEDURE FOR EXCHANGING LAND.

* * *

SECTION 6 PROPOSES A NEW SUBSECTION (c) TO AS 38.50.020. THIS

SUBECTION PROVIDES THE FOLLOWING CHANGES.

IN THE EXISTING LAND EXCHANGE AUTHORITIES THERE IS A LACK OF GUIDELINES FOR VALUATION OF PROPERTY BEING CONSIDERED FOR EXCHANGE BETWEEN THE STATE AND OTHER LANDOWNERS. QUITE OFTEN, THE STATE WILL BE ACQUIRING RAW LAND LOCATED IN THE UNORGANIZED BOROUGH OR OUTSIDE ORGANIZED MUNICIPAL GOVERNMENTS WHERE USE OR SUITABILITY OF LAND IS NOT WELL ESTABLISHED THROUGH LOCAL PLANNING AND ZONING ORDINANCES. IN THESE AREAS THE STATE'S TENDENCY HAS BEEN TO EVALUATE THE PROPERTY TO BE ACQUIRED SOLELY AT ITS PRESENT, UNIMPROVED VALUE. AS WITH ANY VALUATION, THE STATE SHOULD BE REQUIRED TO APPRAISE THE FAIR MARKET VALUE OF THE PROPERTY TO BE RECEIVED AT ITS HIGHEST AND BEST USE. THE PROPOSED CHANGES TO AS 38.50.020 WOULD ACHIEVE THIS RESULT.

UNDER EXISTING LAW, THE STATE DOES NOT ASSESS A DISTINCT VALUE FOR SEPARATELY OWNED SURFACE AND SUBSURFACE ESTATES. FOR ANCSA LANDS, THESE ESTATES ARE SEPARATED BETWEEN VILLAGE (SURFACE) AND REGIONAL (SUBSURFACE) CORPORATIONS. IN ORDER TO ASSURE JUST COMPENSATION IN ANY EXCHANGE TO BOTH INTEREST HOLDERS, IT IS IMPORTANT THAT THESE ESTATES BE SEPARATELY VALUATED AT THE OUTSET FOR ACQUISITION FOR EXCHANGES PURPOSES, AS WELL AS FOR CONDEMNATION PURPOSES.

THE PROPOSED CHANGES TO AS 38.50.020 WOULD ALSO RECOGNIZE THAT THE STATE RECEIVES A SUBSTANTIAL PUBLIC BENEFIT FROM ANY EXCHANGE, AND THEREFORE ANY COST REASONABLY INCURRED BY THE PRIVATE LANDOWNER IN HELPING TO CONSUMMATE THAT EXCHANGE SHOULD BE CONSIDERED AS PART OF THE VALUE RECEIVED BY THE STATE.

* * *

SECTION 7 PROPOSES TO ADD A NEW SUBSECTION (c) TO AS 38.50.030. THE RESULT OF THIS AMENDMENT PROVIDES FOR THE GOVERNOR'S RESOLUTION OF INTERAGENCY CONFLICTS INVOLVING LAND EXCHANGES. IT HAS BEEN OUR EXPERIENCE WITH CERTAIN LAND EXCHANGES, FOR EXAMPLE,

THAT THE DEPARTMENT OF TREANSPORTATION AND PUBLIC FACILITIES WILL DESIRE TO OBTAIN LAND THROUGH AN EXCHANGE FOR ITS USE. INVARIABLY, THE LAND OFFERED IN EXCHANGE WILL BE ADMINISTERED BY THE DEPARTMENT OF NATURAL RESOURCES. THE RESULT IS INTERAGENCY DISAGREEMENT OVER WHICH THE PRIVATE LANDOWNER HAS LITTLE CONTROL. IN ORDER TO ENSURE THAT THE POSSIBILITY OF A MUTUALLY VALUABLE EXCHANGE IS NOT LOST AS A RESULT OF INTERAGENCY DISAGREEMENTS, IT IS VITAL THAT ONE ACCOUNTABLE OFFICIAL BE DESIGNATED TO ARBITRATE THOSE PROBLEMS, AND MOVE THE PROCESS ALONG. SEALASKA BELIEVES THAT THE OFFICE OF THE GOVERNOR IS THE PROPER PLACE FOR THAT AUTHORITY TO RESIDE.

OMB
DNR
DOT

* * *

SECTION 8 THROUGH 10 ARE AMENDMENTS TO TITLE 9'S CONDEMNATION PROCEEDINGS WHICH NEED TO BE MADE IN ORDER TO MAINTAIN CONTINUITY IN POLICY WITH SEALASKA'S PROPOSED LAND EXCHANGE AUTHORITY AMENDMENT IN TITLE 38 (SEE SECTION 6 SEALASKA AMENDMENTS).

OCCASIONALLY, NATIVE LANDS MAY BE NECESSARY FOR VITAL PUBLIC SERVICES. THESE LANDS MAY BE ACQUIRED THROUGH EXCHANGE OR CONDEMNATION PROCEEDINGS. THERE IS A TENDENCY BY STATE AGENCIES TO INITIATE CONDEMNATION PROCEEDINGS OF ANCSA INTEREST LANDS INSTEAD OF WORKING OUT A MUTUALLY AGREEABLE ACQUISITION OR LAND EXCHANGE. IT IS IMPORTANT TO UNDERSTAND THAT THE LAND BASE CONVEYED THROUGH ANCSA IS FAR MORE THAN A MERE CAPITAL ASSET. WHILE THE LAND IS HELD IN FEE, RATHER THAN TRUST, ANCSA LANDS HOLD A SOCIAL, CULTURAL AND EMOTIONAL VALUE WHICH CANNOT, IN ALL CIRCUMSTANCES, BE COMPENSATED FOR WITH CASH. AN EXAMPLE OF THIS ANTICIPATED PROBLEM IN FEDERAL LAW IS FOUND IN SECTION 1302(B) OF ANILCA, WHICH PROHIBITS THE USE OF EMINENT DOMAIN TO ACQUIRE ANCSA-CONVEYED LANDS FOR ADDITIONS TO THE CONSERVATION SYSTEM.

SEALASKA IS NOT RECOMMENDING A SIMILAR PROHIBITION IN STATE LAW. HOWEVER, IN ORDER TO PRESERVE THE INTENT OF THE ANCSA LAND CONVEYANCES, WE ARE PROPOSING IN AN AMENDMENT TO AS 09.55.270,

THAT THE STATE BE REQUIRED TO FIRST MAKE A BONA FIDE, ARMS-LENGTH OFFER TO EXCHANGE BEFORE CONDEMNATION IS INITIATED.

THIS AMENDMENT NOT ONLY ADDS CREDIBILITY TO THE EXCHANGE PROCESS; IT ALSO FURTHERS THE CONGRESSIONAL POLICY OF ANCSA. THE PRIMARY PURPOSE OF ANCSA WAS TO GRANT TO ALASKA NATIVES AN ADEQUATE LAND BASE--A BASE WHICH CONGRESS RECOGNIZED COULD NOT BE REPLACED WITH CASH. THE PURPOSES OF ANCSA ARE ILL-SERVED IF THAT BASE IS ERODED OVER THE YEARS THROUGH THE EXERCISE OF EMINENT DOMAIN AUTHORITY BY THE STATE OF ALASKA.

WE URGE THE COMMITTEE'S CONSIDERATION OF THESE PROPOSED AMENDMENTS. WE STAND READY TO MEET WITH YOU OR YOUR TECHNICAL STAFF TO UNDERTAKE FURTHER WORK ON THESE AMENDMENTS, IF DEEMED NECESSARY.

copy for [illegible] (5.2)
+ regs. file

NANA REGIONAL CORPORATION, INC.

4706 HARDING DRIVE/ANCHORAGE, ALASKA 99503
TELEPHONE (907) 248-3030

February 3, 1984

Mr. James Barnett, Deputy Commissioner
Department of Natural Resources
Office of the Commissioner - Regulations
Pouch 7-005
Anchorage, Alaska 99510

Dear Mr. Barnett:

Thank you for the opportunity to review the proposed regulatory changes governing the exchange of state lands (11 AAC 67.200-290).

The proposed regulations appear to track AS 38.50 requirements closely, and in general, appear adequate and appropriate. However, one section, 11 AAC 67 220(a) is constructed too narrowly to achieve the overall beneficial purposes of land exchanges. This section proposes to limit state lands eligible for exchange to either those unclassified or those classified as commercial, industrial, private recreation, reserved use, residential (or settlement) or utility. These classifications represent only a minority of the acreage of state classified lands. Other classifications including wildlife habitat, resource management, forest and public recreation include millions of acres of state lands.

Land exchanges represent an important and necessary tool to consolidate land ownership, improve resource management, advance both developmental and environmental protection goals to attain both private and public benefits not otherwise achievable. These objectives should not be unduly curtailed by restricting possible trades to only certain state lands. It is simply premature and unsubstantiated to conclude that the possible trade of state lands classified as forest, for example, would not result in attainment of <u>greater</u> public resource values.

[FEB 1 0 ...

The purpose of the appraisals and administrative consideration of proposed lands to be traded is to weigh the various values associated with the lands involved, regardless of their classification. It is readily conceivable that private parties to a trade might place high value on state timber or resource management lands and be willing to exchange key wildife habitat or recreation lands having very high public values, for example. Thus, all state lands should be eligible for consideration for trade. The final authority, of course, for exchange approval rests with the Administration and/or the Legislature.

Although a discussion of the public values to be derived from a potential land trade is required under AS 38.50.130 and in the preliminary exchange agreement under 11 AAC 67.230., the emphasis on appraisals in the proposed regulations might lead one to believe that trades must be for equal appraised values. Some clarification or expansion should be included in the regulations expressly permitting the exchange of land involving unequal appraised values. It is the more common situation to have resource values, such as wildlife habitat, which are difficult, if not impossible, to appraise. Unequal appraised values often result although net public benefits are determined to be high.

In addition, if appraisal costs were to incur by an applicant as specified in 11 AAC 67.240(b), these costs should be allowed to be included as part of the appraised value of the lands to be offered by the applicant. This seems only fair in light of the net benefits to the state and the public which would result from such trades.

In our review of the Title 38 provisions governing trades, it also became apparent that the provisions for trades could be quite time consuming and costly and could easily discourage beneficial exchanges of small parcels. We support and would urge the Administration to support changes to Title 38 which would exempt exchanges of small parcels (such as 640 acres) from some of these requirements such as public hearings, mandated legislative review, and extensive report and notification procedures.

√ incl in SB 375

all in SB 375

If we can provide more information or clarify these points, please let us know.

Sincerely,

Patrick Pourchot
Resources Manager

PP/mc

bcc Senator Bettye Fahrenkamp
Bob Loescher

Alaska Center for the Environment
1069 W. 6th Avenue
Anchorage, Alaska 99501 274-3621

10am Friday
* officially respond to cit. adv. Board's recommendations

February 1, 1984

Senator Bettye Fahrenkamp
Senate Committee on Resources
Pouch V
State Capital
Juneau, AK 99811

* public use cabin
* notice

Dear Senator Fahrenkamp:

Thank you for keeping us advised of and allowing us to participate in your several month process leading to the introduction of Senate Bill No. 375 relating to land disposal and management. We have reviewed SB 375 and would like to offer the enclosed comments, which are confined to the land classification, planning and disposal portions of the bill. Most of our comments are keyed to the numbered sections of the bill; others refer to your December 27, 1983 document entitled "Proposed Actions on Comments and Suggested Changes--Title 38." Sections of the bill that we do not refer to we either have no opinion on or support, or we believe that our earlier comments make our position clear.

As you will see, we are pleased with most of your proposed changes and believe that if enacted they will result in an improved land disposal program. We are concerned, however, as our comments show, that despite these improvements the administration will most likely continue to dispose of excessive amounts of land, with unacceptable adverse impacts on fish and wildlife, public recreation, scenic values, water, and other public resources and uses. Consequently, we have suggested additional changes that we think might help solve some of these problems. In some cases we have suggested changes that we realize you have considered and at least for the time being rejected. We hope you will reconsider.

Thank you again for your interest in and your work on this program.

Sincerely,
Cliff Eames
Cliff Eames

FEB 6 1984

opposite view – State should own known land. Residents have a right to the land. all should be open to homestead.

Comments
on
Senate Bill No. 375
(land disposal and management)

Current policy – getting land out of agency return to State. We haven't altered that policy.

1. Section 1 - AS 38.04.005(b).

We very much support the addition of policy language requiring the department to consider and seek to minimize the effect of private use and settlement on natural resources and conditions.

We would in addition, however, require the department to consider the effect of private use and settlement on other uses of the land as well as on resources. We suggest adding to the listed resources the scenic resource and the public recreation use.

already doing all this. Value: Public vs. private recreation.

Although public recreation is mentioned later in the section, it is mentioned only in regard to the more easily accessible areas. In less accessible areas that nevertheless receive or will receive significant public use, such as the Nowitna River or Whitefish Lake areas slated for disposal in FY86, public recreation is also very important.

We recognize that it is not possible to list in the statute all possible resources and uses that might be impacted by private use and settlement. On the other hand, scenic values and public recreation are too often neglected, in spite of their importance to the many thousands of Alaskans who recreate, and in spite of the economic benefits of the recreation and tourist industries, benefits which would seem to be at least as great as those generated by the mining and timber industries.

(We would add that we are losing, through the excessive disposals concentrated in the Mat-Su and Fairbanks areas, large amounts of the accessible open space that the section mandates retaining.)

Recommendation: In line 13, insert after "fishery," the words "public recreation, scenic,"; in line 14, strike "on" and in its place insert "and uses of".

2. Section 2 - AS 38.04.005(e).

We certainly agree with the addition of language requiring public hearings, when appropriate, in the communities affected by proposed disposals.

We think it makes sense, however, to retain the existing, broader language which emphasizes the importance of municipal and local resident involvement at all stages of the decision-making process, not just the formal public hearing stage.

added +

Recommendation: Retain the existing language; add to that the new language.

3. Section 3 - AS 38.04.010(b).

Requiring the department to take carrying capacity into account in designing disposals for seasonal recreation use and low density settlement is an excellent idea. The amendment suggests, however, that the impact of only proposed, not existing, residences need be weighed. We suggest that both be considered. We also recommend that fish and wildlife, a very important resource to many low density settlers, be specifically mentioned.

Additionally, unless it is clear that high density settlements will rely on commercial firewood, timber, water, etc., there will be situations where carrying capacity needs to be taken into account in the disposal of high density

settlements as well.

Recommendation:

a. In line 8, insert after "between" the words "proposed and existing".

b. In line 10, insert after "firewood," the words "fish and wildlife,".

c. If carrying capacity could be a problem in some high density settlements, shift the new language in lines 10 and 11 to a new subsection (c) which would read: "The department shall ensure for all disposals that, where appropriate, resources such as timber, forewood, fish and wildlife, and water in the area are sufficient to accomodate the intended private uses."

4. Section 4 - AS 38.04.020(e).

a. We support removing the loophole in the requirement that the department submit an estimate of the cost of municipal subdivision ordinance or regulation compliance. Similarly, we agree that such ordinances and regulations should be complied with by the state. If compliance is required, however, the state will then have to take care not to dispose of lands in areas where compliance would create problems(such as the construction of roads in an area more appropriately kept roadless).

b. It appears that funds for the demand assessment have not always been adequate.

Recommendation: Add a new subsection (6) which would read -"for preparation of the written assessment required under (f) of this section;".

c. As entrants in increasing numbers begin to seek patents, a greater burden will be placed on the department to see that sales requirements such as occupancy and the construction of a habitable dwelling have been complied with. A specific appropriation request for this purpose, which is frequently overlooked, should be submitted.

Recommendation: Add a new subsection (7) which would read - "for determining whether persons seeking patents have complied with the requirements of sale."

5. Section 5 - AS 38.04.020(f).

a. We agree that the demand assessment should identify the demand for public services and capital improvements, including roads, associated with the market for state land. We would note that fire protection is a necessary service that can result in considerable expense.

b. It appears that with the repeal of the residency discount, a very desirable action, state land will at least for now be disposed of at fair market value. It is important that the department , now and in the future, assess the demand not for somehow discounted or subsidized state land, but for state land priced at fair market value. This will ensure, as much as possible, that not a false or inflated demand but real demand is assessed.

Recommendation: Rewrite the end of the sentence in line 11 so that it reads - "the market in the different regions of the state for state land priced at fair market value."

c. The language requiring the assessment to take into account the availability of municipal land would appear to be too restrictive and therefore result in an underassessment of the municipal land market. Even if municipal land is not immediately available, it is likely to be far more accessible and therefore desirable land than the state's, and there is no reason to dispose of state land which might better be retained in public onwership if municipal land will soon be available.

Recommendation: In line 16, delete the words "for which a disposal plan has been completed" and substitute "intended for early disposal".

d. Probably the greatest problem with the present land disposal program is the excessive rate at which the department continues to dispose of state lands, in spite of the repeal of the 100,000 acre quota. Although perhaps the department anticipates dropping many of the proposed FY86 disposals - we certainly hope so - at this time, for southcentral alone, 52,000 net acres of land(192,000 gross acres) are slated for disposal. This is in spite of increasing concern on the part of both the public and the agencies who represent Alaska's many hunters, fishermen, and recreationists.

The demand assessment is an attempt to arrive at the proper amount of acreage to be disposed of each year. Assessing demand is difficult, however, and some people feel that the assessments to date have been flawed in one way or another. Consequently, the department does not determine the amount of acreage to be disposed of on the basis of the assessment alone. How the department does arrive at this figure, though, is a mystery to many people. If the acreage amount were to be justified in writing, the department's thinking would be clarified, and the public, legislators, and others would have a basis for requesting a perhaps more rational disposal figure.

Recommendation: Add to (f) - "If the amount of land to be disposed of in any present or future year differs from the amount of the demand determined by the assessment, the commissioner shall provide the governor and the legislature with a detailed written justification for the amount of land proposed for disposal."

e. A critical result of state land disposals, especially in excessive amounts, is the adverse effect on such public resources and uses as fish and wildlife, public recreation, scenic values, and water. To date there has been virtually no assessment of the cumulative impacts of state land disposals on these values, in spite of an alarming concentration of disposals in the Mat-Su and Fairbanks areas. For example, George Gee's June 15, 1982 impact assessment specifically omitted assessing "the sacrifice of highly valued public use and resource lands, e.g., public recreation areas, fish and wildlife habitat, and timber and mining areas."

Recommendation: The department should be required to submit to the governor and the legislature when it makes its budget appropriation request, once a year only, an assessment of the immediate and cumulative impacts of proposed state land disposals. The assessment could be modeled after the SEEA's(Social, Economic and Environmental Assessment) already prepared for oil and gas lease sales, lease sales which in some instances will have fewer long-lasting effects than the developing pattern of land disposals. For areas where plans have been completed, the analysis could be somewhat abbreviated and references made to the plan.

6. Section 6 - AS 38.04.020(g).

We support the repeal of the requirement that a certain percentage of subdivision lands be made available for homesites by particular disposal methods.

7. Section 7 - AS 38.04.020(h).

We support removing the five acre subdivision lot limitation where appropriate to minimize adverse effects on resources or on other residential uses in the area.

We would caution, however, that it is necessary to consider the possible adverse effects of dispersal. With regard to all land disposals, the advantages and disadvantages of both clustering and dispersing must be weighed in each individual case.

Recommendation: The department should develop policy guidelines for determining whether in any particular area clustering or dispersing disposals would be preferable.

8. Comment 9.

We agree that public hearings are costly and that for reasons of poor attendance or otherwise are not always as effective as they might be. On the other hand, we believe that providing an opportunity for needed public hearings is sufficiently important that at least one public hearing on land disposals in the affected locale, if requested, should be guaranteed by statute.

Recommendation: Establish by statute a minimum requirement that the department hold at least one public hearing on proposed land disposals in the locale to be affected if requested by some minimum number of persons.

9. Comment 10.

We share your distrust of inflexible mandatory quotas. Nevertheless, we are very concerned over the concentration of disposals in the Mat-Su and Fairbanks areas. The program would be much more unpopular if all areas of the state had to share the burden of the land disposal program. A possible reform would be to require that in any year disposals in any region of the state could not exceed a specified maximum percentage(25%?) of the total disposals for that year, unless the legislature during the budget process waives the quota requirement in any year for any region. If nothing else this would highlight a serious and growing problem.

On the other hand, we are not eager to impact with land disposals an unnecessary number of presently pristine areas which will become increasingly popular public use areas. The real answer is a more reasonable rate of disposal. Although we have not advocated that all disposals be halted at this time(although we should be thinking ahead to the time when enough land is on the market that we no longer need the program), one sportsmen's group is calling for just such a solution.

10. Section 8 - AS 38.04.022.

We concur with your recommendation to provide additional monies for municipal grants, and support the establishment of a special state land disposal income account, especially if a substantial amount of the funds in the account are appropriated for municipal grants. Municipal disposals generally provide more desirable land for the citizens of the state and reduce disposals of and impacts on state public use lands.

11. Section 9 - AS 38.04.035(4).

We fully support your amendment providing additional justifications for the use of remote cabin permits, an alternative to fee simple disposals that we have been advocating for some time. We are concerned, however, that the time and expense involved in building a cabin will make people reluctant to take advantage of a program that does not result in ownership.

Recommendation: Consequently, we recommend that the legislature in addition provide specific authorization for the construction by the department of public use cabins modeled after the Forest Service system, a proven and very successful program. Public use cabins, while they undoubtedly have an impact, have far fewer adverse effects than do a large number of disposals in the same area. Furthermore, they are likely to generate many more user days than a much larger number of private cabins, yet the land still remains in public ownership should other uses seem more appropriate in the future. The expense of constructing such cabins can easily be justified due to the public benefits which accrue and the savings that would result from not having to prepare disposals in the

area of the cabins.

12. Section 10 - AS 38.04.045(b). current statute ambiguous — am. to reflect reality of situation

We are concerned that greater and more expensive monumentation requirements will result in higher density disposals, with possible adverse impacts, and in disposals planned not for areas that are most suitable, but for areas where monumentation already exists.

Recommendation: Return to remote parcel monumentation requirements.

13. Section 12 - AS 38.04.055.

We very much support authorizing not only easements and rights-of-way but the retention of land in state ownership to ensure adequate public use and access.

14. Comment 20.

We support your recommendation that monies be made available to complete area plans and that the department put forth an increased effort to finish them. We also recoginize that it is probably impractical to delay all disposals in areas where plans have not been completed.

Recommendation: We do believe, however, that the following language is feasible and will result in the maximum benefit from the planning process - Add to AS 38.04.065(d) "In areas where regional or area plans are underway and are scheduled to be completed within one year, actions such as land disposals which will significantly affect the area shall be postponed pending plan approval."

15. Comment 22.

We believe that there should be some middle ground between the substantial impermanency of classifications, which can so easily be changed, and legislative designations.

16. Section 13 - AS 38.05.030(c).

We support requiring sister agencies to notify the department of disposals of state land.

17. Section 16 - AS 38.05.035(b).

We support the three year limitation for receiving the preference right.

18. Comment 28.

We very much agree that timber lands should be leased, not sold, thereby retaining them in state ownership and keeping them available for other appropriate public uses.

19. Section 17 - AS 38.05.050.

We support the retention of the provision requiring land disposal sales to be held in the area of the disposal, and requiring personal attendance, and the substitution of "community" for "municipality." This discourages speculation and gives a slight benefit to local residents who are apt to have a greater real need for the land.

20. Comment 33.

As we mentioned in another context, we are very much opposed to the use of discounts and rebates in the state land disposal program. We believe the legislature made a very wise decision in repealing the residency discount, and agree that the benefits of discounts are far outweighed by their disadvantages. State land is far too valuable a public resource to be squandered, which is what happens when the state attempts to meet false demands for cheap land. Because of the disadvantages of disposing of state land, we should do so only to satisfy real needs, and should be fully aware of the trade-offs and the impact on future generations of land disposal. A better way in many instances to get raw land into private hands would be for the state to make it easier or cheaper for persons to purchase land on the private market.

21. Comment 34.

We agree that the interest rate on state land disposal contracts should not be lowered at this time.

22. Section 19 - AS 38.05.065(d).

We support the appeal and foreclosure procedure.

23. Comments 38 and 39.

We agree that $5,000/year unadvertised leases may be granting too much authority, and that maximum 55 year terms are adequate.

24. Comment 40.

The Alaska homestead program is somewhat confusing. Traditionally, homestead programs have implied payment by sweat equity. Alaska's program provides for sale as well. We believe that the state is disposing of too much valuable public land for private recreation. Nevertheless we know that the department will continue to dispose of state land primarily for that purpose. Is there sufficient flexibility in the homestead program to provide relatively small lots (by homestead standards) for private recreation in areas where year-round settlement is inappropriate?

We do not believe that the option of leasing for a period of time should be reinstated. The leasing of many parcels of land which may very well not result in ownership introduces uncertainty into land ownership patterns, ties up additional public land, and unnecessarily encourages people who are only moderately interested in purchasing state land.

25. Comment 41.

See our earlier comments on Section 9. In addition, permits, not leases, are most appropriate for remote cabins since they give the state the flexibility which is one of the major benefits of the system.

26. Section 27 - AS 38.05.127(a).

We strongly support authorizing, in addition to easements and rights-of-way, the retention of land in state ownership along bodies of water or waterways. Sales adjacent to bodies of water or waterways have a tremendous potential for

adverse impacts and conflicts. The habitat in these areas is apt to be prime, for fish of course, and for moose and much other wildlife. Because of the habitat, the fishing, the aesthetics, and the availability of the water for access, public use is apt to be substantial.

Easements are generally not adequate to protect these resources and uses. Easements are often ill-defined, perhaps not defined at all, or subject to varying interpretations, and may often provide for access only, that is, may not provide for even such a limited use as standing on the bank and fishing. The public may not know that easements have been retained. Apparently some property owners will post land in violation of reserved easements.

A far better solution is to retain these extremely valuable lands, even if doing so may in the short run be more expensive because of survey costs. Making a decision such as this because of survey costs is terribly short-sighted. We should take a lesson from British Columbia, which I understand will not patent lands within 100 feet of elevation from the shoreline, sometimes therefore a very great distance back.

controversial (Oregon) 4th lake AK 200 ANC 100

Recommendation: In lines 19-23, after the words "provide for the" substitute the following for the existing language - "the retention in state ownership of a minimum of 200 feet along ocean coastlines, lake shorelines, and on both sides of waterways. The commissioner may waive this requirement and provide for easements or rights-of-way instead only after finding in writing that the body of water or waterway does not have substantial value for fish and wildlife or other environmental purposes and does not receive nor is expected to receive substantial public use for access or other purposes. The commissioner may waive all of these requirements only after finding in writing that regulating or limiting access is necessary for other more important beneficial uses or public purposes."

muskeg ponds potholes

27. Comment 67.

Considering the controversy which still surrounds the land disposal program, we believe that citizen advisory boards could provide valuable advice prior to the formal, sometimes adversarial public hearings. Although we recognize the limited role that such boards are sometimes permitted to play, we agree that veto power would probably not be appropriate at this time.

Recommendation: Add a subsection (b) to AS 38.05.050 - "The commissioner shall appoint a minimum of three citizen advisory boards to provide advice on the disposal of state lands, including the location and amounts of such disposals. Regional boards shall be established in Anchorage, Fairbanks, and Juneau. Local boards shall be established, or existing bodies shall be utilized, in areas where planned disposals are expected to be controversial, or where otherwise appropriate."

28. Section 33 - AS 38.05.345(a).

"Sale, lease, or disposal of interest in state land"

38.05.345 (a)(3)

Where in the statutes is there a requirement that notice of proposed disposals must be given? There certainly should be such a requirement.

29. Section 34 - AS 38.05.345(b).

a. We support requiring that more than one method of public notice be given. However, we believe that the department should be required to maintain and mail to a mailing list, since this is the surest method of notice for interested persons, as well as giving notice by more than one of the listed methods.

Recommendation: In line 17, insert after "given" the phrase "by mailing

a copy of the notice to persons who have asked to be placed on a mailing list and".

b. Although the department attempts to give adequate notice by advertising in the legal section of newspapers, and sometimes in addition with, for example, more prominent newspaper ads and with posters, in fact the right kind of information is gererally not made available in these notices. Few people regularly read the legal section; when they do the legal descriptions of property proposed for disposal is to most people indecipherable. Newspaper ads, media ads and posters, while advising of hearings, fail to tell people where the land is that is proposed for disposal. Consequently, there is nothing to alert them to the fact that their interests might be affected. The last sentence of subsection (b) requires more informative notice.

Recommendation: In line 27, add "including somewhere other than in the legal section of newspapers a list in lay terms of the names and locations of all of the lands to be affected."

30. Section 37 - AS 38.08.060.

If enacted, the proposed provision allowing a homestead entrant to purchase the parcel if a good faith effort to meet the occupancy requirement has been made should be rigorously enforced. Does the department have the personnel and funds to do this? We are concerned that if the occupancy requirement is relaxed people will then be able to purchase large blocks of land that would not have been offered except on the understanding that the entrants would be living on the land and would need a large parcel. Two possible unfortunate results are that more public land will have been disposed of than might have been necessary, and that the parcels are more likely to be subdivided subsequently, resulting in greater density than was originally intended.

31. Comments 82 and 98.

a. We believe that the majority of the legislature and the public do not think that our valuable public lands should be disposed of for speculative or investment purposes.

Recommendation: Existing restrictions on the subsequent sale or subdivision of state land should be made applicable to all of the non-commercial disposal methods.

b. When a considerable amount of land which might better be retained for multiple public purposes is being disposed of, it is hard to justify allowing an individual to obtain several parcels.

Recommendation: Existing restrictions on the number of times an individual can participate in non-commercial disposal programs should be extended. An individual should not be allowed to obtain more than one parcel of non-commercial land, regardless of the method by which it was obtained.

32. Comment 93.

We agree that existing authority to grant cabin permits for hunting, fishing, or other guiding activities is adequate.

Cliff Eames
Alaska Center for the Environment
February 1, 1984

TO PAT

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L. ANDREW ROBINSON

July 11, 1983

REPLY TO: Anchorage

The Honorable Bettye M. Fahrenkamp
Alaska Senate, Resources Committee
Pouch V (MS 3100)
Juneau, AK 99811

Re: Coal Prospecting Permits
Statutory Amendments

Dear Senator Fahrenkamp:

I had been in touch with Commissioner Esther Wunnicke's office earlier this year concerning the need for an amendment to the coal prospecting permit statutes to enlarge the time period allowed for exploration under a permit.

The Department of Natural Resources had prepared a proposed amendment to AS 38.05.150(c) to expand the prospecting period, and this was to have been submitted along with other proposed changes to Title 38. Last month I was advised that the Administration had changed its mind and decided for the time being not to submit the proposed list of Title 38 amendments, in which this proposal was included. I am, therefore, contacting you in the hope of enlisting your support in obtaining this needed change in the statute. It is my understanding that if this amendment were introduced during the next legislative session, it would have the support of the Department of Natural Resources.

This amendment, enlarging the time period for exploration under permit, is needed because of the substantial start-up time needed for projects in Alaska, the relative inaccessibility of the areas being explored, and the relatively high risk involved in Alaska development projects. Because the proposed amendment will encourage investment in Alaska and the development of our

important coal resources, it would appear to be in the best interest of the State.

Many potential investors are concerned about committing substantial expenditures to coal exploration and development projects in Alaska when existing law allows only a limited four-year period for prospecting permit holders to convert to a lease. Most serious exploration programs take six to ten years before a decision can be made concerning the economic feasibility of production. Placer Amex's experience with the Beluga coal project is a good example. The Beluga area is much easier to explore than other prospective areas, such as the Susitna area, because of the existence of extensive outcrops. Nevertheless, it took 15 years to explore and delineate the Beluga field, and more than 20 years will have elapsed before the first Beluga coal reaches the marketplace.

Attached is a copy of the version of the amendment as drafted by the Department of Natural Resources prior to their decision not to introduce a bill to make amendments to Title 38.

After you have had a chance to consider this, I would appreciate the opportunity to confer further with you or members of your staff concerning this needed legislation.

Very truly yours,

HARTIG, RHODES, NORMAN,
MAHONEY & EDWARDS

By
John K. Norman

JKN:bw
Enclosure

Tanana Chiefs Conference, Inc.

Doyon Building
201 First Avenue
Fairbanks, Alaska 99701
Phone (907) 452-8251

September 12, 1983

Patrick Pourchot
Senate Resources Committee
Legislative Information Office
1024 West 6th Ave.
Anchorage, Alaska 99501

Dear Pat:

The Tanana Chiefs Conference appreciates the opportunity to comment on the Title 38 review project. As you know, our region is highly affected by this title. Our comments focus on land disposal, land classification, and land planning as requested. The "demand" for the type of land needed among the Native and non-Native factions of our communities simply cannot be met by the state land disposal system. State land is simply not located close enough to our communities to allow those people to live on and still participate in the communities. Instead, we have a situation where land disposals, for the most part, increase the number of users of diminishing natural resources, thus increasing competition. In time, the new communities will also be competing for state money and services. The following suggestions are aimed at reducing land-use conflicts and increasing public input on what happens to their state lands.

a) "Best Interest" Findings 38.05.035(a)(14)

We have two major suggestions in this area:

1. All sales, leases, permits, and other land and resource disposals should be subject to best interest findings. Currently some of these are excluded from the mandate, such as permits, small timber sales, and shore fishery site leases.

2. The best interest findings should be improved. Currently for land disposals, a written statement that some person or persons working for DNR believes an action is in the best interest of the state, along with scanty notation of conflicts, is called a "best interest" finding. These must be upgraded and statutorily required to address and balance social, environmental, and economic benefits and impacts of existing land-use and the proposed action. This would improve ADNR decisions as well as provide more information about those decisions to the public.

b) Public Trust Land

The emphasis these days seems to be on sales of state land to the public for private use. Our state constitution, as well as the

statutes, mandates state land to be managed providing a balance between private and public uses. Title 38 should contain language which requires ADNR to assess the public land supply and projected demand for at least 20 or 30 years. Perhaps the establishment of a Public Trust Land Bank would assist in this balance and operate similarly to the current land disposal bank.

c) Repeal 38.05.035(c)

38.05.035(c) allows disposal of state land under certain circumstances without the classification process. We strongly feel that 38.05.035(c), which allows the circumvention of the planning and public participation activities of the classification process, should simply be repealed.

d) Amend 38.04.020(f)

We would like to see this language changed in two regards:

1. 38.04.020(f) should be amended to require that land previously offered, but unsold, be included in ADNR's annual demand assessment. Since only a small fraction of state land offered is actually sold, this amendment would very definitely reduce land-use conflicts by reducing the additional acreage placed in the Land Bank per year to accommodate projected demand. This single change could reduce our region's problems tremendously.

2. Accurate statistics of all aspects of disposal sales should be available to the public every year. This would provide some of the basic tools all of us as Alaskans need in order to make decisions about land sales.

e) Amend 38.05.079

The remote cabin permit program could affect our communities as much as the land disposal program, and yet could be allowed on almost any classified land and be excluded from "best interest" findings. AS 38.05.079 should be changed to allow remote cabin permits only on lands specifically identified for that purpose. If they were appropriately changed to leases rather than permits, they would then be subject to .035 "best interest" findings.

We certainly hope that these suggestions are hereby considered in your study.

Sincerely,

TANANA CHIEFS CONFERENCE, INC.

William C. "Spud" Williams
President

WCW:LJ/1859m

J1g2

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Ed Shavings, Sr

October 14, 1983

Senator Bettye Fahrenkamp, Chairman
Senate Resources Committee
Alaska State Senate
Juneau, Alaska 99811

Dear Senator Fahrenkamp,

I am in receipt of several letters requesting input from the APHA reference the land disposal legislation under consideration by your committee. I tried to attend both the Fairbanks and Anchorage meetings, but weather was a problem on the former and business commitments with the fall season kept me from the second meeting. The fall time is almost impossible for any of us in the guiding industry to get away from camp.

I spoke with Pat Pourchot in Anchorage and he advised me that these comments would still be timely.

Within the guiding industry we have several major concerns about the land disposal programs. Some of these concerns are compatible with public feelings, and some are not owing to the very nature of our business. Our primary concern is one of habitat for game animals. As our entire livelihood relies on good game populations in the areas we hunt, our first and foremost concern must be to do everything possible to maximize not only the quanity of game animals in the areas we hunt, but also to keep the quality of the game animals present up to standard. Quality means not only to have a fair number of 'big' trophy sized animals available, but also to provide for proper recruitment within the game population to replace those animals harvested or otherwise killed by predation, winters, etc. In addition, the areas hunted must represent a 'wilderness Alaska' to our clients.

Experience has shown us that of the major factors affecting game populations in Alaska, the PRIMARY man-controlled factor is access. Earlier programs which allowed six remote parcels per township resulted in approximately one cabin site/airstrip (access) every 5/6th of a mile along the stream or river in question as the steep terrain away from the river caused all the 'location' pressure to occur along the point of access, i.e. the river or stream bed. Such settlement and opening up of areas such as the Eastern and Western Alaska Range mountains, the Talkeetna mountains and other areas not only put a real hardship on the guides in the areas, but also resulted in opening up certain areas so that when all the settlement was completed those who settled there found themselves not in a pristine area as they had envisioned, but often surrounded with neighbors who found that the only stretch of river that would support an airstrip happened to be that same stretch as his neighbor, etc.

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Ed Marangis Sr

For this reason we feel very strongly, and would recommend to your committee that a good long look be taken at declaring certain areas of prime game habitat 'off limits' to settlement of any kind. Now that the national park system has tied up so much of the really top game area in Alaska it is doubly important that Alaska make a real effort to keep the areas left open for hunting as productive and wild as possible. If this smacks of 'Sierra Club' I can only say that no one, not even staunch preservationists, are as concerned about keeping Alaska's game populations at a high level as is its guiding industry.

The second major concern we have as an industry is in direct contradiction to our major concern in some aspects. That is, we need a place to operate from in these areas where we can build something permanent or semi-permanent to store gear and equipment for our hunting operations. To date, there has been some accommodation for the trappers in Alaska who can get a cabin permit for their business related activities, but nothing has been done for the guides, who even more than the trappers, contribute substantially to tourism and good will in Alaska. Many guides have applied for permits to erect a cabin, or a lease to do so and then been caught in the middle when the rules and regulations changed. A one-year permit is next to useless and works against all the good points of the registered guide area system that we operate under. That system encourages guides to take care of their area - and has all but eliminated the 'rape and run' tactics which brought our industry such a bad name several years ago. Today's guide/outfitter had damn well better think about next year - or else there ain't gonna' be no next year for most of us! ANILCA legislation has put so much pressure on those areas left open to hunt that unless we 'manage' our assigned areas in harmony with resident hunting pressure, fluxuations of game populations and realistic game management, there's not much future for us.

We would like to see some sort of provision made for guides licensed to conduct business in an area to be provided a permit to erect at least a base camp within that area. Restrictions as to quality and not defacing the countryside should be part of such provision, as well as some checks and balances to insure that a guide license is not misused to put someone into the wilderness land business. The program should be aimed at providing the legitimate guide/outfitter who is conducting a business in a lawful and ethical manner a legal means of establishing a base camp to enable him to do business as he is licensed to conduct by the State of Alaska.

As mentioned above, I recognize that these two concerns are not entirely compatible, yet there are many improvements which could be effected to help the situation yet protect Alaska's prime gamelands. We would welcome the opportunity to testify at upcoming hearings regarding this issue. Thank your for the invitation to voice our comments on an issue near and dear to each of us.

Sincerely,

Lynn Castle

Lynn Castle, President

SENATE

S-file w/ PC

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND AND WATER MANAGEMENT

BILL SHEFFIELD, GOVERNOR

555 Cordova Street
Pouch 7-005
Anchorage, Alaska 99510
Phone: (907) 276-2653

December 8, 1983

The Honorable Vic Fischer, Chairman
Senate Committee on State Affairs
1024 West 6th Avenue, Suite 204C
Anchorage, AK 99501

Dear Senator Fischer:

The Division of Land and Water Management (DLWM) has received a copy of your October 28 letter to the Senate Resources Committee commenting on Title 38. The specific comments have been reviewed and responses to the comments by DLWM are as follows:

1. Disposal Policy - A clear legislative policy on land disposal would be in the best interest of the State. The one attempt by the Legislature to establish a quantitative measure was repealed two years later (Ch 85 SLA 1979). The programs change regularly, and the lack of consistency reduces administrative effectiveness. A basic problem is the complexity of the land offering process and the many coordinated actions which are required, such as survey, access, ownership, and public participation.

2. Compliance with Local Ordinance and Regulations - The Department is on record as desiring to comply with all local requirements. I hope the Legislature will make the implementation of this policy possible by funding necessary capital improvements. We are also working with individual boroughs and cities to arrange for access development. Pre-built access is a better deal for the State. It gets a higher sales price and it allows the user to pay.

3. Fish and Game Concerns - Compliance with this suggestion in all cases would mean that the State would never dispose of water frontage. However, the Department of Fish and Game (ADF&G) stated that this suggestion did not mean that the State should never sell water frontage. DLWM believes that current practices and policies reserve adequate access and public use areas. It is important to protect public access and use areas, but fee ownership requires additional survey expenses that are not always in the public's interest.

JAN 5 1984

4. DNR Budget - I totally agree and hope the Finance Committee considers your suggestions. Our record system computerization must be completed if we are to effectively manage State lands.

5. Anchorage Entitlement - I agree that the Municipality should be given deficiency payments under AS 29.18.208 to satisfy its municipal entitlement. I appreciated the opportunity to meet and discuss this matter with you in detail.

6. Public Use Cabins - This is a good idea that deserves further study, including a cost analysis.

7. Trespass - The "duck shack" problem is one that is currently undergoing extensive review. A particular problem is the mandatory permits required by CH 85 SLA 1979 and the Refuge Acts for existing structures. Despite this problem, duck shacks are a high priority. For your information, the trespass action cited in your letter was taken only after numerous public complaints. The land in question is public interest land reserved for public use. Complaints were made that the occupants were denying public access to public land and water. A stated priority for trespass abatement is where there are complaints from the public. We have no complaints from the public that duck shacks are restricting or denying public access. However, I am otherwise in agreement with your recommendations.

8. Clean-Up - While I agree with your general statement, Remote Cabin Permit regulations have been adopted (see 11 AAC 67.700 - .790), and considerable land has been classified since 1979.

I look forward to your continued participation in this valuable effort.

Sincerely,

Tom Hawkins

Tom Hawkins
Director

cc: Esther Wunnicke, Commissioner
Senator Fahrenkamp

fairbanks north star borough

p.o. box 1267 520 fifth ave. fairbanks, alaska 99707 907-452-4761

M E M O R A N D U M

TO: Dawn D. Mach, Director, Dept. of Land Management
FROM: Richard S. Navin, Land Management Officer, Dept. of ~~Land~~ Mgmt.
RE: Comments of Title 38 for Senate Resources Committee
DATE: September 14, 1983

I have completed review of Title 38, considering impact on the Borough from a Land Management point of view, and have the following comments:

38.04.020(e.4) requires that a request for appropriations for land disposal each fiscal year must include an estimate of the funding required for "...engineering design work, and construction of access roads and capital improvements..." which are required by municipal platting authorities "...under A.S. 29.33.150". In lieu of such estimates, a schedule for obtaining same shall be submitted. This provision for deferring submittal of information necessary to make a valid disposal decision is harmful to the State, which will eventually be requested to provide funding, the Borough which will continue to be deluged with requests for assistance from the recipients of State land, and the Department of Land Management which will be the recipient of numerous requests for individual rights-of-way and modification of existing rights-of-way which have been issued, but prove impractical or impossible to construct.

Such information required must be submitted with the Governor's budget so that all concerned can make an informed decision as to the proposed disposals. All portions of the cited subsection after "A.S. 29.33.150" should be deleted.

38.05.127 deals with access to navigable or public waters. The Department of Natural Resources is required to reserve access easements to and along public and navigable waters prior to any disposal of any interest in State land, unless regulations or limitation of such access is necessary for other beneficial uses or public purposes. In order to satisfy this requirement the Department shall, "under regulations, determine if the body of water or waterway is navigable water, public water, or neither" [38.05.127(a1)]...and "The Department...shall adopt regulations implementing..." these requirements [38.05.127(b)].

Although this section was adopted by the Legislature in 1976, to date there are no regulations which establish criteria to be used in determination of the status of individual water bodies. At present, 11 AAC 53.310 asks for solicitation of comments from agencies and reliance on opinions or comments

from other sources. As a result, some lands conveyed to the Borough have been impressed with easements to and along seasonal drainages as well as headwaters of fish spawning grounds and other commonly accepted "public" waters. These reservations appear to have as their source, USGS 1" to 1 mile quadrangle maps. Where a blue line is shown, an easement is reserved.

It appears that the Department has no intention of defining criteria to be used to implement Legislative intent in this matter, and that such criteria must originate with the Legislature by statute. Hearings should be held to determine the parameters of public interest and the extent of linear and access easements to such linear easements required to protect those interests. The results of the hearings will determine the proper legislative criteria.

A general cleanup of language is called for in some areas where land disposal determinations are called for. 38.05.070(b) delegates authority to "the director, with the approval of the commissioner,..." to determine lands to be leased, and conditions, yet 38.05.050 provides that "...the commissioner, upon the recommendation of the director, shall determine the land to be disposed of for private use."

This type of defect is simply rectified by editing, which will achieve uniformity throughout the Title.

RSN/kea

SENATOR
ARLISS STURGULEWSKI

2957 SHELDON JACKSON
ANCHORAGE, ALASKA 99503
SENATE DISTRICT F, SEAT A

Alaska State Legislature

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POUCH V
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Senate

M E M O R A N D U M

September 6, 1983

TO: Senator Bettye Fahrenkamp, Chairman
Senate Resources Committee

FROM: Senator Arliss Sturgulewski
Senate Resources Committee

RE: Title 38 of the Alaska Statutes

Thank you for an opportunity to comment on the staff work being undertaken dealing with Title 38 of the Alaska Statutes. I think that a review of the title is extremely timely and I'll look forward to hearing the dates of scheduled committee meetings regarding the subject. As early notice as possible will be helpful as the fall rush seems to be starting.

I would hope that Pat can take a look at the procedure currently used by the Department of Natural Resources in the area of demand assessment. I've raised a number of questions over the procedure that was used a couple of years ago and would like to know what the present approach is and how it's working. I think it would be extremely useful to contact municipalities and boroughs, particularly the Kenai Peninsula Borough, the Matanuska-Susitna Borough and the North Star Borough as well as the Municipality of Anchorage, to see what impact state disposals are having on them. It seems to me that the state can in some cases create unwarranted competition with the borough development patterns as well as borough disposal plans.

Another area that needs review is how we are handling land trades. Currently the administration has a great deal of flexibility. At one time I considered developing legislation that would call for all sales over 640 acres to be brought before the legislature. Some idea of the numbers and complexities of anticipated trades might be helpful in determining whether or not this portion of the statute needs strengthening.

Without question there needs to be a major look taken at the interrelationship of the various land disposal programs, particularly in light of court decisions dealing with residency. As a senator representing an urban population, I have had surprisingly few comments, either positive or negative, directed to me regarding specifics of the land disposal program. We may gain valuable input at your committee meetings if we are able to get sufficient publicity about dates and the fact that we would like major input into the general question of the state's role in land stewardship which includes the disposal programs.

Thanks for an opportunity to comment. I would hope that I can add further specifics as committee work progresses.

cc: Pat Pourchot
Margo Waring

Northern Alaska Environmental Center

218 DRIVEWAY
FAIRBANKS, ALASKA 99701
(907) 452-5021

September 16, 1983

Mr. Patrick Pourchot
Senate Resources Committee
Legislative Information Office
1024 West 6th Ave.
Anchorage, AK 99501

Dear Pat:

Thank you for the opportunity to offer comments on the review of Title 38. Our comments focus on land disposals and land classification as we look towards some form of cohesive statewide plan within which the disposal system could function in an effort to avoid many of the problems developing between the state government, borough governments and citizens.

Firstly, 38.05.035(a)(14) could be amended so that all sales, leases, permits, and resource disposals are subject to reformed "best interest findings." We would like the best interest findings to be improved to address social, environmental and economic benefits as well as impacts on land use. "Critical habitat" should be defined under this section.

"interest of the state will be best served"

The state Constitution mandates a balance between private and public uses of state land. Title 38 should require ADNR to assess the public land demand for future as well as current generations.

38.05.035(c) should be repealed. All disposals should proceed through the planning and public participation activities of the classification process. exemption preference rights to correct errors

38.05.035(f) could be amended so that land previously offered, but remaining unsold, is included in ADNR's annual demand assessment. Also, accurate statistics should be available to the public on all aspects of disposal sales. This information is currently not available to the public in an organized and useful format. Without accurate information, how can the public be expected to make reasonable decisions?

38.05.079 should be amended to allow remote cabin permits only on lands specifically identified for that purpose. A change to a lease system from a permit system would bring the remote cabins within the scope of "best interest" findings of 38.05.035.

I hope that these suggestions will be of value to the committee in its review of Title 38.

Kindest regards,

Bob Warren

Robert D. Warren
Executive Director

Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chairman • 1024 W. 6th Ave., Suite 204 C,
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(907) 278-3654

Official Business

September 9, 1983

Senator Bettye Fahrenkamp, Chair
Senate Resources Committee
1024 W 6th Avenue
Anchorage, Alaska 99501

Dear Bettye:

You have asked for my comments and suggestions on state land management and disposal practices and areas of concern to be addressed by the Resources Committee. Here they are.

In general, I agree that it's particularly appropriate for the Committee to undertake a review of the program at this time and make efforts towards cleaning up confusing and ambiguous statutes governing state land management. An independent overview is long overdue and is crucial to a continued land disposal program that is appropriate and equitable for all Alaskans.

Specifically, I'd like to see the following concerns addressed during your overview and subsequently in statute, should that appear the proper course to take.

1. DNR POLICY GUIDELINES. We should request greater clarity from DNR about their guiding policies for land disposals. Often it seems ad hoc decisions are made and no overall strategy is being followed. In the past, DNR has inadvertently scheduled disposals of sites previously selected for marine parks, native allotments, and rights-of-way for part of the Iditarod Trail. Such mistakes shouldn't happen with coordinated policy guidelines in place. Basic policy questions need to be addressed by DNR such as:

- what public purpose is DNR trying to meet with the program? (that should determine how much and which lands they offer).

- how should DNR decide how much of which lands should be disposed of when?

- how are those decisions coordinated with all the other land

management decisions the department makes?

- how are they coordinated with land management decisions other state agencies make (ie. DOTPF, DOA, etc.)

- A particularly thorny problem is DNR's policy on disposals in remote lands.

How can DNR rationalize and apply the policy of no disposals west of the Alaska range?

Why did DNR develop this policy and how?

What will that mean for disposals in the Mat-Su valley and near Fairbanks?

DNR's land disposal policy literally shapes the future for all Alaska from settlement patterns to mineral development (or no mineral development) These policy decisions appear to be made in the dark, with little or no public input, and virtually no critical analysis. DNR needs to make it's policies a lot clearer if we are to evaluate them.

In addition, DNR should cease making "in-house" needs assessments and other crucial policy decisions. Often, when DNR holds extensive public hearings on policy and land management issues, it appears the script has been set in advance. Even though there is adequate public input, there is no apparent agency response to it. The decisions are already made by the data presented and the nature of the questions asked. Using independent research and analysis by a group with no personal or professional stake in land disposals, and reporting to the Commissioner and not the disposers, could help correct DNR's current myopic basis for policy development.

2. INFORMATION AND ACCOUNTING. Statutes and regulations governing land disposals programs should require enough accounting to provide data sufficient to answer significant questions about the programs. Among the questions I believe the state should review routinely are:

- How many individuals have applied for state land disposals?
- How much money does DNR collect each year in application fees?
- How many parcels remain in the hands of the original purchaser?
- How many parcels remain untouched or undeveloped since purchase?
- How much land (per acre) has been disposed of into how many hands? What is the maximum number of acres/parcels allowed to to an individual, by program?
- What is the total cost to the state to administer the land disposal program including survey, purchase, advertising, staffing, printing, customer service, billing, processing,
- payment division staffing, etc?
  What is the total amount of revenues received from rents, application fees, and payments?
- What effect has land disposals had on recreation and tourism

development? Subsistence? Commercial and sports hunting and fishing?

- How many parcels have been sold on the private market and what is the average profit made per acre over what period from purchase price to resale price?
- How much was the land worth at the time of disposal and how much has it appreciated in value, by year, since then. How much does the state "save" therefore, by delaying or greatly slowing the disposal process?

I do not understand why it hasn't been possible to establish an inexpensive automated record-keeping system for basic land disposal data. Whatever the reasons, it is imperative we have such a record-keeping system in place before we proceed with new disposals.

3. LOCAL CONTROL. Statutes and regulation should be changed to allow greater opportunity for local government decisions and suggestions regarding potential land disposals in their area. Local control needs to be beefed up.

A way to do this might be to require DNR to follow local comprehensive plans as a matter of policy unless unusual circumstances prevent this (exceptions need to be allowed for).

4. MUNICIPAL/BOROUGH DISPOSALS. DNR should assist municipalities and boroughs with disposal of their lands. Doing so would make available to the public some of the most suitable land remaining in public ownership (future disposal was one of the main uses for which the boroughs selected their lands), and help shift some of the political demand for more disposals off the state and on to local governments.

5. ECONOMIC IMPACT REVIEW. The committee's overview should include an economic review of the impact of state land disposal programs on state revenues, local taxation, property values, mineral exploration and development, recreation, hunting, fishing, construction, revenue sharing, local government services, environmental pressures, and community relations. What are the hidden costs and benefits of the land disposal program, particularly future fiscal costs to the state and municipalities? Are we committing ourselves to patterns of development that we won't be able to afford?

6. FIRE SUPPRESSION. On a similar point, we need to consider the consequences of remote disposals on forest fire fighting costs - the state gives the highest level of fire protection to settled areas. This is much more expensive than lesser protection levels and usually, because the terrain and vegetation make it possible to stop large fires, requires protecting areas much larger than actual settlements. To complicate the matter further, some areas and resources benefit from occasional fires. We need to be careful that we do not inadvertently commit ourselves to fire suppression policies that are unnecessarily expensive and ecologically unsound.

8. SURVEYING. In a June 29 letter to Gov. Sheffield, Commissioner Wunnicke discusses critical funding problems for cadastral land survey. Current statutes should contain provisions requiring adequate surveying before state owned lands are disposed of. Included in this provision should be means to address grievances when a survey was incomplete or in error and assurances that surveys will continue on an ongoing basis until all state owned lands are adequately accounted for, regardless of the state's current intent for the lands in question. As you know, lack of proper surveys presents a myriad of problems to the state from land disposals, to municipal entitlements and to native allotments. Alaska must not recede from its responsibility to properly survey its lands.

9. PROPERTY LAWS. State laws should be amended to allow property owners more flexibility in the manner in which they hold property in common. Tenants by the entirety (husbands and wives) should be repealed and joint tenancy (with it's common law rights of survivorship) should be reinstated. Provisions for joint tenancy (with rights of survivorship) and tenants in common (without rights of survivorship) would allow Alaskans more options in land ownership than the current choice between tenants in the entirety or tenants in common.

Along the same lines, the Division of Land should develop a program where several taneants may own and use a remote parcel site in common for recreational purposes.

10. RECREATION CABINS & REMOTE PARCELS. Consideration should be give.. to having the Division of Parks begin a public-use cabin program, similar to the Forest Service's. Many people who want to use remote lakes for recreation might find that such cabins satisfy their needs. The program would cost something to administer but would take in some revenue. This should considerably lessen pressure for land disposals on attractive recreation sites and will allow the state to permit broad public use of these sites rather than limit that use to a few individuals.

Short of a state operated remote recreation cabin program, the best and most cost effective way to provide recreational cabins is to let the people build and maintain them themselves. State law might be amended to allow several families to own recreation sites in common, with adequate protections for each owner's interests. I believe many Alaskans would take advantage of a program that could allow them to develop a recreation site at a quarter the cost. Such a program would allow a much more efficient use of state owned remote recreation land and help Alaskans develop these sites in the least environmentally disruptive manner.

11. STATEWIDE TRAILS SYSTEM. Management and designation of trails on state owned land continues to be a problem. Basic management authority for statewide trails should be addressed in legislation directed toward state land management policy, particularly when trails and trail-head rights-of-way are routinely included in disposals.

In addition, land disposals should have appropriate conveyance language to protect the public's right to use trails and rights-of-way included

in parcels passed into private ownership. DOTPF and DNR (specifically the Division of Lands and Division of Parks) should coordinate efforts to identify, survey, and catalogue known trails and assure their rights-of-way are protected with adequate conveyance language, or better yet, to not dispose of land bordering or crossing public-use trails.

12. PUBLIC HEALTH AND SAFETY. DNR should assess public health and safety concerns during the process of identifying lands for disposal. These concerns should go beyond normal leaching and sanitation considerations and address issues such as land disposals in areas where transportation is minimal and known to be extremely hazardous. Unless we can provide adequate search and rescue response in a remote area, we should refrain from disposing of land in such a way as to increase the use of the area beyond a citizen's ability to access the areas in relative safety or beyond our ability to provide assistance in an emergency (or at least retrieve the bodies).

Current plans for land disposals on Perry Island in Prince William Sound, for instance, seems to ignore the state's responsibility and/or liability for offering "free" land that requires Alaskans to journey into extremely hazardous waters by boat or airplane in an area with virtually no search and rescue response capabilities. The same could said for suggested disposals along the backside of the Kenai Penninsula.

13. INTERFACING STATE AND LOCAL DATA. Statutes or regulations should require the state to use some identifying number in common with local governments to designate land disposals. Currently, Alaskans who purchased land from the state cannot call their local borough offices to obtain an estimate on their tax bill using any of the state's numbers to identify the parcel (i.e. ADL number, property description, parcel number). This is not only frustrating to all parties, it has resulted in state land disposals not being entered in local government private property owner records, causing loss of tax revenues and considerable confusion on the part of the public.

14. RESIDENT DISCOUNTS. The overview should address and identify effects of the Supreme Court's decision regarding resident discounts. How has this affected the number of applicants? Can one estimate how this will affect the number of defaults on purchases? Have Alaskans been prevented or limited in their selection due to loss of the discount? Does the state have any plans to address the loss of discount privileges for Alaskans who were unable to take advantage of the program while it still applied? A land disposal that gives precedent in choice (such as having a 30 day filing period with the first 10 days open only to residents who have yet to use their discount or participate in the program) may be an appropriate way to mitigate some of the lost opportunity.

15. LAND DISPOSAL BANK. Finally, I personally would like to see DNR greatly reduce the acreage in its proposed land disposal bank. DNR appears to be maintaining an average of 100,000 acres for sale at any given time, in spite of the legislature's withdrawal of the 100,000 acre quota. We are disposing of too much land too fast without adequate review of the process or knowing how it affects Alaskans in the long

run, how much it costs the state, and whether it is either appropriate or affordable to pursue a program of disposing of public owned land forever into private hands.

I believe a real need exists in Alaska for affordable, livable land. We should address that need in a rational and workable way with a real commitment to providing Alaskans the means to obtain the land they need. The current land disposal program isn't the way to do it. It's kind of a cheap shot when we really need a class act.

Thanks again for giving me the opportunity to comment and offer suggestions for the committee to pursue in it's overview. I hope to work closely with you on this over the interim.

Best regards,

Senator Vic Fischer

cc: DNR Commissioner, Esther Wunnicke

/gb

COOPERATIVE EXTENSION SERVICE
UNIVERSITY OF ALASKA, USDA & SEA GRANT COOPERATIVE

University of Alaska, Fairbanks, Alaska 99701

September 12, 1983

Senator Bettye Fahrenkamp
Alaska State Legislature
Pouch V
State Capital
Juneau, AK 99811

Dear Bettye:

Attached is a Cooperative Extension response on Title 38 relating to your recent request for review. Because of relatively short time for response and staff schedules, our effort should be considered in the context of a beginning draft.

After your review we would be very pleased to elaborate where you feel important. Alan Epps is a primary contributor to this response. Kirk Baker, Resource Economist, has also contributed.

Thanks for your consideration. We'll look forward to further dialogue after your review.

Sincerely,

Jim Matthews

James W. Matthews
Director

JWM/ml

Attachments

REVIEW OF TITLE 38, STATE OF ALASKA STATUTES

A preliminary report to the Senate Resources Committee
of the Alaska State Legislature

Alan C. Epps
Professor, Natural Resources
University of Alaska

In this preliminary report, only those sections or subsections needing address are listed and commented upon. Other sections could be justified if you wish.

38.04.020. Land disposal bank. The use of the term "bank" has potential confusion with the Land Bank, Title 9 of ANILCA. If the section is retained, possibly the term "pool" would be more appropriate. Better yet would be appropriate legislation to meet the intent of Title 9 of ANILCA so that the State can participate fully.

(c) The basic motivation for this section seems unnecessary and, in any event, is contrary to sound resource assessment and management. It is not based on today's real needs, but on yesterday's presumed needs, which even then were unsubstantiated.

(d) The term "remote" is a misnomer only applicable at a given point in time. It implies a committment on the part of the State to retain the remotness of parcels. This may or may not be possible as we move into the future. The term "remote" should be defined in law so that there is no question to the meaning, or the term should be changed.

(g) This section should be dropped. Disposals should be based on resource assessment, planning objectives established locally with local quantifiable needs; not arbitrary percentages established completely out of context by the legislature.

(h) This section should be dropped. Soil conditions and/or other resource values may indicate greater than five-acre parcels.

38.04.040. Availability of university land.

Actions last year seem to have changed this section.

38.04.045. Survey and Subdivision.

(q) Contradicts 38.04.020(h). The wording in 34.04.045 is preferable.

38.04.065. Land use planning and classification.

(b)(6). This should be reworded to read, "Consider the supply, resources, and present and potential use of land under State and other ownership within the area or region of concern."

38.04.070. Management categories.

(1) "State public...state forest reserves, reindeer reserves and state wildlife reserves..."

By adding reindeer reserve, the state would recognize the three major low-intensity, large area land uses in the state. In all three, the intent is to bring equality in the planning process for consideration of resources values.

38.04.910. Definitions.

(4) "'multiple use'...it includes as under 38.04.065..."

This simply would tie the definition of multiple use back to the title.

(10) "'sustained yield'...in perpetuity of ((a high)) at least an average level annual..."

By changing the wording here, a true recognition of what is happening would be presented. Without the change, there is an implication of more intense management for most resources than State practices, or is likely to implement, in many cases.

38.05.020. Authority and duties of the commissioner.

(b)(5) "not withstanding...if he finds that compliance with the requirements is or was prevented by reason of war, riots, State government inability to respond or act of God."

A shift in State policies may dramatically alter investment strategies of individual investors, particularly in the early years of a resource development effort. A delay in building access which the State plans or a shift in loan amounts or interest could dramatically alter an individual's ability to comply and would be beyond the individual's control.

(b)(6). Recent judicial determinations have changed this one.

38.05.035. Powers and duties of the director.

(6) This one restricts agricultural disposals to lottery, which may not always be the best way.

38.05.057. Disposal of land by lottery.

(c)(3) The regulation on experience, is it still valid following the Point MacKenzie litigation?

38.05.058. Land discount program.

What is the State's position on this relative to the Zobles case?

38.05.058. Limitation on purchases of agricultural land.

Why limit the number of parcels one might own? If limited, it should only be from the state so that an individual could buy any number from other individuals.

38.05.069. Preference to persons for agricultural purposes.

The preference right is a questionable principle. If retained, it should have no upper acreage limit.

38.05.070. Generally.

(c) The 55-year lease is questionable. Ninety-nine years is a standard on many federal lands. The length is needed to allow for amortization of range improvements. A key need on leases is required use. The state should not allow one to hold a lease if they do not use it to a predetermined use.

38.05.075. Leasing procedures.

Need a statement which says that the value of a lease shall be determined based only on the resource value being leased.

38.05.077. Classification and disposal of remote parcels.

See discussion under 38.04.020(d).

38.05.079. Remote cabin permit.

See discussion under 38.04.022(d).

Review of Title 38, State of Alaska Statutes

by Kirk Baker

Statutes are general in most cases with regulations allowed by the Director or Commissioner. In most cases, this is desirable as it takes the legislature out of direct administration. Exceptions might include:

Section 38.05.050. Limitations and conditions should include a provision that no sales would be made for residences, including leasee preference sales where it is apparent the residence will be on a 100 year flood plain.

Section 38.05.105. With present interest rates, potential for inflation, and possibilities of more beneficial uses, rents should be considered for adjustment at more frequent intervals.

Section 38.10.050. When land is available for entry in open unplotted areas for agriculture or other uses larger than a 5 acre homesite, the entrant should select land from within 40 acre or larger size blocks of the Alaska Coordinate System for identification and as a check of prior private ownership.

9/8/83

(1)

eklutna INC.
TELEPHONE (907) 276-5701
840 "K" STREET, SUITE 202
ANCHORAGE, ALASKA 99501

November 17, 1983

Bettye Fahrenkamp, Chairman
Pouch V
Juneau, AK 99811

Dear Bettye:

Thank you very much for the opportunity to comment on the Title 38 revision process. I've tried to key my comments to your October 31, 1983, draft to expedite review.

38.04.005	I wholeheartedly agree. I also feel these goals and objectives need to reflect a statewide perspective and a long term policy direction. We also need to determine the role of Alaska's public lands in Alaska's future.
38.04.010	I agree that this goal should be retained and strengthened.
38.04.020(e)	The budget cycle has always been a problem. I suppose you could budget total cost as a capitol item.
38.04.020(3)(4)	This section should be deleted.
38.04.020(f)	This provision has never been implemented in the way it was designed to be. It can't be done on a statewide basis. It should be done at a regional or even subregional level. It should be part of DNR's regional planning process. I think the process should be retained but modified to provide some useful information.
38.04.020(g)(2)	It may be appropriate to give DNR more supervised discretion.
38.04.020(h)	Public necessity must also play a role. Mere desire to own a larger parcel may not be sufficient justification, unless we're just

	trying to "get rid" of the land. Five acres is probably large enough for most uses.
38.04.020	I agree with limiting subdivisions in remote areas.
38.04.020	Public hearings are required by Article VIII., Section 10 of the Alaska Constitution. I am not sure it needs to be repeated here.
38.04.020	This provision should probably not be in statute. These disposal goals should be developed through the regional planning process and the need assessment as discussed earlier.
38.04.021	This program should be fostered through legislative budgetary support.
38.04.025	This provision can probably be combined with 38.04.020(f)
38.04.035(4)	Leases should only be used in trespass situations after the trespass has been dealt with. A lease should not be the reward for trespass.
38.04.040	No comment.
38.04.045(a)	This provision should be made consistent with 38.04.020(h).
38.040.045(b)	I feel that disposals within local governments should comply with local platting rules.
38.04.050	The State should have to meet the same test of access required of other subdividers.
38.04.055	All of the access and right-of-way provisions should be combined. Access to all lots should be reserved and public access through disposals to public resources should be reserved.
38.04.065	Regional plans should be required. However, the Department of Natural Resources must get the budgetary support from the administration and legislature before this can be accomplished. The BLM is required under FLPMA to plan before action, but they have disregarded

this requirement. Broad parameters should be given to the planning process, including public hearings participation. The participation of large private owners in the area should also be sot.

38.04.070 Classifications should probably be in regulations instead of legislation. The legislature should set aside State Parks, Forest and wildlife refuges. But classifications should be more dynamic. The legislature should condone classifications that are retention classifications.

38.04.910 No comment.

38.05.030 Someplace the State needs to know what it owns, and DNR is a good place for that to happen. For this to happen a good notification system needs to be in place.

38.05.035(a) Long term authorizations and disposal should require a "best interest" finding. Temporary authnorizations should probably be based on a lower level of documentation. But in all cases there should be some written documentation that records the basis for the decision. I use temporary to mean less than a year with no permanent improvements.

38.05.035(b) & (b)(5) No comment.

38.05.045 Timber land doesn't need to be sold to enhance timber harvest. In fact the long-term cost of administering the land could make the cultivation of timber uneconomical.

38.05.050 Local assessor are only one source of information and not always the best. Repeal wouldn't preclude contracting the local assessor.

38.05.058 The land base of the State is a valuable resource. I'm not sure giving a discount is in the long term base interest of the State. It inflates demand for land. It also is not wise from the fiscal standpoint. We dispose of valuable assets at a discounted price. Much of that land doesn't pay property tax and yet the owners demand services. It also makes resource exploitation more difficult, by deversifing ownership. It also creates a

local vested interest group that will be very vocal in the management of land in the area.

38.05.065(a) No comment.

38.05.065(c) A process is needed to regain title in the case of a default on a loan.

38.05.067 No comment.

38.05.069 It seems this system can be simplified.

38.05.070(b) $250 may be too low, but $5,000 seems to high.

38.05.077 - 078 Transition periods are always difficult. It would be a year after enactment of the Homestead Act before it could be passed. I question its usefulness in that situation. If there is a need to pass legislation dealing with remaining remote parcels, the legislature should straighten out the process.

38.05.079 I question whether a permit is the right way to authorize a cabin. I think a lease is more appropriate. The lease would provide land tenure that could be sold or that could be used to secure financing. A lease hold is a property interest. A permit just allows somebody to use something. Leases might be a good way to provide remote sites.

38.05.110 The State should be careful about competing with other land owners. State resources should be used to spur markets and to fill-in supplies. But State resource should not control the market.

38.05.125 The mineral reservation is required by the Alaska Constitutions and the Alaska Statehood Act. This provision should be broad enough to cover all disposals.

38.05.127 This provision needs to be streamlined. It seems that there is no need to reserve an easements when conveying to another government. The Federal government doesn't reserve easement in conveyances to the State. There isn't a need for a reservation if the lease allows public access. The easement size and procedures should probably be in regulation not legislation. All the easement provisions should be put together.

38.05.140 - 181	Different minerals have different requirements, consistency should not be the primary goal.
38.05.150(e)	I'm not sure it takes that long to look for coal.
38.05.185 - 275	A leasing system would meet the requirement of section 6(i) of the Statehood Act. It is another revenue source that should be explored.
38.05.185	I think the legislature should take the lead on the leasehold issue.
38.05.190(a)(i)	No comment.
38.05.195	No comment.
38.05.200 or 210	No comment.
38.05.205	The notice requirement should be as consistent as possible, so as to avoid confusion.
38.05.240	No comment.
38.05.245(a)	This should be streamlined somehow.
38.05.245(c)	No comment.
38.05.250(a)	No comment.
38.05.250(b)	No comment.
38.05.265	No comment.
38.04.275	No comment.
38.05.300	I think it would be best to give the Municipality an option. I have no comment on the size of closure question.
38.05.301	The inclusion of Citizen review panels could be very useful, however, the whole State is not covered by Coastal Resource Service Area Boards. I am not sure veto power is a good idea.
38.05.310	In many cases a year is fine, but in some areas values change rapidly. Put one year in the statute, but give the Commissioner discretion to ask for a new appraisal at any time.

38.05.345	The mandated public notice should be as broad as possible. The exception for mineral leases may be unconstitutional.
38.05.350	Policy statements should all be included in one place at the beginning of the title.
38.05.362	No comment.
38.05.365	No comment.
38.07.030	I thought we had a revolving agriculture loan program.
38.08	The Commissioner should be given the discretion to convert the purchase terms, so that inequalities can be remedied, but the Commissioner should have to approve the conversion.
38.09.010(b)	No comment.
38.09.010(e)	The spacing of parcels should be determined through regulation and should probably vary from disposal to disposal.
38.09.020	Permits should be required to enter a parcel. Then they should be converted to a lease. After they "prove up" a patent should be issued.
38.09.050(d)(e)	No comment.
38.09.080(b)	The State should comply with State and local subdivision regulations.
38.09.090	Give the Commissioner the ability to convert the entry.
38.35.050(a)	It seems that a cost reimbursement system would be more equitable.
38.35.140(b)	I think this would be a good way to recoup these cost, which can be considerable.
38.50.020(a)	There shouldn't be a need for legislative review of equal value trades. Anything other than equal value should probably have legislative concurrences.
38.05.020(b)	The appraisal should be good for a year.

38.20	No comment.
38.050.275	A clear policy directive needs to be given regarding submerged lands. A lease seems to fill this need best.

Title 38 - General Comments

Land Bank -	We feel that it would be very valuable for the State to enter the Land Bank system. It would have some very beneficial aspect for the State. It could be an avenue to make private land available for public purposes.
Conflict of Interest	We feel it is very important for public confidence, for the State to have strong Conflict-of-Interest Legislation. It should probably include public disclosure and a ban on participation in decisions that might be to the employees benefit.
Restrictions -	No comment.
SB 41 -	The Statutes should of course be made consistent with SB 41 and the litigation settlement.

Comments on Related Subjects

28.18.201 - 208	The Municipality of Anchorage should receive its full entitlement in either land or cash. Anchorage should not be penalized because of its population and location. The lands conveyed to municipality should be closed at the request of the municipality. There does need to be a limit someplace to conveying lands without survey. It's not a matter of not needing surveys, it's a matter of postponing the survey. A public agency should have a survey before spending public money on facilities, and a private party will need a survey before they can get financing for a private project.
29.33.150	State land disposals should have to comply with the same requirements as non-public subdividers.
Title 27	We have no comments on the content of this title. However, there may be some value in moving portions of this into Title 38. We

have a Title for Public Land and a Title for Public Resources and a Title for Mining. I think that many of these Statutes could be combined in a Title on Public Resources.

Most of the issues discussed in the Administration and Budgetary Considerations are dealt with in the section by section discussion. However, I would like to lend support to an increase in the funding level for the management of Alaska's land. This valuable resource must be protected and wisely managed to provide the maximum benefit to the State and it's people.

Once again I'd like to congratulate the committee for undertaking this over whelming tasks and for giving us an opportunity to comment on this project. If I can be of any further assistance, please feel free to call on me at any time.

Sincerely,

Roland Shanks
Land Manager

jf

cc Esther Wunnicke
Tanana Chiefs Conference
Municipality of Anchorage
Alaska Federation of Natives

HAWLEY
RESOURCE
GROUP, INC.

November 15, 1983

The Honorable Bettye M. Fahrenkamp
4016 Evergreen
Fairbanks, Alaska 99701

SUBJECT: Title 38

Dear Senator Fahrenkamp:

Thank you for the opportunity to comment on the compilation of suggested changes to Title 38.

Titles 38 and 27 form the foundation for the development of the State's vast land and mineral resources, and any changes made will be critical in forming the direction this development will take. With this in mind, I have attempted to review the proposed changes with an objective eye, as well as from the viewpoint of a user of resources who has many years of background in the study of mineral law.

If there develops a "round three" of your review process, I would appreciate the continued opportunity to comment and cooperate in any way.

Sincerely,

C. C. Hawley

CCH/skg

Enclosure

8740 Hartzell Rd
Anchorage Alaska
99507-3498
Telex 26-418
(907) 349-4673

COMMENTS ON SUGGESTED CHANGES TO TITLE 38

C. C. Hawley

November 12, 1983

.04.020 Disagree that public hearings should be required either by statute or by administrative procedure. Public hearings should be limited to addressing general policy issues or decisions on large areas. Public hearings are used primarily by special interest groups. They do not attract a valid cross-section of public opinion.

.04.065 Disagree with the need for regional or area planning throughout the state. Would like to see the state's policy change entirely from "classifying" all land to managing the land for its various uses: hunting, fishing, agriculture, forestry, mineral development, etc., under statutes already in place.

Planning would be most helpful near urban areas where immediate uses would cause the most conflict.

Present planning and classification procedures become a contest between those who favor development and those who favor non-development. Whichever side can round up the most vocal supporters wins. This is not planning.

Strongly advise reconsideration of the state's planning and classification need, intent, direction, and policy.

.04.070 The suggestion to retain state lands "more permanently" than is done in state parks and state forests is a request for state wilderness areas. The state currently contains an overabundance of wilderness lands held in federal ownership. Disagree with request.

.05.035(a) Disagree with the suggestion to include those areas specifically exempt from "best interest findings" (shore fisheries leases, negotiated sales, and permits). The Director should be allowed some latitude for carrying out preference rights, minimal disturbance, or short-term land management.

.05.035(b) Agree with the concept for change, but three years is a very short time for such errors to be located. They may not be noticed until another user challenges validity. Prefer to leave this statute alone or use a 10 year limit.

.05.070(b) Agree with raising the annual amount involved in land leases that can be negotiated without advertisement. Simplification procedures for smaller projects is advised.

.05.127 Agree that it should not be a requirement to determine navigability and access prior to lease of oil and gas or mineral lands for reasons presented in suggested change.

.05.150(c) Agree with requested change if diligence is demonstrated.

.05.185-.275 These proposals correlate the large mega corporation oil and gas leasing activities with mineral exploration and mining. Coal operations are already under an extremely rigid leasing and regulatory system; therefore, this discussion addresses the locatable minerals such as gold, silver, tin, beryllium, tungsten, copper, etc. In areas open to mineral entry on state land, mineral deposits may be claimed by a discovery/location method. The purpose of this system is to encourage prospecting by individuals and exploration companies to locate the mineral deposits in the state. The location system, having been used since 1872 on federal lands, has had a long-term success. Any abuse of the system can be challenged by other claimants and adjudicated. A system that is working, is understandable, and accomplishes its purpose should not be changed.

The lease proponents appear to be concerned mainly with problems of an operating mine. When a mineral deposit advances to the development stage, it is regulated in many ways already established through laws and regulations controlling clean air, clean water, health and safety, etc. What is lacking in DNR's oversite is

enforcement of a plan of operations on state mining claims which can be handled through its existing permitting authority without the complications, time, staff, and all other red tape that accompanies a leasing system. Lack of enforcement of DNR permit stipulations should not be blamed on the miner. Miners should follow "best management practices" but should not be expected to be self-policing.

Only recently a "leasehold location" system which converts to a lease was established for claiming deposits in areas where potential conflict has been determined to exist between mining and another use. The law specifically states: "State land may not be restricted to mining under lease unless the commissioner determines that potential use conflicts on the state land require that mining be allowed only under written leases issued under AS 38.05.205 or the commissioner has determined that the land was mineral in character at the time of state selection."

Geologic reconnaissance and exploration require great latitude over large tracts of land in order to follow any geologic trends which may lead to tracking down the location of a mineral deposit. Prospecting and exploration have taken placed all over the world, and new deposits are continually located. It may take many prospectors over many years to cover an area in enough

detail to determine the locatin of a mineral deposit. To make the exploration procedure burdensome with leasing procedures, public notice, public hearings, "best interest" findings, etc., would do everything short of closing the state's land to mineral location. The only method of locating the mineral resources in the state is to encourage this continued search. Exploration money spent in the search for minerals is mainly a non-productive use of funds for a company, but is income for the state.

.05.195 Agree

.05.200-.210 Agree

.05.205 Agree

.05.240 Agree. Simplify recordkeeping for DNR.

.05.245(a) Agree

.05.245(c) Agree. With mineral leasing coming to the fore, prospecting permits may be more important to the prospector.

.05.250 Agree

.05.301 Do not agree that local boards should be given veto authority over DNR activities.

.05.310 Agree

TITLE 27

To apply surface coal mining reclamation requirements to all mining operations would result in only major projects being developed. The research, compilation of data, engineering, reporting, bonding, paperwork, etc., required for developing a coal prospect cannot be handled by medium to small companies.

Oversight of mining operations is already established in existing regulations and in performance standards being developed. They need enforcement by DNR.

Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-3246

PLANNING DEPARTMENT

September 9, 1983

The Honorable Betty Fahrenkamp
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

We thank you for the opportunity to add our comments on various sections of Title 38 of Alaska Statutes.

First, we would like to comment on the present State land disposal program which we believe has been bad in many instances--sometimes as a result of crippling legislation and sometimes as a result of administrative policy.

In the past there has been no comprehensiveness or cohesiveness in State land disposal programs. This has led to scattered locations of land disposals without concern for feasible access, joining growth areas, realistic size of parcels and quality of soils.

You need comprehensive and cohesive goals. The old 100,000 acre a year disposal requirement as interpreted by the Department of Natural Resources resulted in a helter skelter program.

All disposal programs should address the likelihood of future services which will be demanded. The major problem being encountered in the Matanuska-Susitna Borough is the constant requests for construction and maintenance of roads. We are being forced into diverting money from areas which were properly subdivided with constructed roads to areas where the State ignored subdivision improvement requirements.

From the inception, until February of 1982, the last date for which we have exact figures, the State has subdivided in this Borough a total gross area of some 69,000 acres into subdivision parcels and some 39,000 acres into agricultural parcels resulting in a total of some 108,000 acres being subdivided for settlement and agricultural purposes. Of this gross acreage, 34,000 acres have been subdivided into 5,700 lots and 39,000 acres subdivided into 127 agricultural parcels yielding a total of 73,000 net subdivision and agricultural acres creating 5,800 parcels. These figures do not reflect open-to-entry and remote parcel disposals, which are estimated to be in the neighborhood

of 300,000 acres bringing the grand total to a figure somewhere in the area of some 400,000 acres.

By February of 1982, the State's Land Disposal Program had been in existence approximately five to six years. The original legislative mandate was that the State would dispose of 100,000 acres per year. Six years at 100,000 acres per year would equal 600,000 acres. Of this total, the Matanuska-Susitna Borough has contributed approximately two-thirds of the total Statewide offering.

Within the subdivisions created, there are some 380 miles of roadway which will eventually need to be constructed. Within the agricultural parcels, an additional 48 miles of roadway is required resulting in a need for 428 miles of roadway within State subdivision and agricultural disposals.

From figures derived by the State of Alaska Department of Natural Resources, we estimate the cost to construct the subdivision and agricultural roads within each development at approximately 100 million, 1982 dollars. In addition, it will be necessary to construct some 780 miles of access road to State subdivisions and some 26 miles of access road to State agricultural developments, resulting in a total of 806 miles of necessary access road. When combining the cost for construction of the roads within State subdivisions and agricultural parcels together with the cost of constructing the access roads to these developments, the estimate for full construction is 494 million dollars. Were this cost to be apportioned among owners of the parcels created in the State's land disposal program, the cost to each parcel holder would be 85 thousand dollars per parcel.

The State land disposal people often say that quality settlement lands are no longer available to it for disposal because most of the good lands have been identified for other uses such as parks, fish and game habitat, forestry reserves, mineral development, mental health, the University of Alaska, and municipal entitlements. With this in mind, and together with the fact that each municipality has acquired, or is about to acquire, lands under the Municipal Entitlement Program, a logical extension of this argument would be for the State of Alaska and individual municipalities to jointly develop municipal entitlement lands with the State then limiting itself to creation of remote recreational subdivisions, agricultural developments, remote parcels, and homestead disposal.

The State may have already moved in that direction as we have not seen in the past two years any subdivisions such as the Greensward Subdivision in the Meadow Lakes area which was a particularly unfortunate venture into suburban real estate. See the attached memorandum of July 5, 1983.

The State of Alaska and individual municipalities could jointly offer quality lands to the public in locations which are

readily accessible by existing roads or roads constructed by the municipality for a particular disposal. The State of Alaska would supply funding for road and participate in some of the development costs of each disposal. In this light, some specific revisions to Titles 29 and 38 would be necessary. Among other things, you may need authority to recycle land payments into subdivision road improvements.

We recommend the following changes of Alaska Statutes:

1. Construction of access roads. AS 29.33.150(b) should be amended so that the State of Alaska is required to comply with municipal ordinances requiring construction of improvements, the same as any other land developer.

2. State financial assistance for municipal disposals. AS 38.04.021(a) should be modified to allow the State to provide financial assistance for disposal of Municipal Entitlement lands and to provide that these monies may be spent on the planning and engineering necessary for the development of those lands.

AS 38.04.021(D) and (E) should be repealed in their entirety. grant $

Additionally, certain modifications to AS 38.04.020(G)(2) is necessary for clarity and consistency.

For the State to gain patent to lands from the federal government, it is first necessary that these lands be surveyed so that their boundaries are fixed on the ground and so that an adequate representation is contained within the patent document. These surveys are conducted by the U. S. Bureau of Land Management at federal expense. Conversely the State of Alaska, once having acquired patent to these lands, requires that each municipality survey and plat municipal entitlement lands not currently platted or surveyed, before title transfer. The State of Alaska appears to be getting the best in both instances. Someone else pays for the survey in order that they may acquire title and they turn around and require the entity acquiring title from them pay for the necessary survey. This arrangement is inconsistent. The State of Alaska should embark upon a program to survey and establish monuments fixing locations of, at the minimum, section lines within the populated areas of the State where municipal land selections have been made. Municipalities could then acquire patent to their municipal entitlement lands and subsequently offer them for disposal.

3. Acquisition and survey of legal rights of way. The Borough has consistently maintained that feasible physical access must be constructed before disposal, and legal access must be verified along physically feasible routes to access the subdivisions. This should be the minimum requirement for State land subdivisions and subsequent disposals. If for any reason road construction is not required then, the very least, appropriations

for the Department of Natural Resources for land disposal should include an authorization to expend monies for right-of-way acquisition and survey.

4. Road construction and improvement fund. In all State disposal programs a certain percentage of revenues derived from the sales should be applied towards costs for construction of roads. At least 25% of sales revenues should be applied for this. In fact sufficient revenues should be applied from this source to do the job right regardless of percentage.

5. Angle point surveys. When rights-of-way are granted a minimum centerline angle-point survey with a point of beginning and stopping point should be required.

6. Farm production requirement. Clearing requirements for remote agricultural lands does more harm than good when they are not accompanied by requirements for soil conservation plans and by actual farming. If such clearing and farming are to be required, transfer of title should not occur until the land has been verified as having been placed into production.

7. Implementation. Finally, State policies and guidelines accomplish little when personnel are not available to carry out the policies. The Department of Natural Resources should reduce their land disposal efforts to match personnel available to carry out the various policies and guidelines.

We hope these comments will aid you in your endeavor to correct some of the deficiencies of Title 38 of the Alaska Statutes.

Please do not hesitate to contact us if you have any further questions.

Sincerely,

Robert J. Stickles

Robert J. Stickles
Planning Director

er

cc: Gary Thurlow, Borough Manager

Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-4801

DEPARTMENT OF ADMINISTRATION

July 5, 1983

MEMORANDUM

To: Vern Roberts, Finance Director
David McClelland, Chief of Road Maintenance
Ray Niemi, Platting Officer

From: Gary Thurlow, Borough Manager

Subject: NEW STATE SUBDIVISIONS IN MEADOW LAKES AREA

Fermin Strickland of Greensward Subdivision (2.2 miles west of Church Road south of Pittman near Jaland Pond) is unhappy with absence of State road effort in Greensward Subdivision. The State created the subdivision in about 1979, but since it was exempt from Borough subdivision improvement requirements the State did not build any roads. The Borough does not maintain the roads because they are not built to Borough subdivision road standards. ↖ We do maintain but bare

There are 67 parcels and about 17 houses. There are about one or two school children.

The State of Alaska created a propertyowners' association but the property owners are never able to get 50% of the owners together for a meeting as required by their quorum requirements. As a result they are unable to adopt any dues for road upgrades or maintenance.

Other persons interested in this is Floyd Aycock 376-6307 or 688-3206.

There is a similar problem at Bruce Lake Subdivision east of Kalmbach Lake. The State relied upon a privately owned road for access until the property owner told the State that he was going to close off the road until the State should agree to construct the road to Borough subdivision standards which the State has refused to do. Shell Ewing at 376-2800 states that the State has located another feasible constructable access to the area but has not built it.

As I recall lots in both State subdivisions were sold by lottery. Buyers were required to build in subdivision within four years and were required to live in subdivision at least 35 months of a four to six year period.

It sounds like a effort to create two rural slums in Meadow Lakes area. No thought of the future.

Do you have any ideas for these roads? Any ideas for state appropriations for these roads?

Gary Thurlow
Borough Manager

er

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

State Land Hearing, Oct. 5, 1983, Anchorage Present: Betty F., Vic Fischer, Paul Fischer, Arlis S (via teleconference) Esther Wunnicke, Commissioner DNR and Tom Hawkins, Director Div. Land &Water Mang.

New policies : Want better quality land, which is surveyed and patented from BLM, but will mean slower conveyances from feds.

Staff review of disposal policies:
---year round residential areas should be road-accessible, quality lands
---Will be seeking funds to help Boroughs dispose of lands
---Favor compliance with local planning and subdivisoon regs on disposals
---remote lands will not be geared to having future needs for services
---offered areas identified in Area planning process
----Fair market value disposals except for sweat equity programs

All dependent on level of funds for planning, surveys, grants to local govt.

Tom H. 350,000 acres transferrred to private ownership from state., 240,000 since 1978. received one million $ since 1978 for disposals
There are now 3500 subdivision parcels available over-the-counter and 52 remote staking areas open.
disposals help expand survey net which benefits other uses, also helps develop additional resource information.
DNR disposals have contracted a lot with private sector for mapping , surveying
LADS process good public input process
Will be offering 15 remote parcel areas this fall--spring lottery, including homestead areas.
Homestead regs out for review late October

In response to questions from BF and VF, Esther said would support putting new policies in statute.

Ted Smith: 38.04 planning requirements in conflict with later laws
should conform statutes to court decisions
less than fair market value (check with Ted to clarify point)
want more retention of public lands like forests in general public use category.
Under current initial permit system, can't borrow on land to build
Hard to enforce residence, dwelling requirements
Favors: Fair market value sale with 5-10% down, sign assignable assumable contract which would be good financing.
If you meet a schedule of improvements, you get credits against purchase price, similar to former ag homestead progr

Leases need to apply to commercial, industrial uses
Want compliance with local planning and subdiv. regs, costs to purchasers
Shouldn't require ag land development plans, too hard to administer, rather, reward developments against purchase price.

Cal Kerr, should consider selling timber land for development
review policy of primary manufacturing requirement

Howard Grey, no major changes, but will suggest technical amendments
problems with DNR regs not following legislative intent or being unclear
thwarting 640 acre closure limit with multiple classifications

George Lustick--no farm plans required in ag disposals
less intervention in disposals

Ray Mann, consistency of disposals with local regs
muni of Anc entitlement not met with land or in lieu cash payments
need better mineral closure orders for state lands to muni
Grant program doesn't apply to Anc because little land available to dispose of--any land muni disposes of goes into fund to by more.
Fair market value sales, use money to pay defiency payments to Anc

Vic Fisher--need statutory changes to get muni full entitlement.

Michael Grijalva--want good mine practices, reclamation, sediment control

Ray Morgan, In homestead law doesn't like ag provisions, purchase option or filing fees--defeats the purpose of program

Diane Muri, want placer mining reclamation, grading to contours and replace top soil

Don Argetsinger--want state planning esp. in rural, mixed land ownership areas like northwest Alaska, need more $ for planning,

Tom Pittman--want DNR policies in Title 38
wnat conformity with local planning and subdiv. reg.
Wnat $ from state for disposals, esp. road building and maintenance
Want legal, feasible access in state disposals
Want ag clearing in homesteads to utilize good soil conservation practices
Want mineral closure orders on muni land from state

Mary Core, need better organized, retrievable disposal info--comptuerized

Katherine Ernst.
disposals should be coordinated, follow regional planning
no subdivisions in remote areas
past disposals did not take carrying capacity into account
don't want dense settlement
no disposal quotas
prevent speculation
no ag homesteads in Tokosha area
no subdivision allowed on disposal parcels
want maximum local input

Bob Loeffler--
local subdiv reg conformity
current level of disposals too high--lots of vacant lots
inflated demand for state land--need better assessment of demand and availability of private lands--if private exists , no state disposals
need to take into account carrying capacity

Jim Scheffle, don't like ag homestead parcels
want disposal level at 5-10,000 acres of high quality land

want longer anti-subdivision requirements
want remote areas emphasizing rec values, small parcels, dispersed
want local planning input in plan and disposals

John Strasenburgh--want carrying capacity determinations and followed
low densities needed
want tougher anti-subdivision restrictions
more planning prior to disposals and minimizing use conflicts
reduce acreage disposed of
don't require building to avoid waste for non proving up

Dave McCargo
want hard-rock mineral leasing program
want reclamation of placer mining
lease program would have prospecting licenses, exploration permits and then production leases with gross royalties tax (10-20%)
non-competitive leasing for hard-rock minerals, competitive fortohers

Paul Lowe--use premise of conserving state $$ and environmental values will be conserved.
Want to maximize return on state resources
Need accurate assessment of demand for disposals

Chuck Hawley--don't want ill-considered disposals where mineral values may be present
Favor technical changes in 38--will submit
would favor mining reclamation if reasonable and doable.

ALASKA FEDERATION OF NATIVES, INC.

411 W. 4th Avenue, Suite 1A • Anchorage, Alaska 99501 • Phone 907-274-3611

September 20, 1983

SEP 2 2 1983

Bettye Fahrenkamp
Chairman
SENATE COMMITTEE ON RESOURCES
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Bettye:

As you mentioned in your letter of August 9, 1983, a review of State land management and disposal practices and law is both timely and necessary. At it's 1982 Convention, the Alaska Federation of Natives passed two resolutions on this subject. These resolutions, copies of which are enclosed, make specific recommendation on the land disposal program and request the State to complete adequate plans and to cooperate with and consider the views of local residents prior to making land classification and land disposal decisions. We recommend that the concerns expressed in these resolutions be addressed by State statutes.

Pat, there were no enclosures.

State land disposal policy should be viewed within the context of overall State land management plans and both the plan and the policy should be coordinated with plans of adjacent landowners. Past land disposal programs have resulted in policies which in large measure ignore long range needs and local needs. Local concerns and needs have been overlooked for several reasons. State personnel have been diverted from this process by vocal demands and public pressure from urban areas. Most legislators and administration officials and their staffs are located in Anchorage and Juneau and most of them have not lived in rural Alaska. And, rural Alaskans have only recently developed land planning and land management expertise to participate actively in the development and implementation of land disposal policy.

A process should be developed whereby local concerns about State land management planning can be heard and addressed on a regular basis. This process should include the ongoing availability

of State personnel in key rural locations on a predetermined basis. Such a process will allow the State to assess the impact of statewide land management decisions on rural Alaskans and to update the statewide plans to include existing or forseeable local development plans.

We recommend that existing State statutes be amended to reflect the above-mentioned. We also recommend that current policies including departmental order 82-022, the Land Availability Determination System, and departmental order 83-17, a Land Disposal Policy, be reviewed and as appropriate codified as part of Title 38. Lastly, we recommend the enactment of enabling legislation to authorize the State to enter into Alaska Land Bank cooperative land management agreements as established by section 907 of the Alaska National Interest Land Conservation Act.

Thank you for the opportunity to comment on your review of State land management and disposal policies. The Alaska Federation of Natives looks forward to continuing to work with you and your staff, and the Department of Natural Resources, to develop a legislative proposal which embodies sound State land management and disposal laws.

Sincerely,

Janie Leask
President

Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chairman • 1024 W. 6th Ave., Suite 204 C,
Anchorage, Alaska 99501
(907) 278-3654

Official Business

October 28, 1983

Senator Bettye Fahrenkamp, Chair
Senate Resources Committee
1024 W 6th Ave.
Anchorage, Alaska 99501

Dear Bettye:

In light of the testimony received at the two Title 38 public hearings and some additional facts and developments that have come to my attention, I'd like to add some further comments concerning state land management and disposal practices.

I was pleased to learn that the committee's goal will not be limited to legislation, but that the review will result in a comprehensive report. In looking over the statutes and in listening to public testimony, I was struck by the fact that many of the problem areas identified were less statutory than administrative ones.

Therefore, I believe that the committee has embarked on a valuable course of communication and cooperation with the department, and that a report of findings and suggestions would be very helpful to all parties -- the legislature, DNR, other departments, and the public.

In general, I was very supportive of the tentative conclusions and recommendations presented by the DNR study group concerning the disposal program. I look forward to more closely reviewing their document when it is made available to the committee.

My specific comments follow:

DISPOSAL POLICY. I would like to see a clearer policy statement made in 38.04 concerning selection, amounts, location, and scheduling of land disposals. As you know, I believe that we're presently offering too much too fast, and not always in desirable areas or following a classification process that takes conflicting land values into account. I believe those concerns should be addressed in statute.

COMPLIANCE WITH LOCAL ORDINANCES AND REGULATIONS. 38.04.045 needs strengthening in order that the state, in disposing of land, comply with all local requirements, not just those for platting. In addition, 38.04.050 needs beefing up to require the state to provide adequate access.

FISH AND GAME CONCERNS. Of the concerns expressed by ADF&G, I'm particularly supportive of their suggestion for selected fee simple retention of public access areas. This would require changes in 38.05.055 and 38.05.127 along the lines they suggested.

DNR BUDGET. I have been repeatedly struck by the direct relationship between identified problems and a lack of adequate funding. I strongly suggest that a part of the committee's report address DNR funding and be directed to the Finance Committee to assist them in their work.

One issue that I feel the committee should address is the need for computerization of records. Without this it is costly and difficult, if not impossible, to assess information that is necessary for evaluating the land disposal program and tailoring it to meet the needs of all Alaskans.

Further, additional areas I would like to see addressed that concern funding shortages include surveying, research, enforcement, compliance, determinants, land use planning, and classification. On the capital side, I see a need for additional purchases of recreational land on the Kenai and in Mat-Su.

ANCHORAGE ENTITLEMENT. The committee heard testimony from the Municipality of Anchorage that they have yet to receive their land entitlement or deficiency payments in lieu of it. Although the entitlement issue is contained in Title 29, I believe that the committee should bear in mind that it is a land issue that will need to be addressed. I am personally very interested in seeking a solution and plan to introduce legislation that will provide for deficiency payments to be made to Anchorage's new Heritage Land Bank for the purchase of public use lands.

PUBLIC USE CABIN SYSTEM. I believe that this concept has great value in meeting recreational needs and possibly substituting for land disposals in remote areas. I would like to see it receive more study.

TRESPASS. This issue arose just recently when DNR announced a new policy of evicting blatant trespassers on state land. The department estimates that there are 3500 cases of trespass statewide. The committee should take a lead in establishing policy to deal with trespassers.

Specifically, eviction policy should reflect two basic considerations: (1) There are limited funds available to pursue squatters. Therefore, priorities should be set as to which violators to pursue first, as DNR clearly won't be able to evict all of them. Squatters who derive commercial benefit from their illegal activities such as air, hunting and fishing guides, and those who take gravel and timber should have the first priority for eviction.

It was very dismaying to see headlines in local newspapers about DNR evicting a family from their only dwelling, in the beginning of winter, with the wife only days away from birth. Worse than that, within the same week stories appeared which listed known squatters holding duck shacks and commercial hunting cabins. That list, as you know, read like the local "Who's Who" of Alaskan political and business leaders. Clearly, better priorities must be established.

In cases where there is an historic use pattern, such as traditional fishing sites, it might be most appropriate to allow permitting under the existing but inactive remote cabin permit or another program. A strict policy regarding new trespasses should be adopted while historic cases are settled in a fair and equitable manner, consistent with the best interests of the public.

CLEAN-UP. I encourage the committee to do as much as possible to cleanup the statutes, particularly concerning contradictions -- both internal and with court decisions. Sections that are unnecessary, vestigial, unworkable, or ignored should be so identified and eliminated or fixed as appropriate. Programs that are on the books but inactive should be repealed, altered, or activated. (As an example, the remote cabin permit program was set up in 1979 and has yet to be implemented; no regulations have been adopted or land classified).

Thank you for the opportunity to participate in this valuable effort. I look forward to continuing with it.

Best regards,

Vic Bl

Senator Vic Fischer

cc: Commissioner Esther Wunnicke, DNR

/gb

eklutna INC.
840 "K" STREET, SUITE 202
ANCHORAGE, ALASKA 99501
(907) 272-9215 or 276-5701

August 19, 1983

Senator Bettye Fahrenkamp
515 7th ST. Suite 320
Fairbanks, AK 99701

Dear Bettye,

I'm glad to see this project getting off the ground. It's a pretty ambitious under taking.

For now I'd like to offer some general comments, and I will provide more detailed comments in a later letter. I hope you will restructure the title so that it is easier to work with. Right now it is very difficult to find things. I also hope that you would make the title fit the reality of the department. References to the Director of Lands should be changed. Those powers should in most cases be given to the Commissioner for delegation within the department. The management of Alaska's land hasn't always been the best, and part of the problem has always been a lack of direction. The title should include some basic land management objectives. The department has done alot of management based on "Department Order" and procedure memos. These documents seldom get public review and are very difficult for the general public to obtain, this should be changed.

It may also be useful to deal specifically with the 6(i) problem and State management of submerged lands. It would also be good to clarify management responsibility on Wildlife santuaries. The planning and classification provisions are pretty weak and should be strenghtened. It may also be good to include some enforcement provisions. It currently is very difficult to enforce the laws and regulations. Some large private land owners now exist, the Native Corporation, it might be a good idea to beef up the cooperative management provisions. I also think it would be good to deal with advisory boards. Some are volunteer, some are appointed, some meet, some don't, and this would be a good opportunity to straighten this out.

This may be a good time to address the exchange provision, which needs to be restructured. It just doesn't work. There also needs to be more thought given to surveying state land. The issue of State land and borough zoning also needs to be resolved.

Thank you very much for the opportunity to comment on this issue. I will provide more detailed comments in a later letter.

Sincerely,

Roland Shanks

cc: Pat Pourchot
1024 N. 6th
Anchorage, AK 99701

8/24/83

TESTIMONY
SENATE RESOURCES COMMITTEE
TITLE 38
September 21, 1983

Good afternoon. My name is Darryl Sickler and I am representing the Alaska Miners Association.

The percentage of federal land available for mineral entry in 1960 was 99 percent. The percentage of federal land available for mineral entry in 1970 was 83 percent, in 1980 only 40 percent. The state of Alaska has closed 9.8 million acres to mineral entry - this is between 40 and 50 percent of the total lands classified by the state up to this time. Is this what is intended for a state that is so heavily dependent upon natural resources for providing its economic base?

Under Title 38 (38.05.300) no classifications in excess of 640 acres which would close lands to multiple use are to be made by DNR without legislative approval. The purpose of this requirement was to insure that vast tracts of land would not be closed to mineral entry and other use. In recent years, this law has been circumvented by multiple classifications falling within the 640 acre rule. In fact, very few classifications actions, with the exception of some park areas, were brought before the legislative body.

There is also evidence of de facto classification, for want of better terminology, resulting in the closure of lands to mineral development without benefit of the classifications proceedings required by Title 38. An excellent example of this is the Bristol Bay Cooperative Management Plan which will be addressed to the

committee later this afternoon. In this case, while many of the lands within the so called preferred Alternative I are theoretically open to mineral entry, minerals development has been assigned to low priority and access will be all but denied through the closure of a spider web of closed streams and stream band corridors.

Furthermore, preliminary information from DNR indicates a preference toward leasing rather than location for mineral acquisition. This will, for all intents and purposes, effectively close the state lands to minerals exploration because of the uncertainties of management perogatives. An example of the state's success in mineral leasing offerings was seen in a recent coal and geothermal lands offering which was over three years in the planning and which generated one single bid.

The recommendation of a lease form to acquire mineral location is not supported by the AMA. This concept would give the large mineral companies more ability to secure leases than the small prospectors. AMA advocates the continuance of the location system as the basic means of acquiring an interest in locatable minerals. We feel that this is the most fair and equitable approach to the development of these minerals for all Alaskans. Any trend deviating from this would grievously affect the small miner and the mining companies. Regardless of the size of the company, operations under the location system are vastly preferred from the standpoint that land tenancy is clearly defined.

Other aspects or recent developments regarding mining controls or regulations could and probably will clearly effect the mining community and mining provision under Title 38. Examples are:

(1) The recently promulgated Hazardous Waste Regulations which in the case of mine tailings disposal will require a duplication effort on the part of an applicant applying for use of state lands for mine development;

(2) In Stream Flow Regulations 46.15.145: Proposed requirements or stipulations to be incorporated as a part of the In Stream Flow Regulations will result in another unnecessary duplication of effort and potential conflict with other sections of the law, notably the water use act. The methods of separating rights acquired under the water use act from the stream maintenance requirements are unclear. It may be that in some cases stream flow maintenance will result in closure of an operation.

(3) Presently claimholders on state selected land have located their claims at their own risk. The risk that the state will not receive title to the land cannot be eliminated. The state needs to take more of a management responsibility of lands at the time of selection. Where there are valid existing mining claims on lands that the state has selected for its mineral potential, claimholders should be exempt from subsequent classification activities either prior to or following TA or Patent.

I thank you for the opportunity to testify.

Northern Alaska Environmental Center

218 DRIVEWAY
FAIRBANKS, ALASKA 99701
(907) 452-5021

9/21/83

Good afternoon. My name is Robert Warren and I am the Executive Director of the Northern Alaska Environmental Center of Fairbanks, Alaska. We are a private, non-profit citizen action organization of over 700 members and growing. I'd like to thank the Committee for the opportunity to comment on the review of Title 38.

I'd like to focus my comments on the issue of land disposals and land classification at this time while expressing the need to also evaluate the need for statutory changes in the regulations governing Alaska's mining industry.

We would like to see the Committee take a close look at 38.05.035(a)(14). We would recommend amendments requiring that all sales, leases, permits. and resource disposals are subject to a reformed "best interest findings" procedure. We feel that this best interest findings procedure could be improved to address social, environmental, and economic benefits as well as the potential impacts on local land use planning. In order to facilitate accurate best interest findings there should be a defenition of "critical habitat" under this section.

Title 38 should require the ADNR to address the demand for public lands as well as the demand for private lands. The Alaska Constitution mandates a balance between the private and public uses of state land in order to guarantee an adaquate supply of both for future generations of Alaskans to enjoy our unique way of life.

All land disposals should proceed through the planning and public participation activities of the classification process. Therefore; 38.05.035(c) should be repealed.

We would like to see 38.05.035(f) amended to provide for the inclusion of previously offered but unsold land in ADNR's annual demand assessment. We would also like to see accurate and well organized statistics, available to the public, on all phases of disposal sales. Without accurate and available information it is difficult for the public to participate in the decision process.

Lastly, 38.079 could be amended to allow remote cabin permits only on lands specifically identified for that purpose. A change to a lease system from a permit system would bring the remote cabins within the scope of "best interest findings" procedures of 38.05.035.

I sincerely hope that our comments will be helpful in your review of Title 38 as we look forward to a cohesive statewide plan within which the disposal system would function in an effort to avoid many of the problems we see developing between the state government, borough governments and Alaskan citizens. Thank you very much.

eklutna INC.
840 "K" STREET, SUITE 202
ANCHORAGE, ALASKA 99501
(907) 272-9215 or 276-5701

September 16, 1983

Pat Pourchot
Senate Resources Commission
1024 W. 6th Avenue
Anchorage, AK 99501

Dear Pat:

I've finally managed to wade through Title 38 and supplement. It's not very easy to piece the whole thing together.

First, I have some general comments about the current Title. It's hard to tell what topics should be in Title 38 and what topics should be in Title 41 Public Resources. Forest Management is in Title 41, but oil and gas management is in Title 38. These distinctions are confusing. It seems that there needs to be a consistent criteria for what goes into which Title. I also feel that the State should have some "conflict of interest" language somewhere. Title 38 may not be the appropriate place, but it needs to be dealt with. While it is important to respect peoples' rights, I really feel that people who work for Public Resource agencies must be above even the perception of impropriety. There have been some problems in this respect in the past. The lack of direction in resource policy also falls into this category. The constitution, of course, provides broad policy direction to protect and develop the State's natural resources, but it would be useful for the legislation to fill out the policy statement a little. It would also be helpful to put all the definitions in one section.

The planning provisions should be strengthened. Planning should be mandated by stature, although I feel that the fine points should be left to regulation. Land owners within the planning areas should be given an opportunity to participate in the planning also. The planning needs to be as broadly based and as cooperative as possible without limiting the State's prerogatives. A classification system should also be mandated, but again the details should probably be left to regulations There is currently a problem with the agriculture classification, it limits all disposals to agriculture rights only. It does not allow for necessary surface disposals like easements for roads

and utilities. Subsurface disposals are also questionable under that classification. This issue should be addressed during these revisions.

While I was with the Department of Natural Resources we completed a portion of the Seldovia exchange and discussed several other exchanges. It became obvious that the exchange provisions were cumbersome and almost unworkable. It is almost impossible to complete an exchange in six months, but the appraisals are only good for six months. The appraisal deadline should be adjusted. I also understand the legislature's desire for oversight. However, the Department needs to be fairly free to complete exchanges unimpeded. I would think that the legislature could hold hearings and give direction on any exchange they are interested in. Since exchange must receive public notices, maybe a copy of that notice could be provided to both Houses's Resource Committees. The Committee could then take action as they deem appropriate.

I would also hope that the public notice and comment provisions would remain substantially as they are. Public notice for disposals is mandated by the constitution. It would be very helpful to the department and the public to define "disposal" as it is used in this context. While I am on the topic of public input, I feel that Advisory Committees are very important. This is a good opportunity to take stock of which ones do exist and which one should exist, and to make the necessary adjustments. I also feel it is important to mandate meetings, so future administrations allow the committees to meet.

As an adjunct to cooperative planning it would be a good idea to beef up the cooperative management provisions. Some large parcels of private land could probably be incorporated into State planning and management through cooperative management agreements. Native lands can currently be Land Banked with the Federal Government. This provides that the Native corporation can receive management assistance in return for allowing certain uses on their land. The State should develop a system to take advantage of the same opportunities.

Once again I'd like to commend the Committee for taking on this long overdue task, and to offer my assistance in any way you may deem appropriate.

Sincerely,

Roland Shanks

DEPARTMENT OF FISH AND GAME
STATEMENT FOR THE SENATE RESOURCES COMMITTEE
REVIEW OF TITLE 38

The Department of Fish and Game appreciates the opportunity to participate in the Senate Resources Committee's review of the State's land planning, classification and disposal statutes found under Title 38. This important section of law establishes policy and procedures for determining the use of public lands, including the disposal of some of those lands, or interests in lands, to private uses.

The Department is interested in the use of lands from the standpoint of how those uses might affect important wildlife habitats and the continued ability of people to have access to, and use of, fish and wildlife resources. Because it was the intent of the Committee to concentrate its attention on the land planning, classification and disposal program, it is that process which the Department considers in its review. If the Committee later decides to concentrate on other aspects of Title 38, we will be glad to provide comments on relevant sections. The Department was an active participant in commenting on the planning, classification and disposal aspects of Title 38 when it was being drafted two and three years ago. Furthermore, we are currently actively involved in the program as it is being implemented by the Department of Natural Resources (DNR). We feel that our participation in both the drafting of language and the implementation process provide a familiarity with the program that enables us to adequately comment during this review.

Land Planning, Classification and Disposal

Although the Department is not given specific authorities or responsibilities under Title 38, that body of law provides for consideration of fish and wildlife resources and their use by:

(1) setting out policy in this regard with respect to the public interest in retaining state land in public ownership (AS 38.04.015 and AS 38.04.070),

(2) providing for the retention of important lands (AS 38.04.020),

(3) providing for a program to determine the choice of land best suited for public and private use through the inventory, planning, and classification processes set out in AS 38.04.060 - 38.04.070 (AS 38.04.005), and AS 38.05.300 and .301,

(4) providing that land use plans consider physical, economic, social, and environmental factors as well as present and potential uses of state land and land under other ownership (AS 38.04.065),

(5) providing for public access on and across land which is made available for private use (AS 38.04.005(b), .055, and .127),

(6) providing for "meaningful" participation by the general public and state agencies (AS 38.04.065), and

(7) providing for written findings that the interests of the State will be best served by a particular sale, lease or other disposal (AS 38.05.035(a)(14)).

The Department has been an active participant in the planning and classification process carried out by the State. While we may at times prefer that classification actions give more emphasis to the Department's recommendations, we find the overall direction given by the Land Policy Act (AS 38.04) and relevant portions of AS 38.05, to be responsible to fish and wildlife concerns. We support the direction given by the Act, with particular reference to the provisions noted above.

With this said, the Department does wish to bring three issues to the attention of the Committee. These issues are addressed in more detail in Enclosure (1). Generally, our recommendations are to:

(1) provide, to the maximum extent feasible, for fee simple retention of public access areas through private use areas and lands along public lakes and waters to better facilitate public use of public lands and waters, and, where easements or rights-of-way are reserved for access instead of fee simple retention, to clarify whether such access routes include retention of sufficient public interest in lands to accommodate public uses of public waters;

(2) consider the need for amending certain currently exempted disposals from the "best interest" finding requirement of AS 38.05.035(a)(14), and

(3) consider the need to provide for the issuance of remote cabin permits only on lands specifically classified for that purpose and approved by State regional plans if greater emphasis is to be placed on the use of remote cabin opportunities for providing for land disposal needs, and consider the need for a public recreational cabin program on lands classified for that purpose.

ENCLOSURE ( )

Senate Resource Committee Title 38 Review

ACCESS (AS 38.04.005(b), 38.04.055 and 38.05.127)

Statement of Issue: The present statutory mandate to ensure that the public retains access rights to, and use of, public lands and waters can be strengthened to protect both present and future public use rights.

Background: The Alaska Constitution and State Statutes both provide that the waters of the State are reserved to the people for common use and further mandate that a provision for reasonable public access to those public areas is an inherent aspect of the public trust. Although current law appropriately requires that the director shall reserve public easements and rights-of-way through private use areas, it is our belief that the provision of access by less-than-fee-simple retention of State lands is not always adequate to protect public use rights. For example, lake and river front property is generally in great demand for private recreation sites. However, if this demand is satisfied through land disposals without constraint, a situation could result in which entire lakefronts or major stretches of public waters are completely held by private landowners, thereby inhibiting or precluding opportunities for free public use. It is our impression that the constitutional and statutory requirements mandating free public access have been restricted by a lack of specific definitions delineating the exact public rights embodied in this provision. Without explicit statutory language delineating these rights, we believe that conflicts between competing private and public interests will occur. Although easements and rights-of-way may technically provide legal public access, they can unwittingly pit private land owners against public users and lead to dissatisfaction for both.

It is relevant to note that the Department has at several times requested and received appropriations for the purpose of acquiring land for access and recreational use purposes. Enclosure (2) identifies land acquisitions made for the purpose of providing access to, and use of, important recreational areas. We believe that fee simple retention of lands can provide a substantial, long run economic benefit to the State, as well as provide for maximum opportunities for use of public lands and waters.

Recommendation: To the greatest extent feasible, public access rights through private use areas and along public lakes and waters should be reserved to the public trust through State retention of the tracted area. It is our belief that only through State retention of an adequate public land base along the State's rivers, lakes, trails and roadside areas will sufficient land be reserved for future generations to protect public recreation, hunting and fishing opportunities as well as permit expansion of a major export industry -- tourism.

As a suggestion, perhaps the statutory language of AS 38.04.055 and AS 38.05.127 could be amended to express a policy directive that "To the greatest extent feasible, the director shall reserve, in State ownership, sufficient land to preserve present and future public access across private use areas, and land along public waters to ensure present and future public uses of those waters. In the absence of preferred State ownership, the director shall reserve easements and rights-of-way on and across land which is made available for free public use..." These easements and rights-of-way should include language delineating a statutorily defined "free public use" which includes a "reservation of sufficient public interest in lands to and along navigable and public waters, tidal and submerged lands to accommodate recognized public uses of water resources such as access, fishing, hunting, viewing and other activities. AS 38.04.055 implies that such uses may be allowed for in making reservations of land for access purposes. A statutory clarification would be helpful.

BEST INTEREST FINDINGS (AS 38.05.035(a)(14)

Statement of Issue: Certain negotiated sales are currently exempted from a best interest finding under AS 38.05.035(a)(14).

Background: Under 38.05.115, up to 500 m.b.m. of timber and up to 25,000 cubic yards of materials may be sold by non-advertised, negotiated sale to any one purchaser within a one year period. These disposals are exempted from the requirements of a written best interest finding and notice by AS 38.05.035(a)(14).

While the Department is not aware of any specific problems, to date, created by disposals as they are currently authorized, we believe that as developments may intensify the need for notice and a finding of best interest may be desirable. Depending on the location of proposed disposals, the Department and others may be interested in knowing of, and commenting on, the proposed action.

The Department suggests that findings and notice need not apply to every negotiated sale. Successive sales at a previously developed site need not be subject to notice and a finding of best interest. Rather, only disposals at new sites or locations should be considered for placement under the notice and best interest finding provisions of AS 38.05.035(a)(14).

Recommendation: It is recommended that, in the course of its review of Title 38, the Committee consider the need to provide for a finding of best interest and notification pursuant to AS 38.05.035(a)(14) for the two negotiated sales discussed in this section. If it is found desirable to do so, then corrective statutory revision to AS 38.05.035(a)(14) could repeal the current exclusion of timber sales or gravel sales from a new site under AS 38.05.035(a)(14)(A).

REMOTE CABIN PERMIT (AS 38.05.079)

Statement of Issue: AS 38.05.079 provides that remote cabin sites may be provided for in areas classified for that purpose under AS 38.05.047(a)(5)(B). AS 38.05.047(a)(5)(B) was repealed by the Legislature in 1981.

Background: Remote cabin permit regulations 11 AAC 55.020(d) and 11 AAC 55.040(h) currently allow the issuance of remote cabin permits on public lands under any classification unless specifically prohibited in an approved land use plan. The situation that has resulted is that since by regulation all land is open to remote cabins under any classification (no specific remote cabin classification is currently available in regulation) and only closed in areas where an approved land use plan is in place, virtually the entire State is open to settlement under the remote cabin program.

Because remote cabin permits essentially reserve the use of land for a relatively long period of time (25 years) and allow physical alterations on the parcel, the effect of remote cabin permits is very similar to land disposals. Remote cabin sites such as land disposals can conflict with established resource use patterns by introducing increased competition for already limited supplies of natural resources including firewood and wildlife. In addition, remote cabin sites may limit maintenance of the essential mix of habitat types which results from providing a variety of plant successional stages through the use of the full range of fire management options.

Recommendation: The Department is not aware of any problems to date associated with the nonclassification of lands for remote cabin usage. If, during its consideration of changes to Title 38, the Committee determines to more heavily emphasize the use of remote cabin disposals, it may wish to clarify the classification requirements for such disposals. If the Committee determines to promote extensive usage of the remote cabin program, the Department recommends consideration of requiring classification of land for that purpose prior to a disposal for remote cabin usage.

For lands so classified, the Department also recommends that the Committee consider the establishment of a remote cabin permit program wherein public cabins could be built and made available to recreational users on a first come basis.

ENCLOSURE (2)

LAND ACQUISITIONS

Over the past few years the Department has either independently, or jointly with the Division of Parks, acquired the following lands for the purpose of protecting areas. In the case of Parcel 5, the ultimate expenditure was made by the Mat-Su Borough.

	PARCEL*	SIZE	APPROXIMATE COST (in thousands)	LOCATION
1.	Sheep Creek	5 Ac	30.0	Mat-Su Valley
2.	Keplar Bradley Lake Complex	----	3,000.0	Near Palmer
3.	Montana Creek	----	465.0	Near Talkeetna
4.	Willow Creek Access Road	----	600.0	Mat-Su Valley (Mat-Su expenditure)
5.	Psagshak River Access	12 Ac	135.0	Kodiak
6.	Moose River/Kenai River Confluence	9 Ac	125.0	Kenai Peninsula
7.	Seven Parcels on Kenai Peninsula	----	2,250.0	Kenai Peninsula
	[252.0 SF + 2.0 mill Parks]			
		TOTAL	6,605.0	

The Department has identified in its preliminary budget proposal a need for $1.161 million for acquisition of parcels in the Mat-Su Borough and Kenai Peninsula. Proposed parcels are identified in Enclosure (3).

*All parcels are managed by the Division of Parks.

PROPOSED

PROPOSED

Kenai Peninsula Properties

I. Kasilof River - Crooked Creek Confluence

51 acres. Estimated value $250,000.

This is the fastest growing fishery on the Kenai Peninsula. Effort on king salmon during the June fishery has increased from 2,000 man-days in 1979 to over 21,000 man-days in 1983. This fishery is currently conducted on private land and the landowner has stated his intention to close the area to public use. King salmon catches have increased to 3,000 fish with the bulk of this being produced by the Kasilof State Hatchery. There is also increasing effort in this area on Dolly Varden as well as sockeye and coho salmon.

II. Whiskey Gulch

15 acres. Estimated value $204,000.

This access site is needed to help alleviate increasing fishing effort in the marine waters of Cook Inlet south of Deep Creek. The Deep Creek king salmon fishery alone received 24,000 man-days of effort in 1982 during a two month period. All access to this fishery is restricted to a single State campground at Deep Creek. Deep Creek is very congested with many prospective anglers desiring to fish for salmon and halibut being unable to locate camping or even parking space. Whiskey Gulch is the only entry point to the beach between Deep Creek (at Ninilchik) and Anchor Point. An access at Whiskey Gulch at the southern end of the Deep Creek marine troll fishery would greatly expand the use of the important king salmon trolling area, would eliminate the need for boaters to travel extensively over often treacherous waters and would provide access to the beach for clam digging and other recreational activities.

III. Ninilchik River Site

28.4 acres. Estimated value $317,000.

This popular stream receives over 20,000 man-days of effort annually. Anglers stand shoulder to shoulder in this area when the king fishery is open. It is one of the four major steelhead trout streams in South-central Alaska. It also has significant populations of king and coho salmon and Dolly Varden. A significant portion of the fishery has been conducted on private property. The property owner has blocked access to further public use of the land. Although there is State land on other parts of this stream, it is imperative that this site be acquired to provide continuous streambank access and facilitate legal movement of anglers to other public areas along the streambank.

PROPOSED

4. Anchor River Site

PROPOSED

40 acres. Estimated value $80.000.

This is the most popular anadromous fish stream on the southwestern Kenai Peninsula. It receives angler effort up to 44,000 man-days. The Anchor River contains the greatest populations of steelhead trout, Dolly Varden and king and coho salmon in the lower Cook Inlet area. This particular site not only increases access to additional salmon fishing waters near the stream mouth, but also provides access to the river's terminus with Cook Inlet for launching boats to fish for king salmon and halibut.

Matanuska-Susitna Valley Properties

I. Wasilla Creek Site

165 acres*. Estimated value $185,000.

This fishery is in trespass on private land. The need is to acquire land near upper limits of tidewater for public use. This salmon stream presently provides over 6,300 man-days of fishing opportunity annually. Wasilla Creek is considered one of the finest coho salmon fisheries in northern Cook Inlet. A public access site at this location would also serve the needs of recreationists wishing to use the vast public resource of the Hayflats Game Refuge.

* The large acreage is because a single large property is involved. Most of the property is swampy and it is not feasible to subdivide for partial purchase.

II. Cottonwood Creek Site

20 acres. Estimated value $40,000.

This fishery is also trespass on private property. The need is to purchase private parcel connecting Hayfield Road to intertidal portion of creek which is currently in public ownership. Cottonwood Creek is a salmon stream that provides 9,200 man-days of fishing use annually. A public use site at this location would also provide legal access to the popular Hayflats Game Refuge.

III. Little Willow Creek Site

20 acres. Estimated value $85,000.

Acquire parcel at Parks Highway Bridge (m. 75) that links creek to highway. More than 8,200 man-days of recreational fishing is recorded annually from this creek. Acquisition of land and eventual development of a public boat launch at this location will assure continued public use of Little Willow Creek from its confluence with the Susitna River upstream to the Parks Highway. Non-mechanized boat float trips down Little Willow Creek and the Susitna River to the proposed Willow Creek boat launch would become possible with the acquisition of land at the Parks Highway.

fairbanks north star borough

p.o. box 1267 520 fifth ave. fairbanks, alaska 99707 907-452-4761

DEC 22 1983

December 20, 1983

Bettye Fahrenkamp, Chairman
Alaska State Legislature
Senate Committee on Resources
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

Thank you for the opportunity to review the compilation of comments from "Round One" of the Resource Committee's hearings on the State's land management and disposal statutes, Title 38, held during September and October, 1983.

I have attached detailed comments forwarded to me by our Department of Community Planning and Land Development. As you know, this area of legislative concern continues to be of particular interest to me.

Please keep me informed as to your progress in implementing necessary revisions to the statute or administrative code regarding natural resources.

Thanks, Bettye.

Sincerely,

B.B. Allen
Borough Mayor

cc: Mach
Zybach

Attachment

BBA/kea

fairbanks north star borough

p.o. box 1267 520 fifth ave. fairbanks, alaska 99707 907-452-4761

M E M O R A N D U M

TO: Dawn D. Mach, Executive Director, Community Planning and Land Development
FROM: Allen R. Cronk, Acting Director, Division of Land Management a.R. Cronk 12/15/83
RE: Review of Title 38, Alaska Statutes
DATE: December 14, 1983

RECOMMENDED CHANGES IN TITLE 38

38.04.005 through 38.04.015. Taken together, these sections establish the policy for State land retention and disposal. They fail miserably to furnish a clear and concise policy.

Deficiencies include:

1. Lack of a minerals management policy which is needed to guide retention or disposal of mineral land. Such a policy should include a caveat that mineral land (surface) be retained in public ownership until a certain minimum level of exploration has occurred.

2. Lack of formal recognition of mining claims as a vested and saleable property interest. Disposal of the surface estate to third parties virtually assures conflict between the surface owner and the mineral developer. Such conflicts cannot be in the best public interest and should not be promoted by government entities.

3. Continued disposals in previous low density disposal areas defeats the intent of existing policy and reduces the attractiveness of such areas for purchasers. The policy should be strengthened to require a predetermined density level that cannot be exceeded until services are extended or an economic base is established in the area.

4. No requirement presently exists to assess natural hazards prior to disposal nor is there a prohibition to the disposal of State land for residential use even though it is known to contain natural hazards some of which are very dangerous to public health and safety. Of particular concern are heavy metals in ground water, flood plain settlement, and slide or avalanche hazards. Even though these hazards are sometimes noted on the plat, the public is lulled into a false sense of security that government would not be disposing of the land if the dangers were serious.

5. There is no requirement to include an impact analysis prior to a State land disposal. Done properly, such an analysis would identify reductions in the local resource base, demand for public funding for road extensions and utility extensions, loss of public interest areas such as woodcutting areas, water frontage, access roads and trails, increased public costs resulting from fire hazards from development of disposal land, etc.

38.04.020 This section covers a wide range of topics that need to be reorganized and clarified. Consideration should be given to the following points:

(e) Disposal budget estimates. Disposal costs estimates of which budget estimates are only a part should be considered. Disposal costs estimates would include not only the disposal budget but also:

1) Post administration;
2) Improvement costs whether constructed or not;
3) Local government costs;
4) Costs incurred by purchasers and/or entrymen.

These costs coupled with the recommended impact analysis would reflect the true benefits or liabilities of a specific State land disposal.

Benefits to be derived would include:

1) An indication of demands for public funding that can be expected at both State and local levels.

2) Evaluation of disposal procedures for cost effectiveness.

3) Evaluation of effectiveness from both the public and private standpoint of State disposal programs.

At the present time, the State must establish a survey grid in remote areas and the entryman must then survey the entry. The cost of two survey efforts is very high. Significant cost savings by both the State and the individual can be realized if the State surveyed the disposal parcels initially thus eliminating the need for staking, several field checks by the State, a great deal of paperwork, and a second survey. From the cost estimates, it should be possible to improve the disposal system so that maximum cost savings can be realized by all rather than just the State administration.

(f) The market assessment requirement should be strengthened by identifying the components of such an assessment. Among others, the following components should be considered:

1) The amount of land in each category both, public and private, that is available for development but remains undeveloped. This should be measured in both acreage and parcels.

2) The need for land and how the need is assessed.

3) The demand for land and how it is assessed.

4) The amount of past State disposals:

   a) By municipality;
   b) By year;
   c) Percent of disposals by type of land, municipality, year;
   d) Amount of past disposals which are developed;
   e) Increase in value (disposal price to present value.)

(g) Categories of land disposals. While this section needs revision to comply with recent court judgements, thought should be given to concentrating homesite entries. At present each subdivision has homesites that require early development and occupancy. Because the cost of access and utility extensions are prohibitive for so few and since there is no time to wait for these amenities to be publically funded, development of the homesites is limited to either minimum development or they go to default. Provisions should be made where homesites can be concentrated and the percentage goal averaged over several years. Perhaps disposal of an entire subdivision by homesites to meet the percent requirement for several years would be acceptable. In this manner, everyone in the subdivision will have a common goal for obtaining roads and utilities and a special assessment district can be formed if necessary. Further, the likelihood of minimal or eyesore type development is greatly decreased.

38.04.020(h) Parcel size restrictions for subdivision disposal should be retained to discourage resubdivision. Subdivision density should be related to land bearing capacity. Individual preferences for larger parcel sizes can be satisfied through the private sector market or homestead provisions.

38.04.021 Concur with comments. The joint disposal issue should be expanded to address improvements construction perhaps with the Borough recovering improvement costs from State sale receipts.

38.04.025 This section should be part of the overall policy statement set out in 38.04.005.

38.04.030 ibid.

38.04.045 (see comments under 38.04.020(e)) Again, if the cost of the control survey together with the cost of the individual parcel surveys are considered along with the cost of remote parcel staking and program administration, it probably is much less expensive to survey the disposal parcels at the onset and sell them to interested parties. Total costs, both public and private, must be considered if the public interest is to be served.

38.04.055 Reservation of easements in fee carries a heavy cost of defining the right of way on the ground. The interest served by such a fee-reservation must be critically evaluated. If the reservation is necessary, survey must be completed and paid for in a timely manner by the State to avoid administrative abuse.

38.04.065 Concur with comments. However, unless there are clear and concise policies on land disposal, land retention and resource management, the land planning process reflects only the interest and desires of the planners. This does not necessarily reflect the best public interest or full consideration of all aspects of the situation.

38.05.035(a) Best interest findings should be a requirement for all land actions.

38.05.035(b) Three years limit of preference right too short and arbitrary. More suitable time frame is 7 years.

38.05.045 Lands identified as Timber Land should be retained and managed by the State. If sold, suitable provisions must be made to insure that the timber resources continue to be managed for sustained yield. (i.e. sell Timber rights as the State presently sells Agricultural rights.)

38.05.057 There are a number of factors in this section that should be reconsidered, among which are:

1. Consultation with the Assessor. Unless clarified and given weight, such consultation wastes everyone's time.

2. Present at the lottery. The expense of getting to the lottery is often excessive and consumes private resources that are better spent on the land acquisition. With this caveat, the land is <u>not</u> equally available to all residents. No purpose is served that could not equally be served by requiring the downpayment or a substantial bid deposit to accompany the application <u>if</u> the applicant is not to be present.

3. Reference to discounts should be deleted.

38.05.069(a) and (b) While a preference right option may be a desirable feature in ag land disposal, the 60 day option is excessive. If the option is to be exercised, it should be exercised on the same day as the disposal in the same manner that the sale contract is executed.

In addition, the option should be available only to existing farmers who derive 50% or more of their income from the existing farm. Grants of preference rights to hobby farmers which increase land holdings 5 to 20 fold are unlikely to be in the public's best interest.

Reconsideration of this section is needed.

38.05.070(c) Excessively long leases are not in the best public interest. Federal leases are generally for a much shorter period than the 99 years suggested. A good compromise would be a lease term based on the life of the proposed facility plus a reasonable development period. In this manner, financing should not be a problem and if development is not undertaken, a valuable public resource is not tied up for speculation for an excessively long period.

38.05.070(3) The proposed new limit of $5,000 per year is too high. Non-advertising implies a minimal value, if a lease value is $5,000/year. Fee value can be expected to $50,000. A more appropriate limit should be between $1,200 and $2,000 per year.

38.05.078(d)(1) and (2) These sections should be clarified. It appears that the intent is to preclude alienation of the land while it is under sale contract. While this is a reasonable consideration, it quickly becomes unreasonable if, as written, disposal or subdivision is precluded after the sale contract is paid off, lacking an overriding public interest. While prepayment appears acceptable, these sections still apply and unnecessarily limit private interest with no apparent public benefit.

(f) This should be clarified to reflect local practice for blocking or founding mobile homes. Common practice in Fairbanks is to found mobile homes on timber square sets which in the normal sense would not be considered a "permanent" foundation.

38.05.079 A remote cabin leasing program would minimize many anticipated access problems associated with the non-agricultural homestead program. Should be pursued.

38.05.110, 115 and 120 This section, if still applicable, should be recodified into Title 41 with the rest of the forest management statutes.

38.05.127 This section is unreasonably enforced and should be modified to require full compliance by the State administration and to relieve the onerous provisions when applied to both public and private disposals. Problem areas are:

1. The State administration has failed to determine the status of waterbodies by regulation.

2. Every waterbody including dry sloughs and intermittent streams are impressed with easements.

3. The requirements for easements to waterbodies is interpreted to require the recipient of State land to acquire easements across private land to reach State waters. The cost of acquiring such easements can easily exceed the value of the State land received and may be beyond reasonable effort without the use of condemnation powers.

4. There are no guidelines established to evaluate the quality of the State water being served nor the public interest therein. However, once criteria have been established defining public and navigable waters, which by their importance require access easements, those easements should be identified and reserved in all disposals including oil, gas and mineral leases. Fee simple easement reservations serve no constructive purpose, yet serve as a reserved strip which may be subjected to unreasonable abuse in the future.

38.05.185 As noted under comments on 38.04.005, unless a minerals management policy is formulated, even a determination of mineral character for such lands affords no protection. It is in the public's best interest to retain the surface of such land in public ownership at least until a certain level of exploration has been carried out.

38.05.185-275 The comments addressing these sections are better addressed in pending litigation. Because of political realities, the Fairbanks North Star Borough should not support the leasing rather than staking proposal.

38.05.195 The requirement to stake in cardinal directions results in a great deal more land being filed upon because creeks do not run in cardinal directions. Placer claims following drainages would require staking only the desired land.

38.05.275 State mining claims on State selected but not tentatively approved land is a federal trespass!! Acceptance of these claims continues to be a problem particularly when federal mining claims are ove-filed, when federally granted interests are overfiled, and when exploration funds are expended before a bonafide interest can be acquired. Further, such allowance conflicts with 38.04.020(c) and 38.04.015.

38.05.300(a) To be meaningful, "multiple purpose" use must be defined. It would be best to address major categories of use such as mineral development, commercial timber harvest, recreation, etc.

(b) The annual written report should include not only the acreage of land classified in the preceding year, but also the total acreage in each classification category. Further, it would be helpful to include the total acreage closed to each major category of use. In this manner, the Legislature can easily see the direction being taken by State land managers and assess whether or not legislative intent is being served.

38.05.301 A suggestion has been put forth that would give veto authority over proposed disposals to Boards in the unorganized boroughs. Be aware that no such authority exists in the organized boroughs. The special treatment or exemptions in the unorganized boroughs with regard to disposal quotas is already at unacceptable levels.

38.05.340 This section conflicts with 38.05.078(d)(1) and (2) and with 38.09.030 and should be amended to reflect the prohibitions set out therein.

38.05.345 Should be changed to require notice by a method determined to provide the broadest scope of coverage in the effected area.

38.09.010(b) No change to the one mile distance from a survey monument can be acceptable unless the State is willing to absorb the initial cost of surveys, and to then prorate and require payment of such prorated costs to the entryman. Too many abuses and hidden costs are lurking in the wings.

38.09.050(d) Existing statutory prohibitions are adequate. There is no requirement to attempt semi-permanent lockup of lands conveyed.

38.50.020(a) A fast track for small exchanges is desirable. However, no exchange for less than equal value should be tendered or considered without a detailed justification. Legislative review of exchanges for less than equal value is probably desirable. The Borough should exercise great caution in supporting amendments to this article unless such changes are parallel with our exchange ordinance.

TITLE 38 GENERAL COMMENTS

1. At the present time all appeals by parties of interests from administrative decisions must be submitted to the very entities that issued the adverse decision. It is rare that an appeal is forwarded to higher authority and even more rare for higher authority to overturn a subordinates position. Virtually never are legal issues addressed or even cited in a response to an appeal.

   As a result of past handling of appeals, many people feel it is a waste of time to bother. To "buck" the existing system is to invite vindictiveness and inaction on future needs. Certainly the appeal process is not viewed as one which improves operations by clarifying and modifying existing procedures. The net result is that appeals are handled somewhat differently in each office depending upon the expertise of the employee issuing the decision and handling the appeal. The same problems continue to arise until the public becomes so outraged that legislative intervention is sought.

   An independent Board of Appeals established at the departmental level, but preferably at the Department of Administration level, would be a great help and would go a long ways toward elimination of the mistrust which presently exists against State government. Such a board would assure at least a fair and impartial review of the merits of the case and the legal issues involved without going to court. Both the public and State government would be much better served.

2. There is a pressing need for a journal to be published which includes all proposed regulations. At the present time, the average member of the public cannot keep up with regulation promulgation and has a very difficult time obtaining copies from the many agency offices.

   Such a journal, fashioned after the Federal Register would be a great help if available at a reasonable subscription rate. Further, a central clearing house, such as the Governor's local offices or the Legislative Affairs Office, would also be a great help.

ARC/kea

NANA REGIONAL CORPORATION, INC.

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TELEPHONE (907) 248-3030

March 6, 1984

Senator Bettye Fahrenkamp, Chairman
Senate Resources Committee
Pouch V
Juneau, Alaska 99811

MAR 8
MAR 9 1984

Dear Bettye:

Thank you for the opportunity to review and comment on your proposed legislation to revise Title 38, S.B. 375. In general, we feel you have made an excellent effort to correct many of the technical and substantive problems now plaguing effective implementation of our state land laws.

Several of the provisions or proposed amendments to S.B. 375 are of particular concern to NANA. We fully support Section 59 as drafted which permits the Commissioner some discretion in the issuance of trapping cabin permits. We have no objection to the issuance of trapping cabins for serious trappers when needed. But the current wording of the law prohibits the Commissioner from denying a permit when other resource or use conflicts may occur with cabin construction and use. Frankly, we have had problems in our region with new trappers moving into long-established trapping areas which are used on a "rotational" basis every two or three years (much like sustained-yield farming techniques). The ability of new trappers to demand and to receive permits for cabins effectively preempts other established trappers in the area.

The problem is further exacerbated when the very localized fur bearer population is not able to sustain yearly intensive trapping brought about through permanent or semi-permanent cabin use. In short, the Commissioner needs some flexibility to weigh the resources and competing uses involved before granting an individual such an exclusive and preemptive right to use land.

We also support the provision of Sections 53-58 changing the requirements of state land exchanges. The rather rigid land selection patterns permitted under the Alaska Native Claims Settlement Act (ANSCA) and the Alaska National Interest Lands Conservation Act (ANILCA) has resulted in complex and

interdependent land ownership patterns in the state. Rational, optimal management and use of the state's natural resources will be greatly dependent on future consolidation and transferring of land among the several major landowners in the state through mutually agreeable land trades. To the extent that such trades are facilitated by federal and state law and regulation, the greater will be the benefit to all landowners.

For this reason, we would support further amendments to 38.50 to reduce legislative and administrative "red tape" in negotiating and approving land exchanges. While recognizing the valid and necessary oversight role of the Legislature, we would support reducing or limiting the formalized oversight role in statute, especially for smaller tracts proposed for trade.

Additionally, the distinction between equal appraised value trades and those "for other than equal appraised value" has received far too much emphasis in the law and in corresponding administrative negotiations. Many lands proposed for trade are located in remote regions of the state where traditional appraised values are of dubious utility due to the absence of land sales and the lack of direct use of the land. Furthermore, many trades classically involve "apples and oranges" with such things as wildlife habitat or public recreation values being traded for lands of mineral, timber, or other divergent and incomparable values. Hence, trades which are simply determined to be in the best interest of the state should be encouraged, regardless of any disparity in the "paper" values which may have been arrived at.

Finally, while we support the changes which have been made in 38.04 to take into account other values and other uses of the land in land disposals, we feel that the language could be further strengthened to protect existing residents and users in an area proposed for disposal. Land disposal problems become especially acute in areas where local residents are dependent on fish, wildlife, timber, and other resources for their day-to-day livelihood. The introduction of additional people and disturbances have significant adverse impacts on these resources and on the traditional uses of the area.

We would recommend that a more formalized local input process, including local hearings, be required and that area or regional plans be completed prior to disposals to ensure that existing uses and resources are taken into account prior to such a permanent commitment of the state's resources.

Thank you for this opportunity to comment. We would be happy to discuss any of the points further with you or your staff.

Sincerely,

Walter Sampson

Walter Sampson
Director of Lands

WS/mc

cc Senator Frank Ferguson
Representative John Ringstad
Representative Al Adams
Esther Wunnicke, Commissioner DNR

REMARKS OF

ESTHER C. WUNNICKE

COMMISSIONER OF NATURAL RESOURCES

BEFORE THE

SENATE COMMITTEE ON RESOURCES

OCTOBER 5, 1983

Thank you for inviting me to appear before your committee on the subject of Alaska's lands.

Although members of your committee are well-informed about Alaska's land estate, it would, perhaps, be helpful to other listeners to be reminded of some particulars about it.

* The State of Alaska owns more than 72 million acres of land, almost one fifth of all the land in the State.

* The State also owns virtually all 32,000 miles of tidelands.

* And the State owns all of the 10 million acres of water in the State, even if located on private or federal lands.

These lands and waters, together with the resources managed by the Department of Fish and Game, are the foundations of life in Alaska--our healthy economy and quality of life we enjoy. Our Constitution and statutes call for the maximum use of State land consistent with the public interest, achieving a balanced combination of private and public use.

As the result of legislation or in the fulfillment of our department's management responsibilities, the State's lands have been committed to a variety of private and public uses:

* Over 3 million acres are dedicated to State parks and waysides.

* Nearly 4 million acres are leased for oil and gas production.

* About 2 million acres are embraced in two State forests.

* About one-third of a million acres have been transferred to private persons for farms, or residential or seasonal occupation purposes.

* The remaining acreage has been broadly classified as lands suitable for agricultural production, settlement, timber, minerals, or wildlife habitat.

I hope these few particulars provide a backdrop for the areas of policy I'd like to address this evening.

Since the professional staff has provided your committee with a number of proposals for largely technical changes to Title 38, I would like to use this opportunity first, to illuminate the reasoning behind a recent policy shift in land conveyances, and second, to describe some preliminary conclusions arising from our department's review of past land disposal programs.

Our recent policy shift relates to the transfer of lands from the Bureau of Land Management to the State. Under a 1981 agreement between the State and federal governments, lands have been conveyed to us at a rate of 10 to 13 million acres per year. Virtually all of these lands have been unsurveyed. The State's need, however, and the need of Native allotment applicants and Native corporations, is for patent to lands. This requires the federal government to survey and monument the land.

By asking the Department of Interior to give increasing emphasis to the transfer of surveyed lands, we may slow the rate at which former federal lands are transferred to the State. This, however, is a positive result for Alaska. If we were to continue to receive new lands at the recent rate of 10-13 million acres per year, our entitlement of 33 million acres would be met in three years, despite the fact that we have until 1993 to choose the lands so fundamentally important to Alaska's future. To use the longer period of time will allow us to review past selections on the basis of new knowledge, and then to relinquish lands of lesser value; it also will allow us to select high value lands which are presently unavailable because of Native corporation overselections.

For all of these reasons, Governor Sheffield has urged the Secretary of Interior to seek an increase in funding for

survey and patent of land. And, although the Secretary believes the national interest requires rapid transfer of unsurveyed lands, he recognizes, I think, that the State's best interest has led to this policy change.

A second area of policy worth discussing involves prospective changes to what has been called the State's land disposal program, and we prefer to think of as a land offering program.

Given the criticism of the program in recent years, I asked Deputy Commissioner Bob Arnold to undertake a staff review of existing programs in light of that criticism and to develop recommendations for possible changes. Since he discussed some of his study group's preliminary conclusions in his testimony at the Fairbanks hearing of your committee, I will only summarize what I understand to be the consensus so far, and defer my conclusions until members of this committee and the public generally have had an opportunity to comment.

The study group will be proposing for consideration:

- That year-round residential offerings be road accessed and be in locations where services exist or can be efficiently provided;

- That demand for year-round residential lands can best be met by seeking funds to assist boroughs to offer their lands;

- That recreational or seasonally occupied lands be high amenity with sufficient separation to avert demand for services;

- That acreages to be offered for private use will be identified in the department's area plans, above predictable demand, at realistic levels;

- That, unless lands are earned through homestead efforts, lands be offered at fair market value; and

- That offerings in boroughs comply with local comprehensive plans and subdivision ordinances.

Adoption of these policies would have both fiscal and acreage implications. The number of acres offered for private use will always be dependent upon the level of legislative appropriations for survey and other activities. Policies being considered related to meeting borough subdivision requirements would require legislative approval of road-building funds. (The cost of the roads could be recovered, however, through the increased value of the lots.)

The land offering study group will meet tomorrow with representatives of all divisions within the department and will, by mid-October, furnish its conclusions to this committee and the interested public. I am planning, to hold public meetings in a half-dozen communities on the broad subject of managing Alaska's water and land resources this fall and winter, and I expect that the past land disposal program and the future land offering program will be addressed by many citizens.

In closing, I want to express my appreciation to the committee, and especially to your chairman, Senator Fahrenkamp, for the spirit of cooperation which has characterized your staff's approach in your review of land statutes and their implementation.

Thank you for this opportunity to testify.

fairbanks north star borough

p.o. box 1267 520 fifth ave. fairbanks, alaska 99707 907-452-4761

SEP 29 1983

September 23, 1983

Bettye Fahrenkamp, Chairman
Senate Committee on Resources
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Madam Chairman:

In aid of the review by your committee of land management provisions in Title 38, Alaska Statutes, I offer comments in areas which most directly impact municipalities.

The policy established by the Legislature to dispose of large numbers of acres in subdivision form, without the properly required construction of roadways to serve lots created, has had and will continue to have a serious negative impact on the Fairbanks North Star Borough. The large number of requests and even demands for assistance and services is an inevitable result of sudden large concentrations of small lot ownership in areas remote from available community services which are normally in place or required in the development of lands within a municipal jurisdiction. This matter has been repeatedly brought to the attention of the administrative and legislative bodies of the State, with little effect. The rationale offered has invariably been that the State cannot finance the improvements required from the budget, and proceeds derived from sales are inadequate due to large discounts made available to buyers, and the large number of lots unsold in a typical disposal, in addition to the fact that land sale proceeds are returned to the general fund and are not necessarily reappropriated to the land disposal program.

The residency discount is no longer in effect so that lots must now be sold at full fair market value. I propose that the percentage of unsold lots will now increase dramatically without the standard amenity of physical access. This defect combined with poor quality and remote lands offerings accounts for the poor return of the State's investment of time, manpower, money and land.

To rectify the existing situation, Title 29 must be amended to delete all references to special status granted to state subdivision disposals. With improvements in place, a proper and reasonable appraisal can be conducted and a successful land sale can be the expected outcome of an offering at true value.

AS 38.04.020(e.4) provides that estimates for engineering design work and construction of access roads and capital improvements normally required for subdivision development be included in the Department's budget request for disposals. In lieu of such estimates, a schedule for obtaining same shall be submitted. To properly prepare a subdivision development for disposal, the legislature must be made aware at the very beginning of the real costs involved. The provision for deferring submittal of estimates should be deleted.

In another area, the Borough has become painfully aware of deficiencies in provisions found in AS 38.05.127, which deals with access to navigable or public waters. The Department of Natural Resources is required to reserve access easements to and along public and navigable waters prior to any disposal of any interest in State land, unless regulation or limitation of such access is necessary for other beneficial uses or public purposes. In order to satisfy this requirement the Department shall, "under regulations, determine if the body of water or waterway is navigable water, public water, or neither" [38.05.127(a1)]...and "The Department...shall adopt regulations implementing..." these requirements [38.05.127(b)].

Although this section was adopted by the Legislature in 1976, to date there are no regulations which establish criteria to be used in determination of the status of individual water bodies. At present, 11 AAC 53.310 requires only solicitation of comments from agencies and relies heavily on opinions or comments from other sources. As a result, some lands conveyed to the Borough have been impressed with easements to and along seasonal drainages with no discernable recreation or wildlife value, as well as to headwaters of fish spawning grounds and other commonly accepted "public" waters. These reservations appear to have as their source, USGS 1" to 1 mile quadrangle maps. Where a blue line is shown, an easement is reserved.

It appears that the Department is unable or unwilling to define criteria to be used to implement legislative intent in this matter, and that such criteria must originated with the Legislature by statute. Hearings held by your committee should include consideration of this matter so that the parameters of public interest and the extent to which linear easements along water bodies and access easements to such linear easements are required to protect those interests, may be established. The results of the hearings will determine the proper legislative criteria.

In testimony at the Fairbanks hearing on September 21, the Department of Fish and Game provided comments and recommendations in this regard. Those comments may be construed in two ways. Either that the State should retain ownership of the lands which would normally be subject to the easement, together with ownership of the reserved easement for access to water bodies, or that the scope of use of those easements be legislatively defined and the State should retain ownership of specific access points on the water bodies. I believe the latter interpretation is more nearly the thrust of testimony offered at the Fairbanks hearing. It also appears that the specific areas of interest are those water bodies that are in fact navigable or those which have indisputable public value because of fisheries or other game use. Upland drainages and minor tributaries to more important waters are not intended to be burdened with the same encumbrances.

I strongly recommend that definition of the scope of use permitted be established as soon as practicable and include as a companion piece to legislative definitions suggested above. I also recommend that if lands are to be retained by the State in selected areas, that funds be also allocated to properly survey and withdraw these lands.

A general cleanup of language is called for in some areas where land disposal determinations are called for. 38.05.070(b) delegates authority to "the director, with the approval of the commissioner,..." to determine lands to be leased, and conditions, yet 38.05.050 provides that "...the commissioner, upon the recommendation of the director, shall determine the land to be disposed of for private use." This type of defect is simply rectified by editing, which will achieve uniformity throughout the Title.

As a final note; due to the heavy revisions and broadening of lines of authority, responsibility and policy encompassed by Title 38, the document is becoming a source document for users well beyond those normally considered in distribution of statutory publications. I strongly recommend that when review and revision are complete, that a large, 8½ x 11 edition similar to "Title 29" , published by the Department of Community and Regional Affairs, be issued.

Thank you for the opportunity to participate in your committee's review.

Sincerely,

dawn

Dawn D. Mach
Executive Director
Community Planning & Land Development

DDM:bcf

cc: Mayor Allen
William Zybach

Alaska State Legislature

superseded

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
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Senate

Committee on Resources

May 29, 1984

SUMMARY OF MAJOR PROVISIONS OF HCS CS SB 375 (2nd Res)

Access

EXISTING LAW	SB 375
AS 38.04.050 requires that wherever state land is surveyed for private use, adequate rights-of-way and easements be reserved to each parcel. Further, the director is required to arrange for the development of surface access "where necessary and appropriate."	Would specify that legal and feasible access be provided within subdivisions, and that surface access must meet local ordinances for subdivisions.
AS 29.33.150 exempts the state from compliance with local subdivision ordinances which require capital improvements.	This exemption would be removed.

Costs

EXISTING LAW	SB 375
Funds for implementation of land disposal programs and for grants to municipalities are provided through annual legislative appropriation, based on a request pursuant to AS 38.04.020(e).	Proposed AS 38.04.022 establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of state land.

AS 38.05.310(a) limits the length of time an appraisal is valid to 120 days.	Extends the length of time an appraisal is valid to one year.

Land Exchanges

EXISTING LAW	SB 375
AS 38.50.020(a) provides for legislative review of exchanges for other than equal appraised fair market value.	Legislative approval would also be required for any land exchange involving more than 500 acres of state land or valued at more than $1 million.
AS 38.50.120(a) gives the commissioner discretion in holding public hearings on proposed land exchanges.	At least three public hearings would be required for exchanges involving more than 500 acres or having an appraised value of $1 million or more.
AS 38.05.110 establishes notice procedures (in addition to those required under AS 38.05.345) for land exchanges: provide notice to legislators, municipalities and Native Corporations in the area of the proposed exchange, the Governor's Office, and all state departments.	Notice requirements for land exchanges involving less than 500 acres or appraised at less than $100,000 would be only as required under AS 38.05.345 (electronic media, newspaper, posting, personal contact).

Notice

EXISTING LAW	SB 375
Under AS 38.05.345, public notice for classification, sale, lease, or disposal of state lands must be provided by one of the following methods: newspaper, electronic media, posting, or personal contact.	Notice must be given by newspaper plus one other method.

See also "Land Exchanges."

Preference Rights

EXISTING LAW	SB 375
AS 38.05.035(b)(2) allows for granting of preference rights to correct errors or ommissions of a state of federal agency.	Would limit the right to apply for a preference to 3 years from the time of error.
AS 38.05.035(b)(3) allows for granting of preference rights to correct errors or omissions of others.	Would limit the right to apply for a preference to 3 years from the time of error. Adds a new preference, to be granted to long-term landholders who have derived business income from the land.
AS 38.05.069(a) grants owners or lessees of agricultural land a first option to purchase or lease unoccupied adjacent land and establishes a procedure for determining priority if more than one applicant is eligible for the option. This option must be exercised within 60 days after the auction.	Options must be exercised at the time of the auction. A single recipient would be selected by the drawing of lots.

Program Features

EXISTING LAW	SB 375
AS 38.04.020(h) establishes subdivision parcel size at five acres unless topographical features or water and sewage considerations suggest otherwise.	Would allow for consideration of resource values and land uses in determining parcel size.

AS 38.04.020(g)(2) requires that 20% of subdivision parcels be disposed of as homesites.	The number of subdivision parcels disposed of as homesites would be left to the discretion of the commissioner.
AS 38.04.035(4) limits issuance of remote cabin permits to areas where survey and conveyance is impractical.	Permits could also be issued in areas where resource and use conflicts, or a long-range interest in public ownership, exist.
Under AS 38.08.060, the following conditions must be met before a homesite patent can be obtained: Occupancy for 35 months within seven years, erection of a dwelling within five years, payment to the state for survey and platting.	Patent could be obtained prior to expiration of the entry permit through purchase at fair market value if all but the occupancy requirements have been met.
Under AS 38.09, the following conditions must be met before a homestead patent can be obtained: Occupancy for 25 months within five years, survey within two years, erction of a dwelling within three years.	AS 38.09.090. would allow the purchase of a homestead parcel at fair market value prior to expiration of the entry permit if all but the occupancy requirements have been met.
AS 38.09.030(c) allows holders of homestead entry permits to transfer rights to another individual in the event of incapacitating illness or injury.	Grants homesite permit holders the same right to transfer.
Under AS 38.45.080(a), a trapping cabin permit must be issued if the applicant meets certain conditions.	The commissioner would have discretion in issuance of trapping cabin permits.

AS 29.18.210 authorizes the state to contract with a municipality to conduct an auction of state lands, and allows the municipality to retain expenses from the proceeds of the auction.	Clarifies that capital expenses may also be retained from auction proceeds. This will allow for joint disposals, whereby the municipality would construct the roads on state land and recoup its costs through auction proceeds.

Price of Land

EXISTING LAW	SB 375
AS 38.04.035 requires that, unless otherwise provided, lands be sold at fair market value.	AS 38.05.055 would allow bidding at auctions to begin at 70% of the appraised value of the land.
No general land discounts are currently offered.	AS 38.05.940 would grant a 25% discount on land sales to veterans.

Survey

EXISTING LAW	SB 375
AS 38.04.045(b) requires that all land disposed of must be within two miles of a survey monument. AS 38.09.010(b) requires that land made available for homestead entry be within one mile of a survey monument.	Eliminates the requirement that land made available for homestead entry be within one mile of a survey monument, and allows DNR to waive the 2-mile requirement.

Leasing Procedures

EXISTING LAW	SB 375
AS 38.05.070(b) establishes the conditions of a negotiated lease at a 15 year maximum term, and with a maximum appraised value of $250/year.	Increases the value of a lease that may be negotiated to $5000/year, and the term to 10 years.

AS 38.05.070 establishes 55 years as the maximum term of a lease.	In setting the term of a lease, requires the Commissioner to consider the useful life of any approved activities.
AS 38.05.075 establishes surface leasing procedures. Leasing is made at auction to the highest qualified bidder.	AS 38.05.075(c) provides a mechanism for DNR to negotiate leases for tide and submerged lands with upland owners without competitive biddings. AS 38.05.075(e)-(n) authorizes DNR to require prequalification of bidders for surface leases. Such a procedure is currently required administratively to ensure that applicants can meet the terms of the lease.

Agriculture

EXISTING LAW	SB 375
AS 38.05.020(b)(6) authorizes DNR to require development plans of participants in agricultural development projects.	Would allow DNR to waive, postpone, or modify agricultural development requirements if certain conditions are present.
AS 38.05.321 limits the disposal of agricultural land to transfer of only the agricultural rights.	A fee simple conditional title, requiring agricultural development, would be issued.

The following changes were made in the House-passed version of SB 375, An Act relating to land disposal and management. Page and line references are to the House-passed version.

---

page 1, lines 10-14 is amended to read:

In classifying and making state land available for private use and settlement, the director shall consider the natural resources and conditions present on the land and shall seek to minimize the adverse effect of private settlement on wildlife, fishery, mineral, timber and other significant resources (and scenic quality) of the land.

---

page 2, line 1 is amended to read:

hold public meetings in the communities most affected

---

page 3, line 17 is amended to read:

include an analysis and an assessment of the (determination that there is) market demand for the land proposed for disposal

---

page 4, line 28 is amended to read:

comply with municipal (local) ordinances

---

page 5, line 3 is amended to read:

minimize adverse effect on wildlife, fishery, public recreation, timber, or other significant resources in the area

---

page 5, lines 20-25 are amended to read:

For enabling isolated cabin development in remote locations where survey and conveyance is impractical, or where disposal of land would cause potential conflicts with other resources and uses (require additional conditions), or where a long-range interest in public ownership and use exist, a system for cabin permits on public land may be used.

---

page 6, lines 10-12 add the following language:

<u>except that the commissioner may waive this requirement on a determination that topographic features, diffuse settlement, or the public interest do not justify this requirement.</u>

RATIONALE:
Allows the Department flexibility. Current statute requires that no land may be conveyed unless it is within 2 miles from a survey control monument. This amendment would allow a waiver of this requirement under certain conditions.

---

page 7, line 16 delete the following language:

(The commissioner may retain in state ownership public lands to maintain present and future public access.)

RATIONALE:
The Commissioner is currently authorized to dispose of land or not dispose of land, which by definition also grants the authority to retain land in state ownership.

---

page 7, line 14 is amended to read:

An easement or right-of-way reserved under this section may include (established) trails <u>that have an established history of use</u> (traditionally used) for commerce, recreation, or transportation.

---

page 8, lines 22-25 add the following language:
<u>waive, postpone, or otherwise modify the development requirements of a contract for the sale of agricultural land if the land is inaccessible by road and transportation, marketing, and development costs render the required development uneconomic</u>.

RATIONALE:
Current statute authorizes the Commissioner to require a development plan for sales of state agricultural land. The amendment would allow modification of development requirements under specified conditions. This is intended to address the recipients of agricultural land in Gustavus who because of their isolated location and lack of transportation to markets are unable to economically develop their farms.

---

page 10, lines 4-7 and lines 13-14, add the following language:
<u>the date of acquisition by the state of the land; or
the date of a court decision or settlement nullifying a disposal of state land</u>

RATIONALE:
Clarifies the time period during which a preference right may be applied for.

---

page 13, lines 4-6, add the following language:

(4) a mineral claim located under AS 38.05.195;
(5) a mineral lease issued under AS 38.05.205; or
(6) a production license issued under AS 38.05.207.

RATIONALE:
Clarifies that a best interest finding is not required for a mining claim or lease.

---

page 13, lines 7-27 adds new preference right language. Provisions:
- 5 acre parcel
- erected a building on the land
- used land for business purposes for 5 years under federal permit or without the need for a permit
- earned 25% of total income from the business
- fair market value
- may deny if interferes with public use by residents

RATIONALE:
Preference would usually apply to hunting and fishing guides. The Department estimates 100 claimants statewide.

---

page 14, line 14 is amended to read:

70 (85)% of the appraised fair market value of the land.

RATIONALE:
Would allow bidding at public auction to begin at 70% of fair market value.

---

page 16, lines 20-29 and page 17, lines 1-23 add new language.

Simply clarifies the foreclosure procedure added in the Senate version of the bill. The effect of both versions is the same, in that a notice of breach procedure for contract violations is established.

---

page 18, lines 21-29 and page 19, lines 1-13 deletes language.

Removes the Department's authority to convey interests beyond the agricultural interests in state lands.

---

page 19, lines 17-18, add the following language:

The director shall preserve reasonable and traditional access to state land and water.

RATIONALE:
Clarifies that in issuance of leases, public access be preserved.

---

page 25, line 7 is amended to read:

The receipt shall be accepted (acknowledged) in writing by the bidder.

---

page 26, line 5 delete the following language:

(retain in state ownership to ensure access to navigable and public waters)

RATIONALE:
The Commissioner is currently authorized to dispose of land or not dispose of land, which by definition also grants the authority to retain land in state ownership.

---

page 29, lines 6-10 is amended to read:

Notice of one or more actions described in this section shall be given (by more than one of the following methods) at least 30 days before the action by publication in newspapers and one or more of the following methods

---

page 29, line 25 deletes the following language:

(negotiated sales of timber not exceeding 25,000 board feet or materials not exceeding 2500 cubic yards under AS 38.05.115).

RATIONALE:
Current statute exempts negotiated sales of timber and materials from public notice requirements. Senate version would have required notice for larger sales; House version maintains the status quo.

---

page 34, lines 2-4 is amended to read:

2 years (90 days) unless tenure was shortened due to a service connected disability or due to receiving an early separation upon return from a tour of duty overseas

RATIONALE:
Veterans' discount on purchase of state land will be granted only to those so qualified.

---

page 34, line 14 is amended to read:

A discount under this section may not be used toward the purchase of land offered at a restricted sale.

RATIONALE:
Clarifies that a qualified veteran may purchase land under a preference (per current statute, AS 38.05.067) or at a discount, but may not exercise both options at one sale.

---

page 34, lines 22-29 adds new language. Provisions:

Allow holders of homesite parcels to transfer rights to another individual in the event incapacitating illness or injury prevents the landholder from fulfilling residency requirements. This conforms with current homestead provisions.

---

page 35, lines 10-11 is amended to read:

complete a survey before disposing of (designating) state land for homestead entry

---

page 36, lines 1-3 are amended to read:

cultivate either 25% of the land classified for agricultural use or 50% of the land having class II or III soils, whichever is less

RATIONALE:
Clarifies that only that homestead land which has agricultural potential need be cultivated.

---

page 45, lines 1-7 is amended to read:

An exchange or a final agreement to exchange is subject to legislative review under AS 38.50.140 if the exchange or a final agreement to exchange involves state land having an appraised or estimated fair market value of $5,000,000 or is for other than equal appraised fair market value.

RATIONALE:
Would provide a formal opportunity for legislative oversight of major exchange actions.

---

page 47, lines 3-8 is amended to read:

For an exchange of (more than 500 acres of state land or) state land having an appraised or estimated fair market value of more than $5 million ($100,000), there shall be at least three (one) public hearings in one or more municipalities close to the state land proposed for exchange before it is submitted to the legislature for approval.

RATIONALE:
Current statute allows the Commissioner to hold public hearings on land exchanges "as appropriate". Senate version required one hearing for larger exchanges. House version requires three, and specifies that they must be in nearby municipalities.

---

page 47, lines 21-24 is amended to read:

conclude a proposed exchange agreement upon approval by the legislature of the proposed exchange agreement (unless either house of the legislature by simple resolution disapproves of the exchange within 60 days).

RATIONALE:
Would require that the legislature pass a bill approving larger exchanges.

---

page 52, after line 27 insert:

"For homesite entry permits issued by the commissioner of natural resources under AS 38.08.040 before July 1, 1983, the person may be granted 10 years to accumulate the 35 months of residence required under AS 38.08.060(a)(1) and may be granted eight years to erect a habitable, permanent, single family dwelling on the homesite required under AS 38.08.060(a)(2)."

RATIONALE:
Current statute provides for a 7 year permit term and 5 years in which to construct a dwelling. The intent of the amendment is to allow for an extension of the dwelling and occupancy requirements if conditions have not allowed the applicant to meet the current terms.

Alaska State Legislature

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Senate

Committee on Resources

M E M O R A N D U M

TO: All Members of the House of Representatives

FROM: Senator Fahrenkamp, Chairman
Senate Resources Committee

RE: SB 375, Relating to land disposal and management

DATE: May 28, 1984

SB 375, An Act relating to land disposal and management is in the House Rules Committee awaiting calendaring on the House floor.

This bill is the product of a comprehensive review of Title 38 undertaken by the Senate Resources Committee. Our review began in August, when we solicited comments from a working group of over 80 user organizations and concerned individuals, including associations as diverse as the League of Women Voters, the Farmers and Stockgrowers Association, the Alaska Miners Association, the Departments of Fish and Game and Natural Resources, the Center for the Environment, United Fishermen of Alaska, the Society of American Foresters, the Alaska Federation of Natives, and the Alaska Oil and Gas Association.

Following public hearings in Fairbanks in September and in Anchorage in October, legislation that focused on the problems that nad been identified was drafted and sent out for two more rounds of public review. The review resulted in several recommendations that clarify and revise land management procedures and allow for more efficient implementation of the State's land disposal program. SB 375 was formally introduced in January, and was further refined through three public hearings held by the Senate Resources Committee in February and March.

SB 371, which revises sections of Title 38 dealing with mining, received House approval on May 16 and has been transmitted to the Governor for signature into law. This is a companion bill to SB 375. Passage of both will facilitate the reprinting of the Title 38 pamphlet scheduled to take place this summer.

A summary of the revisions to Title 38 that SB 375 proposes is attached. I would like to emphasize that the bill is the product of thorough public review, and urge your support.

Alaska Environmental Lobby, Inc.

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FEBRUARY 20, 1984

SENATE RESOURCES COMMITTEE

Amendment 1

Page 1, Section 1, Line 13-14. Add:
minimize the effect of private use and settlement on wildlife fishery, public recreation, scenic, mineral, timber, and other significant resources and uses of the land;

Rationale:

DNR should consider the effects of private use and settlement on other uses of land as well as on the resources.

Recreation should be mentioned at the very beginning of this section since scenic values and public recreation are all too often neglected in spite of their importance to Alaskans and their economic benefits.

Public Use Cabins

Alaska Environmental Lobby, Inc.

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February 20, 1984

SENATE RESOURCES COMMITTEE

Amendment 2

Page 1, Section 2, Line 27. Retain existing language of AS 38.04.005(e)
Involvement of municipalities and local residents is essential in the decision-making process which leads to making state land available for private use.

Rationale:

The existing broader language should be retained because it emphasizes the importance of municipal and local resident involvement at all stages of the decision-making process, not just the formal public hearing stage.

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB
ALASKA WILDERNESS GUIDES ASSOCIATION • ANCHORAGE AUDUBON SOCIETY
ARCTIC AUDUBON SOCIETY • DENALI CITIZENS' COUNCIL • FRIENDS OF THE EARTH
JUNEAU AUDUBON SOCIETY • KACHEMAK BAY CONSERVATION SOCIETY • KENAI AUDUBON SOCIETY
KODIAK AUDUBON SOCIETY • LYNN CANAL CONSERVATION • NORTHERN ALASKA ENVIRONMENTAL CENTER
SITKA CONSERVATION SOCIETY • SOUTHEAST ALASKA CONSERVATION COUNCIL

Alaska Environmental Lobby, Inc.

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February 20, 1984

SENATE RESOURCES COMMITTEE

Amendment 3

Page 2, Section 3, Lines 7-11 Add:
The seasonal recreation use or low density settlement shall have sufficient separation between proposed and existing residences so that

(1) public services will not be necessary or expected; and

(2) resources such as timber, firewood, fish and wildlife, and water in the area are sufficient to accomodate the intended private uses.

(c) The department shall ensure for all land disposals that, where appropriate, resources such as timber, firewood, fish and wildlife, and water in the area are sufficient to accomodate the intended private uses.

Rationale

1) Both "proposed and existing" residences should be considered when designing disposals for seasonal recreational use and for low density settlement.

2) "Fish and wildlife" should be specifically since it is a primary use in most low-density settlements.

3) The language,"The department shall ...." is intended to protect existing users of natural resources unless it is intended that high density settlements will rely on commercial timber, water etc.

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February 20, 1984

SENATE RESOURCES COMMITTEE

Amendment 4

Page 3, Section 4, After line 7, insert new language.
(6) for preparation of the written assessment required under(f) of this section.
(7) for determination whether a person seeking patent has complied with the requirements of sale.

Rationale:

Both of the above items should be considered in the annual appropriation to the management of the land disposal program. For item (7), as entrants in increasing numbers begin to seek patents, a greater burden will be placed on the department to see that sales requirements such as occupancy and the construction of a habitable dwelling have been met.

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February 20, 1984

SENATE RESOURCES COMMITTEE

Amendment 5

Page 3, Section 5, Lines 9-11 Insert new language.

(f) The request of the commissioner under (e) of this section shall be based on an annual written assessment by the commissioner of the market [FOR STATE LAND IN THE DIFFERENT REGIONS OF THE STATE] in the different regions of the state for state land prices at fair market value.

Rationale:

It is important that the department assess the value of land at fair market value, not subsidized or discounted land. This will ensure that the true demand will be assessed, not a false or artifically inflated demand.

Page 3, Section 5, Lines 14-18 Delete and insert.

The assessment must include a survey of the supply of privately owned land offered for sale, municipal land [FOR WHICH A DISPOSAL PLAN HAS BEEN COMPLETED] intended for early disposal, and federal land available for sale, lease, or permit for specific activities.

Rationale:

As previously written the language was too restrictive and would have resulted in an underassessment of the municipal land market. Even if municipal land is not immediately available, it is likely to be more accessible and more desireable than the state's land. There is no reason to dispose of state land which might be better retained in public ownership if municipal land will soon become available.

continued

Amendment 5 (con't)

Page 3, Section 5, Add a sentence

<u>If the amount of land to be disposed of yearly differs from the amount of the demand as determined by the assessment, the commissioner shall provide the legislature with a written justification for the amound of land proposed for disposal.</u>

Rationale:

Assessing demand is difficult. Many people feel that the assessments to date have been flawed in one way or another. Consequently the department does not determine the amount of disposal acreage on the basis of the assessment alone. If the department's disposals were justified in writing, it would be a benefit to both legislators and the public.

Recommendation:

The department should be required to submit to the legislature yearly, an assessment of the annual and cumulative impacts of the proposed state land disposals. The assessment could be modeled after the SEEA's (Social, Economic and Environmental Analysis) already prepared for oil and gas lease sales, lease sales which in some instances will have fewer long-lasting effects that the developing pattern of land disposals.

Alaska Environmental Lobby, Inc.

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February 20, 1984

SENATE RESOURCES COMMITTEE

Amendment 6

AS 38.04.065 Add:

(d) Official regional or area plans and subsequent amendments adopted by the commissioner after public and local government participation shall be signed and dated by the commissioner. After adoption of an official regional or area plan, land classification plans, In areas where regional or area plans are underway and are scheduled to be completed within one year, actions such as land disposals which will significantly affect the area shall be postponed pending plan approval.

Rationale:

This language is intended to protect the integrity of the planning process by disallowing land disposals during the final development of area land use plans.

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February 20, 1984

SENATE RESOURCES COMMITTEE

Amendment 7

Page 12, Section 27-AS 38.05.050, Line 7. Add new section:

(b) The commissioner shall appoint a minimum of three citizens advisory boards to provide advice on the disposal of state lands, including the location and amounts of such disposals. Regional boards shall be established, or existing bodies shall be utilized, in areas where boards shall be established or existing bodies shall be utilized in areas where planned disposals are expected to be controversial, or where otherwise appropriate.

Rationale:

Citizen advisory boards could provide valuable advice prior to the formal, sometimes adversarial public hearings.

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February 20, 1984

SENATE RESOURCES COMMITTEE

Amendment 8

Page 16, Section 27, lines 18-23. Add:

(2) upon finding that the body of water or waterway is navigable or public water, provide for the the retention in state ownership of a minimum of 200 feet along ocean coastlines, lake shorelines, and on both sides of waterways. The commissioner may waive this requirement and provide for easements or right-of-way instead only after finding in writing that the body of water or waterway does not have substantial values for fish and wildlife or other environmental purposes and does not receive nor is expected to receive substantial public use for access or other purposes. the commissioner may waive all of these requirements only after finding in writing that regulation or limiting access is necessary for other more important beneficial uses or public purposes. [SPECIFIC EASEMENTS, RIGHTS-OF-WAY, OR RETENTION OF LAND IN STATE OWNERSHIP, REASONABLY NECESSARY FOR OTHER BENEFICIAL USES OR PUBLIC PURPOSES.]

Rationale:

Easements are generally not adequate to protect fish and wildlife habitats and other natural resources and their use. Easements are also generally ill-defined or subject to varying interpretations, and may often provide for access only, and not for standing on the bank and fishing for example.

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February 20, 1984

SENATE RESOURCES COMMITTEE

Amendment 9

Page 19, Section 34, Lines 16-18 Amended:

(b) Notice of one or more actions described in (a) of this section shall be given by mailing a copy of the notice to persons who have asked to be placed on a mailing list and by more than one of the following methods.....

Rationale:

The department should be required to maintain a mailing list to notify persons interested in land disposals. This would be the most effective way to reach people with a continuing interest in the land disposal program.

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February 20, 1984

SENATE RESOURCES COMMITTEE

Amendment 10

Page 19, Section 34, Lines 25-27. Amend:

affected persons. A notice shall contain sufficient information to inform the public of the nature of the action and the opportunity of the public to comment on the action, including somewhere other than in the legal section of newspapers a list in lay terms of the names and locations of all lands to be affected.

Rationale:

Few people regularly read the legal section, and when they do, the legal descriptions of property proposed for disposal are practically indeciripherable. Newspaper ads, media ads, and posters are sufficient to advertise hearings but fail to inform people exactly where the proposed disposal land is located.

Alaska State Legislature

Senate

Official Business

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State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

To: Senator Bettye Fahrenkamp

From: Senator Frank R. Ferguson FRF

Date: February 21, 1984

Subject: Land Amendment

Due to the significant policy implications of the amendments I have put forward for Senate Bill 375, I will withdraw the proposed amendments.

I look forward to working with you to accomplish the intent of the proposed amendments when the appropriate bill is in your committee.

FERGUSON AMENDMENTS:

Sec. 1 Repeal policy statement on transfer of state land into private ownership.

Sec. 2 Require that current, substantial uses of state land be preserved. In the unorganized borough, would establish that subsistence uses of state land constitute valid economic uses.

Sec. 3 Removes deadline for classifying land outside of municipality for retention in state ownership.

Sec. 4 Current DNR market assessments of private land must recognize only land comparable in terms of sale. This amendment would require assessment of all land available on the private market.

Sec. 5 The priority use of survey funds would be in making the greatest number of parcels of land available to the greatest number of buyers.

Sec. 6 In developing land use plans, priority would be given to preservation of current uses of state land for economic purposes.

Sec. 7 In developing land use plans, would require that DNR give consideration to local comprehensive plans and regional strategies in place in the unorganized borough.

Sec. 8 Would require that no land be disposed of for settlement purposes prior to completion of an official area plan by DNR.

Sec. 9 Would require that the Commissioner issue a written finding prior to any disposal in the unorganized borough that fully considers demographic, economic, social and cultural impacts of the disposal. Consideration would be given to studies completed by ADF&G on the subsistence uses in the vicinity.

Sec. 10 Would amend sections 32 and 53 of CSSB 375 to establish that appraisals be valid for 6 months rather than 1 year as is proposed in CSSB 375.

prepared by Sen. Ferguson
rec 2-14-84

Amendments to SB 375

* Section 1. - repeal AS 38.04.005 (d) [Private land use rights are integral to the material well-being of the people of Alaska and our society.]

RATIONALE: This section should be repealed; as the basic policy statement on the transfer of state land into private ownership, it does two things: 1) it provides guidance to the Department of Natural Resources (DNR) as to legislative intent for the land disposal program: 2) it does not? recognize that private ownership of land may have potential impacts detrimental to the material well-being of many Alaskans.

* Section 2. - AS 38.04 is amended by the addition of a new section:

Sec. 38.04.017. Best interest determination of the uses of state land. In the absence of a written finding by the commissioner to the contrary, any current use of state land for substantial economic purposes shall be considered to be in the best public interest. A finding to the contrary must show that a specific potential use of a land parcel or area will yield greater economic benefits to the public than current uses. In the unorganized borough such a finding shall include a determination under the requirements of AS 38.05.301. Absent a finding that potential alternative use is of greater economic value to the public than current uses, current land uses shall be preserved by classification per AS 38.04.065(b)(3). If an alternative best use is

"consider effect the disposal may have on population density, and potential for conflicts with traditional uses of the land. If necessary, DNR shall develop plan to resolve or mitigate the conflicts."

identified, the parcel or area may be classified for use according to that alternative.

RATIONALE: The addition of this section would define best interest use of state land which is currently left to DNR without adequate guidelines. This section would require that current, substantial economic uses of state land be preserved. In the case of the Unorganized Borough, it would establish that subsistence uses of state land (which would have to be shown to exist per AS 38.05.301, see section 9) constitute valid and vital economic uses. If DNR could not demonstrate that the potential for the public benefit would be better served by an alternative use of an area currently in use for subsistence purposes, that area would have to be classified to preserve present subsistence uses.

* Section 3. - AS 38.04.020(c) is amended to read:

(c) Land to be retained in state ownership may be classified under AS 38.05.300. [LAND OUTSIDE A MUNICIPALITY TO BE RETAINED IN STATE OWNERSHIP CONSISTS OF LAND CLASSIFIED FOR RETENTION IN STATE OWNERSHIP BY THE COMMISSIONER BY JULY 1, 1985.] Land conveyed to the state by the federal government that is retained in state ownership consists of land classified by the commissioner within two years of receipt of tentative approval or patent, whichever occurs first. State land not classified for retention in state ownership or selected by the municipality under this section shall be classified and included in the land disposal bank. The commissioner shall ensure that the bank includes at least 500,000 acres.

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Ferg

RATIONALE: Repeal of this language is required to allow responsible, considered completion of area or regional plans, which is addressed in section 8 of these amendments. Current language requires that land outside a municipality to be retained in public ownership be classified before its use in relationship to other lands in the region is fully known, which means that DNR must pursue many classification efforts that will have to be revised once area plans are completed.

* Section 4. - AS 38.04.020(f) is amended to read:

(f) The request of the commissioner under (e) of this section shall be based on an annual written assessment by the commissioner of the market for state land in the different regions of the state. If the state land is in or adjacent to municipalities or unincorporated communities, the assessment shall be developed in the consultation with the municipalities or unincorporated communities. The assessment must include a survey of the supply of privately owned land offered for sale, municipal land for which a disposal plan has been completed, and federal land available for sale, lease, or permit for specific activities. The assessment of the market for state land shall be based on the analysis of the amount of private, municipal, and federal land available for disposal at fair market value or less than fair market value [ON TERMS EQUIVALENT TO THOSE USED IN COMPARABLE STATE LAND DISPOSAL PROGRAMS] and shall include the length of the time land remains on the market before it is sold. The assessment must include findings regarding the amount and general location of state land, in addition to land offered by private landowners or available from a municipal government or the federal government, that is necessary to meet the statewide demand for at least five fiscal years immediately after the year in which the

assessment is made. The assessment must also state the general location of land proposed for disposal in the next fiscal year and recommendations for the method of disposal under which the land will be offered to the public;

RATIONALE: This amendment recognizes the fact that there are separate markets for land in Alaska. Land available from other sources is not generally comparable in terms or program design to land available from the state. By requiring that DNR's market assessments recognize only land comparable in terms of sale or acquisition to state land in assessing the supply of land available from other sources, land that is available at fair market value is excluded from consideration. This has served to support the notions that only the state has land for sale in a particular region or that other land is overpriced, when there may well be land available from other sources at fair market terms.

* Section 5 - Sec. 38.04.045 is amended by the addition of a new section:

(c) Funds for surveys shall be utilized in a manner which maximizes their effectiveness in making the greatest number of parcels of land available to the greatest number of prospective buyers.

RATIONALE: This section would require that DNR use its survey budget in a manner designed to provide the best value for the dollar in terms of cost per parcel. In other words, less expensive parcels should be surveyed prior to more expensive parcels. The department would have to establish

Ferg

a set of priorities to guide its survey efforts.

* Section 6 - AS 38.04.065(b)(3) is amended to read:

(3) give priority to planning and classification for preservation of current uses of state land for substantial economic purposes and in areas of potential settlement and critical environmental concern;

RATIONALE: This amendment is necessary to preserve the intent established in section 2 of these amendments. It would give priority to planning for the preservation of current substantial economic uses of land identified per section 2 as best interest uses of state land.

* Section 7 - AS 38.04.065(b) is amended by adding a new subsection:

(9) in developing plans for land use in the unorganized borough, consider and give equal weight to such local and regional plans as already are in existence as is given to other relevant considerations. The testimony of local residents shall also be given equal weight.

RATIONALE: This addition would require that DNR give proper consideration to land use plans, such as local comprehensive plans and regional strategies, currently in place in the Unorganized Borough. DNR has stated that it will follow the proscriptions of local zoning and subdivision ordinances

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Ferg

in municipalities; this provision would allow those parts of the Unorganized Borough which have planning efforts in place some measure of equal protection. It also requires that DNR give due weight to local testimony in planning for local land use. This also will serve to give additional protection to citizens of the state not represented by a local government.

* Section 8 - AS 38.04.065(d) is amended to read:

(d) Official regional or area plans and subsequent amendments adopted by the commissioner after public and local governmental participation shall be signed and dated by the commissioner. After adoption of an official regional or area plan, land classifications shall be made in accordance with those official plans. No disposal of state land for settlement purposes shall be made in a region or area prior to the completion or substantial completion of an official plan.

RATIONALE: This revision would require that DNR's official area or regional plan for a particular region be completed prior to disposal of state land for settlement purposes in that region. The completion of area plans is necessary for two reasons: 1) Area plans will accurately identify supply, need, and demand for land in a particular region and 2) area plans will help to identify both land use patterns in a long range, regional context and the potential impacts of land disposals on a variety of social, cultural, and economic systems. Site specific

P. Ferg.

planning is not a proper substitute for comprehensive, long range area planning and evaluation of land uses. There is simply not enough information gathered in the former process to allow full understanding of the implications of settlement disposals on local and regional land uses.

* Section 9 - AS 38.05.301 is amended to read:

Sec. 38.05.301. Land disposal in the unorganized borough. Before a sale, lease under AS 38.05.070 - 38.05.105, or the disposal of state land in the unorganized borough, the commissioner shall issue a finding on [CONSIDER] the effect that the sale, lease or other disposal may be expected to have on the density of the population in the vicinity of the land and potential for conflicts with traditional uses that could result from the sale lease or disposal. The commissioner shall, in arriving at a finding, consider possible demographic, economic, social and cultural impacts of the sale, lease or disposal. A finding on conflicts with traditional uses shall include consideration of completed studies of the habitat values and subsistence uses in the vicinity by the Department of Fish and Game. [IF HE FINDS IT NECESSARY, THE COMMISSIONER SHALL DEVELOP A] A plan to resolve or mitigate the conflicts identified, if any, in a manner consistent with the public interest and the provisions of AS 38.05.005 - 38.05.370 shall be developed by the commissioner.

RATIONALE: This amendment would require that DNR fully evaluate the impact of settlement disposals on traditional land uses and associated cultural,

p. 8
Ferg.

social, and economic systems in the Unorganized Borough. Currently, a significant portion of the population of rural Alaska depends heavily on traditional land and resource uses for economic survival. In turn, social and cultural systems are based upon these uses. Little is known about the impact of land disposals upon these uses and systems. Past disposals have not been studied to determine what the impacts, if any, have been. Such study, in conjunction with a proper area planning process, should be completed prior to disposals for settlement purposes in the Unorganized Borough.

*Section 10. - Section 32 of SB 375 should amend AS 38.05.310(a) to establish that appraisals required for the sale or lease of state land are valid for six months rather than amend it one year as it does in its current form. For consistency's sake the amendment contemplated in section 53 of SB 375 should be deleted, so that appraisals required for land exchanges remain valid for six months.

RATIONALE: Standard appraisal techniques suggest that six months is a generally accepted period over which an appraisal is considered to remain valid. A period as long as a year could lead to situations in which state lands could be sold or exchanged for significantly less than their full value.

Alaska State Legislature

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ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
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Superseded

Senate

Committee on Resources

February 9, 1984

CS SB 375, An Act relating to land disposal and management

Sec. 1 Spells out a policy for managing and disposing of state land which takes into account a range of resources values and uses.

Sec. 2 Spells out the policy of soliciting the views, including the holding of local public hearings when appropriate, of the residents of communities affected by land classifications and disposals.

Sec. 3 Requires that in determining sufficient separation between residences in "remote" areas, the resources in the area shall be considered.

Sec. 4 Requires that a cost estimate for access roads and capital improvements within disposal areas (as may be required by municipal ordinance) be submitted annually. This deletes the "loophole" which allowed for submittal of a schedule for obtaining cost estimates.

Sec. 5 Requires that the demand assessment include demand for public services and capital improvements.

CS SB 375 - Language governing demand assesssments remains unchanged. An accurate analysis of demand is difficult and has had little impact on legislative appropriations for disposal programs. Adding another aspect to the demand assessment, such as identifying demand for public services and capital improvements, will be time consuming and costly. In past years, DNR has budgeted up to $60,000 for the assessment.

Sec. 6 Repeals the arbitrary requirement that certain percentages of subdivision land be made available through the homesite method. This will allow disposal methods to better reflect market demand and public policy.

Sec. 7 Allows flexibility in subdivision parcel size to better reflect resources and uses in the area.

Sec. 8 Establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of state land. Funds would be used for implementation of land disposal programs and for grants to municipalities for their disposal programs.

Sec. 9 Expands the authority in issuing remote cabin permits to allow their use where potential resource and use conflicts exist, or where a long-range interest in public ownership exists. Currently, these permits may be issued only where survey and conveyance is impractical.

Sec. 10 Clarifies that all land to be conveyed must have been surveyed, either through monumentation of section corners or monumentation of control points, with no land to be conveyed if it is more than two miles from a survey monument.

Sec. 11 Specifies that legal and feasible access must be provided within subdivisions, and that access meeting local ordinances for subdivision is required of the state.

Sec. 12 In addition to reservation of easements and rights-of-way, allows for retention of land in state ownership to maintain present and future public use and access.

Sec. 13 Requires that other state agencies notify DNR of any land disposals. This is currently required for acquisitions, leases, and exchanges.

Sec. 14 Clarifies that lands assigned by DNR to DOT may be transferred to DNR when they are no longer needed.

Sec. 15 Clarifies the procedure for issuing a best interest finding.

Sec. 16 Limits the right to apply for a preference to three years from the date of error or state action in order to avoid long-standing claims with difficult record reconstruction.

Sec. 17 Amends to require that disposals be held in the community, rather than the municipality, nearest the land to be disposed of, to take into account unincorporated locations.

Sec. 18 Authorizes bidding at auctions to begin at 85% of the current appraised fair market value of the land, rather than the current 100%.

Sec. 19 Establishes an appeal process for contract violations, followed by the prerogative of the commissioner to foreclose the interest of the purchaser if a determination is made that there has been a breach of the contract.

Sec. 20 and 21 Simplifies the selection procedure for agricultural land options for adjacent landowners, by requiring that options be exercised at the time of the disposal and that a single recipient be selected by drawing of lots.

CS SB 375 adds a new section:
Increases from $250/year to $5,000/year the value of a lease that may be negotiated. This reflects the increase in land values since this statute was enacted in 1962.

CS SB 375 adds a new section:
Increases the maximum term of a lease from 55 to 99 years, to ensure that a lease can be issued for the useful life of the intended activity.

Sec. 22 Requires that the assessment of timber and other materials on state lands, and the recommendation for the sale of materials, take into account the supplies of and markets for materials on nearby private land.

Sec. 23 thru 26 Technical: Substitute "commissioner" for "director".

Sec. 27 In addition to reservation of easements and rights-of-way, allows for retention of land in state ownership to allow access to and along navigable and public waters.

Sec. 28 Provides thatt easements of rights-of-way to navigable and public waters for oil and gas and mineral leases need not be made until the leases are ready to be developed.

Sec. 29 Modifies notice requirements for mineral leases.

CS SB 375 restores this section to its original language. By statute, the lease is granted as a right, and simple notice that a lease will be issued is provided.

Sec. 30 and 31 Technical: substitute "commissioner" for"director" and "land" for "lands".

Sec. 32 Extends the length of time that an appraisal is valid from 120 days to one year, to avoid costly reappraisals in the event of a delay in selling or leasing lands.

Sec. 33 This section is a drafing error and needs to be amended to read [AS 38.05.034(a)(14)] AS 38.05.035(e) CS SB 375 makes this amendment.

Sec. 34 Amends the public notice requirements for classification, sale, lease, and disposal of state lands to require that more that one, rather than just one, of the following notice methods be used: newspaper, electronic media, posting, notification of interested parties.

Sec. 35 Requires that notice be given of negotiated sales.

CS SB 375 would limit this notice to negotiated sales of timber exceeding 25,000 board feet or of materials exceeding 2500 cubic yards

Sec. 36 Adds the definition of multiple use that is contained in AS 38.04 to AS 38.05.

Sec. 37 Allows the purchase of a homesite parcel at fair market value at the end of the permit term if all requirements except the ones for occupancy have been met.

CS SB 375 would allow purchase within 7 years of issuance of the permit; to be consistent with homestead purchase requirements.

Sec. 38 Eliminates the requirement that land available for homestead entry be within one mile of a survey monument. This will allow for conversion of remote parcel lands to the homestead program.

Sec. 39 Allows the purchase of a homestead parcel at fair market value within five years of issuance of the permit if all requirements except the ones for occupancy have been met.

Sec. 40 thru 51 Amends the Alaska Coordinate System to reflect changes in the federal datum used as a base for this system.

Sec. 52 Provides that the lessee of a pipeline right-of-way shall reimburse the state for costs not only in monitoring pipeline construction, but for processing an application and for monitoring operation, maintenance, and removal of the pipeline.

Sec. 53 Extends the length of time that an appraisal for a land exchange is valid from six months to one year to permit the execution of trades which involve considerable administrative work and public review.

Sec. 54 Passage by the 1983 Legislature of SB 41, which awarded the University of Alaska ownership and management over certain state lands, has rendered this reference obsolete.

Sec. 55 and 56 Streamlines the notice requirements for land exchanges involving less than 640 acres of land or appraised at less than $100,000. Notice would be given as outlined in Sec. 34.

Sec. 57 A public hearing would be required for a land exchange only if the exchange is of more than 640 acres or valued at more than $100,000. The Commissioner maintains discretion to hold hearings for other exchanges.

Sec. 58 Clarifies which land exchanges require legislative approval.

Sec. 59 Gives the Commissioner discretion in issuing trapping cabin permits.

Sec. 60 and 62 Requires compliance with local subdivision ordinances which require capital improvements.

CS SB 375 would exempt from compliance those subdivision plats submitted to the platting board prior to the effective date of this Act

Sec. 61 Conforming amendment per repealed sections.

Sec. 63 Repealers:

AS 29.33.150(e) Conforming amendment requiring compliance with local subdivision ordinances.
AS 38.04.025 Requires demand assessment, reduntant to .04.020(f)
AS 38.04.040 Authorizes sale of University lands. Obsolete with passage of SB 41 in 1983.
AS 38.04.045(a) Conflicts with subdivision parcel size limitations in .04.020(h).
AS 38.05.030(a) Sale of University lands - obsolete per passage of SB 41
AS 38.05.035(a)(14) Embodied in .05.035 (best interest finding).
AS 38.05.069(b) Agricultural preference option - embodied in 05.069(a).
AS 38.05.345(e) Conforming amendment regarding notice of mineral leases.
AS 38.05.350 Settlement policy embodied in .04.005-.015.
AS 38.05.362 Classification of 650,000 acres of agricultural land by 9/79 completed.
AS 38.05.365(20) Definition of University lands.

Sec. 64 Effective date July 1, 1984.

Alaska State Legislature

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

POUCH V
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Superseded

Senate

Committee on Resources

January 30, 1984

SB 375, An Act relating to land disposal and management

Sec. 1 Spells out a policy for managing and disposing of state land which takes into account a range of resources values and uses.

Sec. 2 Spells out the policy of soliciting the views, including the holding of local public hearings when appropriate, of the residents of communities affected by land classifications and disposals.

Sec. 3 Requires that sufficient separation be maintained between residences in "remote" areas so that resources in the area are sufficient to accomodate the intended private uses.

Sec. 4 Requires that a cost estimate for access roads and capital improvements within disposal areas (as may be required by municipal ordinance) be submitted annually. This deletes the "loophloe" which allowed for submittal of a schedule for obtaining cost estimates.

Sec. 5 Requires that the demand assessment include demand for public services and capital improvements.

Sec. 6 Repeals the arbitrary requirement that certain percentages of subdivision land be made available through the homesite method. This will allow disposal methods to better reflect market demand and public policy.

Sec. 7 Allows flexibility in subdivision parcel size to better reflect resources and uses in the area.

Sec. 8 Establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of state land. Funds would be used for implementation of land disposal programs and for grants to municipalities for their disposal programs.

Sec. 9 Expands the authority in issuing remote cabin permits to allow their use where potential resource and use conflicts exist, or where a long-range interest in public ownership exists. Currently, these permits may be issued only where survey and conveyance is impractical.

Sec. 10 Clarifies that all land to be conveyed must have been surveyed, either through monumentation of section corners or monumentation of control points, with no land to be conveyed if it is more than two miles from a survey monument.

Sec. 11 Specifies that legal and feasible access must be provided within subdivisions, and that access meeting local ordinances for subdivision is required of the state.

Sec. 12 In addition to reservation of easements and rights-of-way, allows for retention of land in state ownership to maintain present and future public use and access.

Sec. 13 Requires that other state agencies notify DNR of any land disposals. This is currently required for acquisitions, leases, and exchanges.

Sec. 14 Clarifies that lands assigned by DNR to DOT may be transferred to DNR when they are no longer needed.

Sec. 15 Clarifies the procedure for issuing a best interest finding.

Sec. 16 Limits the right to apply for a preference to three years from the date of error or state action in order to avoid long-standing claims with difficult record reconstruction.

Sec. 17 Amends to require that disposals be held in the community, rather than the municipality, nearest the land to be disposed of, to take into account unincorporated locations.

Sec. 18 Authorizes bidding at auctions to begin at 85% of the current appraised fair market value of the land, rather than the current 100%.

Sec. 19 Establishes an appeal process for contract violations, followed by the prerogative of the commissioner to foreclose the interest of the purchaser if a determination is made that there has been a breach of the contract.

Sec. 20 and 21 Simplifies the selection procedure for agricultural land options for adjacent landowners, by requiring that options be exercised at the time of the disposal and that a single recipient be selected by drawing of lots.

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Sec. 28 Provides thatt easements of rights-of-way to navigable and public waters for oil and gas and mineral leases need not be made until the leases are ready to be developed.

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Sec. 36 Adds the definition of multiple use that is contained in AS 38.04 to AS 38.05.

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Sec. 38 Eliminates the requirement that land available for homestead entry be within one mile of a survey monument. This will allow for conversion of remote parcel lands to the homestead program.

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AS 38.05.365(20) Definition of University lands.

Sec. 64 Effective date July 1, 1984.

, AK
984

at-Su says state should help pay for its actions

G O'HARRA
vs reporter

MER — This spring, Vilma obert Anderson and their four n plan to move from Anchor- o their log home in the Peters subdivision at Mile 13 of the ville Road.

ir relocation, and that of other es with children moving there nto the nearby Kenny Creek vision, has the Matanuska Susit- orough complaining about state disposal policies.

Anderson's count, at least 11 ol-age children will live in the when school begins next fall. etween the subdivisions and the nearest school is about 10 miles of the Petersville Road, which isn't plowed in winter and is impassably muddy at breakup.

Anderson has asked the Mat-Su Borough either to build a school in the community or open the road. The borough is bound by law to educate the children.

For the borough, it is yet another example of the state creating a demand for costly local services by selling unimproved, partially accessible subdivision land.

"This is the whole problem," says Mat-Su planning director Bob Stickles. "The state is placing future obligations on the borough for future expenditure of funds that we have no control over."

Talkeetna Assemblywoman Dorothy Jones said she often is asked about roads, services and schools from people like Anderson who are moving onto nearly 80 state land disposals in the Mat-Su Borough.

"They want to know: 'When? How? What do we do now?' " she says. "I am definitely for the lands going into the hands of the people, but don't just dispose of them for the sake of disposing. Do it in a manner that doesn't impact local government."

Although borough and state officials say getting Peters Creek children to school can be done by plowing or improving Petersville Road, a solution to the larger issue will require changes in state law.

Under current land-use statutes, local governments can't disapprove state subdivisions because they don't meet local requirements. That allows the state to sell subdivisions in boroughs without roads or other improvements required of private subdividers.

But a bill introduced this session by Sen. Bettye Fahrenkamp, D-Fairbanks, would amend land-use law to require the state to comply with local subdivision regulations.

That bill, written as a result of public hearings this fall, also would require the state to have public hearings in the community nearest the proposed land disposals.

The Department of Natural Resources has proposed regulations to accomplish the same thing. Where borough ordinances require subdividers to build roads, the state would have to provide access road like any other developer.

Paying for the roads would be the responsibility of the legislature.

Under another bill, proposed by Senate President Jalmar Kerttula, D-Palmer, the state would pay a $200 "impact payment" to local governments for each acre sold.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
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Superseded

Senate

Committee on Resources

May 10, 1984

SUMMARY OF MAJOR PROVISIONS OF HCS CS SB 375 (Res)

Access

EXISTING LAW	SB 375
AS 38.04.050 requires that wherever state land is surveyed for private use, adequate rights-of-way and easements be reserved to each parcel. Further, the director is required to arrange for the development of surface access "where necessary and appropriate."	Would specify that legal and feasible access be provided within subdivisions, and that surface access must meet local ordinances for subdivisions.
AS 29.33.150 exempts the state from compliance with local subdivision ordinances which require capital improvements.	This exemption would be removed.

Costs

EXISTING LAW	SB 375
Funds for implementation of land disposal programs and for grants to municipalities are provided through annual legislative appropriation, based on a request pursuant to AS 38.04.020(e).	Proposed AS 38.04.022 establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of state land.

AS 38.05.310(a) limits the length of time an appraisal is valid to 120 days.	Extends the length of time an appraisal is valid to one year.

Land Exchanges

EXISTING LAW	SB 375
AS 38.50.020(a) provides for legislative review of exchanges for other than equal appraised fair market value.	Legislative approval would be required for any land exchange involving more than 500 acres of state land or valued at more than $1 million. The current review provision is repealed.
AS 38.50.120(a) gives the commissioner discretion in holding public hearings on proposed land exchanges.	At least three public hearings would be required for exchanges involving more than 500 acres or having an appraised value of $1 million or more.
AS 38.05.110 establishes notice procedures (in addition to those required under AS 38.05.345) for land exchanges: provide notice to legislators, municipalities and Native Corporations in the area of the proposed exchange, the Governor's Office, and all state departments.	Notice requirements for land exchanges involving less than 500 acres or appraised at less than $100,000 would be only as required under AS 38.05.345 (electronic media, newspaper, posting, personal contact).

Notice

EXISTING LAW	SB 375
Under AS 38.05.345, public notice for classification, sale, lease, or disposal of state lands must be provided by one of the following methods: newspaper, electronic media, posting, or personal contact.	Notice must be given by newspaper plus one other method.

See also "Land Exchanges."

Preference Rights

EXISTING LAW	SB 375
AS 38.05.035(b)(2) allows for granting of preference rights to correct errors or ommissions of a state of federal agency.	Would limit the right to apply for a preference to 5 years from the time of error.
AS 38.05.035(b)(3) allows for granting of preference rights to correct errors or omissions of others.	Would limit the right to apply for a preference to 3 years from the time of error. Adds a new preference, to be granted to long-term landholders who have derived business income from the land.
AS 38.05.069(a) grants owners or lessees of agricultural land a first option to purchase or lease unoccupied adjacent land and establishes a procedure for determining priority if more than one applicant is eligible for the option. This option must be exercised within 60 days after the auction.	Options must be exercised at the time of the auction. A single recipient would be selected by the drawing of lots.

Program Features

EXISTING LAW	SB 375
AS 38.04.020(h) establishes subdivision parcel size at five acres unless topographical features or water and sewage considerations suggest otherwise.	Would allow for consideration of resource values and land uses in determining parcel size.

AS 38.04.020(g)(2) requires that 20% of subdivision parcels be disposed of as homesites.	The number of subdivision parcels disposed of as homesites would be left to the discretion of the commissioner.
AS 38.04.035(4) limits issuance of remote cabin permits to areas where survey and conveyance is impractical.	Permits could also be issued in areas where resource and use conflicts, or a long-range interest in public ownership, exist.
Under AS 38.08.060, the following conditions must be met before a homesite patent can be obtained: Occupancy for 35 months within seven years, erection of a dwelling within five years, payment to the state for survey and platting.	Patent could be obtained prior to expiration of the entry permit through purchase at fair market value if all but the occupancy requirements have been met.
Under AS 38.09, the following conditions must be met before a homestead patent can be obtained: Occupancy for 25 months within five years, survey within two years, erction of a dwelling within three years.	AS 38.09.090. would allow the purchase of a homestead parcel at fair market value prior to expiration of the entry permit if all but the occupancy requirements have been met.
AS 38.09.030(c) allows holders of homestead entry permits to transfer rights to another individual in the event of incapacitating illness or injury.	Grants homesite permit holders the same right to transfer.
AS 29.18.210 authorizes the state to contract with a municipality to conduct an auction of state lands, and allows the municipality to retain expenses from the proceeds of the auction.	Clarifies that capital expenses may also be retained from auction proceeds. This will allow for joint disposals, whereby the municipality would construct the roads on state land and recoup its costs through auction proceeds.

Price of Land

EXISTING LAW	SB 375
AS 38.04.035 requires that, unless otherwise provided, lands be sold at fair market value.	AS 38.05.055 would allow bidding at auctions to begin at 70% of the appraised value of the land.
No general land discounts are currently offered.	AS 38.05.940 would grant a 25% discount on land sales to veterans.

Survey

EXISTING LAW	SB 375
AS 38.04.045(b) requires that all land disposed of must be within two miles of a survey monument. AS 38.09.010(b) requires that land made available for homestead entry be within one mile of a survey monument.	Eliminates the requirement that land made available for homestead entry be within one mile of a survey monument, and allows DNR to waive the 2-mile requirement.

Leasing Procedures

EXISTING LAW	SB 375
AS 38.05.070(b) establishes the conditions of a negotiated lease at a 15 year maximum term, and with a maximum appraised value of $250/year.	Increases the value of a lease that may be negotiated to $5000/year, and the term to 10 years.
AS 38.05.070 establishes 55 years as the maximum term of a lease.	In setting the term of a lease, requires the Commissioner to consider the useful life of any approved activities.

AS 38.05.075 establishes surface leasing procedures. Leasing is made at auction to the highest qualified bidder.

AS 38.05.075(c) provides a mechanism for DNR to negotiate leases for tide and submerged lands with upland owners without competitive biddings.

AS 38.05.075(e)-(h) authorizes DNR to require prequalification of bidders for surface leases. Such a procedure is currently required administratively to ensure that applicants can meet the terms of the lease.

Agriculture

EXISTING LAW	SB 375
AS 38.05.020(b)(6) authorizes DNR to require development plans of participants in agricultural development projects.	Would allow DNR to waive, postpone, or modify agricultural development requirements if certain conditions are present.
AS 38.05.321 limits the disposal of agricultural land to transfer of only the agricultural rights.	A fee simple conditional title, requiring agricultural development, would be issued.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

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

OFFICE OF THE COMMISSIONER

February 16, 1984

Mr. Pat Marquis, Chairman
Kenai Chapter
Alaska Society of Professional
Land Surveyors
P. O. Box 468
Soldotna, AK 99669

Dear Mr. Marquis:

Governor Sheffield has forwarded your comments on the Homestead Act survey and access requirements. Your comments are particularly significant right now because the Senate Resources Committee is just taking up revisions of Title 38.

I will provide your suggestions to the Committee, and our staff will review them. I am hesitant to recommend substantive changes to a new law but appreciate and understand your interest.

Please contact me with any further comments.

Sincerely,

RN Arnold, Deputy
for Esther C. Wunnicke
Commissioner

cc: The Honorable Bettye Fahrenkamp
Chairperson, Senate Resources

Tom Hawkins, Director
Division of Land and Water Management

10-J9LH

FEB 20 1984

cc: Sandra Schubert Sen. Resources

cc: Tom Hawkins
Jim Anderson

Alaska Society of Professional
Land Surveyors
P.O. Box 468
Soldotna, AK 99669

January 5, 1984

RECEIVED
JAN 11 1984
GOVERNOR'S OFFICE

The Honorable Bill Sheffield
Governor, State of Alaska
Pouch A, Mail Stop 0101
Juneau, AK 99811

Dear Governor Sheffield:

We wish to address the recently enacted Homestead Law and particulars included therein. We are hoping that our following comments might be included into any amendment or rewrite being considered for the upcoming legislative session.

1. We as a group feel the provision of access along section line easements is insufficient to provide real access under certain terrain conditions. We recommend the insertion into each eventual patent a blanket easement for access purposes. Our model is the currently utilized U.S. Government "47 Act" as it is commonly referred to. This would facilitate real access along pathways pioneered by the homesteaders.

2. We feel the requirement for survey within two years is too stringent. Merely having a final approved survey prior to patent seems sufficient for all concerned parties. Too strict a time requirement might jeopardize the intent of the law and create an exaggerated cost burden upon the entryman.

We respectfully submit these comments for your perusal and sincerely hope that they shall be considered in the light of any amending procedures.

Thank you.

Sincerely,
Scott McLane for Pat Marquis

Pat Marquis
Chairman
Kenai Chapter, A.S.P.L.S.

cc: Hugh Malone
Don Gilman
Paul Fischer
Milo Fritz
Rick Uehling
Pappy Moss

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
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Senate

Committee on Resources

May 9, 1984

HCS CSSB 375, An Act relating to land disposal and management

Sec. 1 Spells out a policy for managing and disposing of state land which takes into account a range of resource values and uses.

Sec. 2 Spells out the policy of soliciting the views, including the holding of local public hearings when appropriate, of the residents of communities most affected by land classifications and disposals.

Sec. 3 Passage by the 1983 legislature of SB 41, which awarded the University of Alaska ownership and management of certain state lands, has rendered this provision obsolete.

Sec. 4 Requires that in determining sufficient separation between residences in "remote" areas, the resources in the area shall be considered.

Sec. 5 Requires that a cost estimate for access roads and capital improvements within disposal areas (as may be required by municipal ordinance) be submitted annually. This deletes the "loophole" which allowed for submittal of a schedule for obtaining cost estimates.

Sec. 6 Clarifies that DNR's budget request must include an assessment of the market demand for the land proposed for disposal. No annual, statewide demand assessment would be required, as this type of analysis is difficult and has had little impact on legislative appropriations for disposal programs.

Sec. 7 Repeals the arbitrary requirement that certain percentages of subdivision land be made available through the homesite method. This will allow disposal methods to better reflect market demand and public policy.

Sec. 8 Allows flexibility in subdivision parcel size to better reflect resources and uses in the area.

Sec. 9 Establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of state land. Funds would be used for implementation of land disposal programs and for grants to municipalities for their disposal programs.

Sec. 10 Expands the authority in issuing remote cabin permits to allow their use where potential resource and use conflicts exist, or where a long-range interest in public ownership exists. Currently, these permits may be issued only where survey and conveyance is impractical.

Sec. 11 Clarifies that all land to be conveyed must have been surveyed, either through monumentation of section corners or monumentation of control points, with no land to be conveyed if it is more than two miles from a survey monument, unless this condition is waived by the commissioner.

Sec. 12 Specifies that legal and feasible access must be provided within subdivisions, and that access meeting local ordinances for subdivisions is required of the state.

Sec. 13 Clarifies that trails with an established history of use may be reserved as easements or rights of way across private land.

Sec. 14 Allows the Department to grant a lessee the right to restrict the use of an easement in order to protect public safety or property.

Sec. 15 Allows for a waiver or modification of agricultural development requirements if certain conditions are present.

Sec. 16 Requires that other state agencies notify DNR of any land disposals. This is currently required only for acquisitions, leases, and exchanges.

Sec. 17 Clarifies that lands assigned by DNR to DOT may be transferred to DNR when they are no longer needed.

Sec. 18 Conforming amendment per University settlement agreement. (see Section 3)

Sec. 19 Limits the right to apply for a preference to five years from the date of administrative error or state action, or three years from the date of error by others, in order to avoid long-standing claims with difficult record reconstruction.

Sec. 19 Cont. Gives DNR the authority to convey to an adjoining landowner unmanageable remnants of land. Such remnants may be unusable and expensive to maintain in state ownership.

Provides a mechanism for correcting defects in the state's title to land by authorizing DNR to quitclaim land to the federal government on a determination that the land was wrongly or erroneously conveyed to the state.

Sec. 20 Clarifies the procedure for issuing a best interest finding, and grants a preference right to long-term landholders who have derived business income from the land.

Sec. 21 Amends to require that disposals be held in the community, rather than the municipality, nearest the land to be disposed of, to take into account unincorporated locations.

Sec. 22 Authorizes bidding at auctions to begin at 70% of the current appraised fair market value of the land, rather than the current 100%.

Sec. 23 Replaces the current "agricultural rights" provision with a fee simple conditional title for agricultural land. Agricultural development would still be required. The intent is to encourage private financing, which has not been possible under the restricted title currently granted.

Sec. 24 and 25 Establishes a notice of breach procedure for contract violations, followed by the prerogative of the commissioner to foreclose the interest of the purchaser.

Sec. 26 Simplifies the selection procedure for agricultural land options for adjacent landowners, by requiring that options be exercised at the time of the disposal and that a single recipient be selected by drawing of lots.

Sec. 27 Conforming amendment per repeal of "agricultural interest" provision (see Sec. 23).

Sec. 28 Increases from $250/year to $5,000/year the value of a lease that may be negotiated, which reflects the increase in land values since this statute was enacted in 1962. Increases the maximum term of a negotiated lease from 5 years to 10 years. Requires that reasonable and traditional access to public land be maintained as a term of the lease.

Sec. 29 Specifies that the term of a lease, while not exceeding 55 years, be for the useful life of the approved activity.

Sec. 30 Amends the surface leasing procedure to require applicants to deposit with DNR a sum equal to any survey or appraisal costs incurred by another bidder. The successful applicant's deposit would be credited against lease rental payments. Survey and appraisal are required prior to leasing. In the interest of time, lease applicants will often conduct survey and appraisal at their own expense.

Sec. 31 Provides a mechanism for DNR to negotiate leases for tide and submerged lands with upland land owners without competitive bidding.

Authorizes DNR to require prequalification of bidders for surface leases. Such a procedure is currently required administratively to ensure that applicants can meet the terms of the lease.

Sec. 32 Requires that the assessment of timber and other materials on state lands, and the recommendation for the sale of materials, take into account the supplies of and markets for materials on nearby private land.

Sec. 33 thru 36 Technical: Substitute "commissioner" for "director".

Sec. 37 Clarifies that land quitclaimed back to the federal government (see section 18) and land transferred to the University in its settlement agreement (see Sec. 3) is not subject to the reservation of mineral rights to the state.

Sec. 38 Technical: substitute "commissioner" for "department", "ensure" for "insure".

Sec. 39 Provides that easements of rights-of-way to navigable and public waters for oil and gas and mineral leases need not be made until the leases are ready to be developed.

Sec. 40 and 41 Technical: substitute "commissioner" for"director" and "land' for "lands".

Sec. 42 Extends the length of time that an appraisal is valid from 120 days to one year, to avoid costly reappraisals in the event of a delay in selling or leasing lands.

Sec. 43 Conforming amendment per University settlement agreement (see Sec. 3)

Sec. 44 Exempts land quitclaimed back to the federal government (see Sec. 18) from the restriction on sale of agricultural land.

Sec. 45 Conforming amendment per relocation in statute of the best interest finding requirement.

Sec. 46 Amends the public notice requirements for classification, sale, lease, and disposal of state lands to require that notice be placed in the newspaper and that one of the following methods also be used: electronic media, posting, notification of interested parties. Current statute requires use of only one of the above methods.

Sec. 47 Clarifies that no notice need be given of negotiated sales of timber and materials.

Sec. 48 Adds the definition of "multiple use" and "university lands" as used in AS 38.04 to AS 38.05.

Sec. 49 Grants a 25% discount on the purchase price of state land to veterans.

Sec. 50 Conforming amendment per University settlement agreement. (see Section 3)

Sec. 51 Allows holders of homesite parcels to transfer rights to another individual in the event incapacitating illness or injury prevents the landholder from fulfilling residency requirements. This conforms with current homestead provisions.

Sec. 52 Allows the purchase of a homesite parcel at fair market value within 7 years of issuance of the permit if all requirements except the ones for occupancy have been met.

Sec. 53 Eliminates the requirement that land available for homestead entry be within one mile of a survey monument. This will allow for conversion of remote parcel lands to the homestead program. Authorizes DNR to waive the cadastral survey requirement if certain conditions are present.

Sec. 54 Provides that the amount of land to be cleared under agricultural homesteading requirements be based on soil classifications.

Sec. 55 Allows the purchase of a homestead parcel at fair market value within five years of issuance of the permit if all requirements except the ones for occupancy have been met.

Sec. 56 thru 67 Amends the Alaska Coordinate System to reflect changes in the federal datum used as a base for this system.

Sec. 68 Provides that the lessee of a pipeline right-of-way shall reimburse the state for costs not only in monitoring pipeline construction, but for processing an application and for monitoring operation, maintenance, and removal of the pipeline.

Sec. 69 Requires legislative approval of land exchanges of more than 500 acres of state land or valued at more than $1 million. Current statute requires legislative action on unequal value exchanges; this provision is repealed.

Sec. 70 Extends the length of time that an appraisal for a land exchange is valid from six months to one year to permit the execution of trades which involve considerable administrative work and public review.

Sec. 71 and 72 Conforming amendments per University settlement agreement. (see Section 3)

Sec. 73 and 74 Streamlines the notice requirements for land exchanges involving less than 500 acres of land or appraised at less than $100,000.

Sec. 75 Three public hearings would be required for land exchanges of more than 500 acres or valued at more than $1,000,000. The Commissioner maintains discretion to hold hearings for other exchanges.

Sec. 76 Clarifies which land exchanges require legislative approval (see Section 69).

Sec. 77 thru 80 Conforming amendments per University settlement agreement. (see Section 3)

Sec. 81 Clarifies that when the state contracts with a municipality to conduct an auction of state lands, the municipality may retain from the proceeds of the auction capital and other expenses. This will allow for joint disposals, whereby the municipality would construct the roads on state land and recoup its costs through auction proceeds.

Sec. 82 Amends the definition section in Title 29 to clarify that the University has management responsibility for certain state lands. (see Section 3)

Sec. 83 and 84 Requires compliance with local subdivision ordinances which require capital improvements.

Sec. 85 Specifies that the contract foreclosure procedure added in Section 22 applies only to contracts entered into after the effective date of this act.

Sec. 86 Exempts from compliance with local subdivision ordinances those plats submitted to the platting board before the effective date of the Act. (see Sec. 84)

Sec. 87 Repealers:

AS 29.33.150(e) Conforming amendment requiring compliance with local subdivision ordinances.
AS 38.04.025 Requires demand assessment, reduntant to .04.020(f)
AS 38.04.040 Authorizes sale of University lands. Obsolete with passage of SB 41 in 1983.
AS 38.04.045(a) Conflicts with subdivision parcel size limitations in .04.020(h).
AS 38.05.030(a) Sale of University lands - obsolete per passage of SB 41 AS 38.05.035(a)(14) Embodied in .05.035 (best interest finding).
AS 38.05.069(b) Agricultural preference option - embodied in 05.069(a).
AS 38.05.321(a) Agricultural interests section replaced by AS 38.05.059 (fee simple conditional title)
AS 38.05.362 Classification of 650,000 acres of agricultural land by 9/79 completed.
AS 38.05.365(20) Definition of University lands.

Sec. 88 Provides that the veterans' discount (see Sec. 49) is retroactive to the time of repeal of the State's general discount program.

Sec. 89 Immediate effective date for Sections 19, 37 and 44.

Sec. 90 July 1, 1984 effective date for remainder of bill.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
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Superseded

Senate

Committee on Resources

May 19, 1984

HCS CSSB 375 (~~Rules~~ 2nd Res), An Act relating to land disposal and management

Sec. 1 Spells out a policy for managing and disposing of state land which takes into account a range of resource values and uses.

Sec. 2 Spells out the policy of soliciting the views, including the holding of local public hearings when appropriate, of the residents of communities most affected by land classifications and disposals.

Sec. 3 Passage by the 1983 legislature of SB 41, which awarded the University of Alaska ownership and management of certain state lands, has rendered this provision obsolete.

Sec. 4 Requires that in determining sufficient separation between residences in "remote" areas, the resources in the area shall be considered.

Sec. 5 Requires that a cost estimate for access roads and capital improvements within disposal areas (as may be required by municipal ordinance) be submitted annually. This deletes the "loophole" which allowed for submittal of a schedule for obtaining cost estimates.

Sec. 6 Clarifies that DNR's budget request must include an assessment of the market demand for the land proposed for disposal. No annual, statewide demand assessment would be required, as this type of analysis is difficult and has had little impact on legislative appropriations for disposal programs.

Sec. 7 Repeals the arbitrary requirement that certain percentages of subdivision land be made available through the homesite method. This will allow disposal methods to better reflect market demand and public policy.

Sec. 8 Allows flexibility in subdivision parcel size to better reflect resources and uses in the area.

Sec. 9 Establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of state land. Funds would be used for implementation of land disposal programs and for grants to municipalities for their disposal programs.

Sec. 10 Expands the authority in issuing remote cabin permits to allow their use where potential resource and use conflicts exist, or where a long-range interest in public ownership exists. Currently, these permits may be issued only where survey and conveyance is impractical.

Sec. 11 Clarifies that all land to be conveyed must have been surveyed, either through monumentation of section corners or monumentation of control points, with no land to be conveyed if it is more than two miles from a survey monument, unless this condition is waived by the commissioner.

Sec. 12 Specifies that legal and feasible access must be provided within subdivisions, and that access meeting local ordinances for subdivisions is required of the state.

Sec. 13 Clarifies that trails with an established history of use may be reserved as easements or rights of way across private land.

Sec. 14 Allows the Department to grant a lessee the right to restrict the use of an easement in order to protect public safety or property.

Sec. 15 Allows for a waiver or modification of agricultural development requirements if certain conditions are present.

Sec. 16 Requires that other state agencies notify DNR of any land disposals. This is currently required only for acquisitions, leases, and exchanges.

Sec. 17 Clarifies that lands assigned by DNR to DOT may be transferred to DNR when they are no longer needed.

Sec. 18 Conforming amendment per University settlement agreement. (see Section 3)

Sec. 19 Limits the right to apply for a preference to three years from the date of error or state action in order to avoid long-standing claims with difficult record reconstruction.

Sec. 19 Cont. Gives DNR the authority to convey to an adjoining landowner unmanageable remnants of land. Such remnants may be unusable and expensive to maintain in state ownership.

Provides a mechanism for correcting defects in the state's title to land by authorizing DNR to quitclaim land to the federal government on a determination that the land was wrongly or erroneously conveyed to the state.

Sec. 20 Clarifies the procedure for issuing a best interest finding, and clarifies that no finding is needed for mining claims and leases, and production licenses. Grants a preference right to long-term landholders who have derived business income from the land.

Sec. 21 Amends to require that disposals be held in the community, rather than the municipality, nearest the land to be disposed of, to take into account unincorporated locations.

Sec. 22 Authorizes bidding at auctions to begin at 70% of the current appraised fair market value of the land, rather than the current 100%.

Sec. 23 Replaces the current "agricultural rights" provision with a fee simple conditional title for agricultural land. Agricultural development would still be required. The intent is to encourage private financing, which has not been possible under the restricted title currently granted.

Sec. 24 and 25 Establishes a notice of breach procedure for contract violations, followed by the prerogative of the commissioner to foreclose the interest of the purchaser.

Sec. 26 Simplifies the selection procedure for agricultural land options for adjacent landowners, by requiring that options be exercised at the time of the disposal and that a single recipient be selected by drawing of lots.

Sec. 27 Conforming amendment per repeal of "agricultural interest" provision (see Sec. 23).

Sec. 28 Increases from $250/year to $5,000/year the value of a lease that may be negotiated, which reflects the increase in land values since this statute was enacted in 1962. Increases the maximum term of a negotiated lease from 5 years to 10 years. Requires that reasonable and traditional access to public land be maintained as a term of the lease.

Sec. 29 Specifies that the term of a lease, while not exceeding 55 years, be for the useful life of the approved activity.

Sec. 30 Amends the surface leasing procedure to require applicants to deposit with DNR a sum equal to any survey or appraisal costs incurred by another bidder. The successful applicant's deposit would be credited against lease rental payments. Survey and appraisal are required prior to leasing. In the interest of time, lease applicants will often conduct survey and appraisal at their own expense.

Sec. 31 Provides a mechanism for DNR to negotiate leases for tide and submerged lands with upland land owners without competitive bidding.

Authorizes DNR to require prequalification of bidders for surface leases. Such a procedure is currently required administratively to ensure that applicants can meet the terms of the lease.

Sec. 32 Requires that the assessment of timber and other materials on state lands, and the recommendation for the sale of materials, take into account the supplies of and markets for materials on nearby private land.

Sec. 33 thru 36 Technical: Substitute "commissioner" for "director".

Sec. 37 Clarifies that land quitclaimed back to the federal government (see section 18) and land transferred to the University in its settlement agreement (see Sec. 3) is not subject to the reservation of mineral rights to the state.

Sec. 38 Technical: substitute "commissioner" for "department", "ensure" for "insure".

Sec. 39 Provides that easements of rights-of-way to navigable and public waters for oil and gas and mineral leases need not be made until the leases are ready to be developed.

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Sec. 42 Extends the length of time that an appraisal is valid from 120 days to one year, to avoid costly reappraisals in the event of a delay in selling or leasing lands.

Sec. 43 Conforming amendment per University settlement agreement (see Sec. 3)

Sec. 44 Exempts land quitclaimed back to the federal government (see Sec. 18) from the restriction on sale of agricultural land.

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Sec. 46 Amends the public notice requirements for classification, sale, lease, and disposal of state lands to require that notice be placed in the newspaper and that one of the following methods also be used: electronic media, posting, notification of interested parties. Current statute requires use of only one of the above methods.

Sec. 47 Clarifies that no notice need be given of negotiated sales of timber and materials.

Sec 48 Adds the definition of "multiple use" and "university lands" as used in AS 38.04 to AS 38.05.

Sec. 49 Grants a 25% discount on the purchase price of state land to veterans.

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Sec. 51 Allows holders of homesite parcels to transfer rights to another individual in the event incapacitating illness or injury prevents the landholder from fulfilling residency requirements. This conforms with current homestead provisions.

Sec. 52 Allows the purchase of a homesite parcel at fair market value within 7 years of issuance of the permit if all requirements except the ones for occupancy have been met.

Sec. 53 Eliminates the requirement that land available for homestead entry be within one mile of a survey monument This will allow for conversion of remote parcel lands to the homestead program. Authorizes DNR to waive the cadastral survey requirement if certain conditions are present.

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Sec. 68 Provides that the lessee of a pipeline right-of-way shall reimburse the state for costs not only in monitoring pipeline construction, but for processing an application and for monitoring operation, maintenance, and removal of the pipeline.

Sec. 69 Requires legislative approval of land exchanges of more than 500 acres of state land or valued at more than $1 million. Current statute requires legislative action on unequal value exchanges; this provision is maintained.

Sec. 70 Extends the length of time that an appraisal for a land exchange is valid from six months to one year to permit the execution of trades which involve considerable administrative work and public review.

Sec. 71 and 72 Conforming amendments per University settlement agreement. (see Section 3)

Sec. 73 and 74 Streamlines the notice requirements for land exchanges involving less than 500 acres of land or appraised at less than $100,000.

Sec. 75 Three public hearings would be required for land exchanges of more than 500 acres or valued at more than $1,000,000. The Commissioner maintains discretion to hold hearings for other exchanges.

Sec. 76 Clarifies which land exchanges require legislative approval (see Section 69).

Sec. 77 Gives the Commissioner discretion in issuing trapping cabin permits.

Sec. 78 thru 81 Conforming amendments per University settlement agreement. (see Section 3)

Sec. 82 Clarifies that when the state contracts with a municipality to conduct an auction of state lands, the municipality may retain from the proceeds of the auction capital and other expenses. This will allow for joint disposals, whereby the municipality would construct the roads on state land and recoup its costs through auction proceeds.

Sec. 83 Amends the definition section in Title 29 to clarify that the University has management responsibility for certain state lands. (see Section 3)

Sec. 84 and 85 Requires compliance with local subdivision ordinances which require capital improvements.

Sec. 86 Specifies that the contract foreclosure procedure added in Section 22 applies only to contracts entered into after the effective date of this act.

Sec. 87 Exempts from compliance with local subdivision ordinances those plats submitted to the platting board before the effective date of the Act. (see Sec. 84)

Sec. 88 Repealers:

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AS 38.04.025 Requires demand assessment, reduntant to .04.020(f)
AS 38.04.040 Authorizes sale of University lands. Obsolete with passage of SB 41 in 1983.
AS 38.04.045(a) Conflicts with subdivision parcel size limitations in .04.020(h).
AS 38.05.030(a) Sale of University lands - obsolete per passage of SB 41 AS 38.05.035(a)(14) Embodied in .05.035 (best interest finding).
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AS 38.05.362 Classification of 650,000 acres of agricultural land by 9/79 completed.
AS 38.05.365(20) Definition of University lands.

Sec. 89 Immediate effective date for Sections 19, 37 and 44.

Sec. 90 July 1, 1984 effective date for remainder of bill.

May 4, 1984

The Honorable John Ringstad
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Ringstad:

Your staff have asked whether the Department supports certain amendments to CS SB 375 (Res), now before the Committee on Resources, that are put forward by Representative Goll, and I have been asked to communicate in writing the Department's position on these amendments.

Our staff have assisted Representative Goll in drafting the amendments so that his concerns would be presented in the best possible language to accomplish his objectives. However, the Department's position on all amendments to the proposed legislation has been to support the Senate version of the bill, with some exceptions for technical amendments. We concur with Senator Fahrenkamp, who at last week's hearing on the bill indicated that the bill generally represents a balance of interests in land and resource management.

We have worked closely with your staff in reviewing the amendments presented by various members of the House. Without exception, we have supported only technical amendments that do not disturb the balance already represented in SB 375.

Thank you for your interest. Please contact me if more information would be useful.

Sincerely,

Ned Farquhar

Ned Farquhar
Special Assistant to
the Commissioner

cc: Representative Goll

Senator Fahrenkamp

HCS CS HB 375 (Resources)

12 29

Add a subsection (4)

(4) a mineral claim located under AS 38.05.195, a mineral lease issued under AS 38.05.205 or a production license issued under AS 38.05.207.

RATIONALE:

AS 38.05.185 provides that state land may be restricted to mining under lease upon a determination that potential use conflicts on the land exist. AS 38.05.205 provides that the lease must be issued prior to production. Approximately 20% of all state-owned land is designated for lease only (for example, land that has been conveyed to a third party, such as the University or a municipality; land designated for development projects, such as timber sales or industrial sites; and state parks).

Section 5, ch. 108, SLA 1981 allows the Department of Natural Resources until January 1, 1985 to implement a leasing program, and implementing regulations are currently being promulgated. 11 AAC 86.306 of the draft regulations would require that a best interest finding be made before a lease could be issued. This regulation is based on an interpretation of AS 38.05.035(e) which requires a written finding that the best interests of the state will be served prior to a sale, lease, or other disposal of land. The statute does not distinguish between mining leases and other leases, and is being interpreted through regulation to apply to mining leases.

It was never the intent of the Senate Resources Committee to require individual determinations for hardrock mineral leases. In addition, the Department of Natural Resources has concerns about making a separate finding for each lease. Competing land uses would be more appropriately addressed at the time the land is designated "lease only".

Adoption of the proposed amendment will ensure that the lease statute is implemented without unnecessarily burdening the administration or the mining industry.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
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Senate

Committee on Resources

March 5, 1984

SUMMARY OF MAJOR PROVISIONS OF CS SB 375 (Res)

Access

EXISTING LAW	SB 375
AS 38.04.055 requires reservation of easements and rights-of-way across private land to reach public water and public and private land.	Would allow for retention of land in state ownership across or adjacent to private land.
AS 38.04.050 requires that wherever state land is surveyed for private use, adequate rights-of-way and easements be reserved to each parcel. Further, the director is required to arrange for the development of surface access "where necessary and appropriate."	Would specify that legal and feasible access be provided within subdivisions, and that surface access must meet local ordinances for subdivisions.
AS 29.33.150 exempts the state from compliance with local subdivision ordinances which require capital improvements.	This exemption would be removed.

Costs

EXISTING LAW	SB 375
Funds for implementation of land disposal programs and for grants to municipalities are provided through annual legislative appropriation, based on a request pursuant to AS 38.04.020(e).	Proposed AS 38.04.022 establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of state land.
AS 38.05.310(a) limits the length of time an appraisal is valid to 120 days.	Extends the length of time an appraisal is valid to one year.

Land Exchanges

EXISTING LAW	SB 375
AS 38.05.120(a) gives the commissioner discretion in holding public hearings on proposed land exchanges.	At least one public hearing would be required for exchanges involving more than 640 acres or having an appraised value of $100,000 or more.
AS 38.05.110 establishes notice procedures (in addition to those required under AS 38.05.345) for land exchanges: provide notice to legislators, municipalities and Native Corporations in the area of the proposed exchange, the Governor's Office, and all state departments.	Notice requirements for land exchanges involving less than 640 acres or appraised at less than $100,000 would be only as required under AS 38.05.345 (electronic media, newspaper, posting, personal contact).

Notice

EXISTING LAW	SB 375
Under AS 38.05.345, public notice for classification, sale, lease, or disposal of state lands must be provided by one of the following methods: newspaper, electronic media, posting, or personal contact.	More than one notice method would be required.
AS 38.05.345(d) exempts negotiated sales from notice requirements. See also "Land Exchanges."	Notice must be provided on negotiated sales of timber exceeding 500,000 board feet or materials exceeding 25,000 cubic yards.

Preference Rights

EXISTING LAW	SB 375
AS 38.05.035(b) allows for granting of preference rights to correct errors or ommissions of a state of federal agency.	Would limit the right to apply for a preference to 3 years from the time of error.
AS 38.05.069(a) grants owners or lessees of agricultural land a first option to purchase or lease unoccupied adjacent land and establishes a procedure for determining priority if more than one applicant is eligible for the option. This option must be exercised within 60 days after the auction.	Options must be exercised at the time of the auction. A single recipient would be selected by the drawing of lots.

Program Features

EXISTING LAW	SB 375
AS 38.04.020(h) establishes subdivision parcel size at five acres unless topographical features or water and sewage considerations suggest otherwise.	Would allow for consideration of resource values and land uses in determining parcel size.
AS 38.04.020(g)(2) requires that 20% of subdivision parcels be disposed of as homesites.	The number of subdivision parcels disposed of as homesites would be left to the discretion of the commissioner.
AS 38.04.035(4) limits issuance of remote cabin permits to areas where survey and conveyance is impractical.	Permits could also be issued in areas where resource and use conflicts, or a long-range interest in public ownership, exist.
Under AS 38.08.060, the following conditions must be met before a homesite patent can be obtained: Occupancy for 35 months within seven years, erection of a dwelling within five years, payment to the state for survey and platting.	Patent could be obtained prior to expiration of the entry permit through purchase at fair market value if all but the occupancy requirements have been met.
Under AS 38.09, the following conditions must be met before a homestead patent can be obtained: Occupancy for 25 months within five years, survey within two years, erction of a dwelling within three years.	AS 38.09.090. would allow the purchase of a homestead parcel at fair market value prior to expiration of the entry permit if all but the occupancy requirements have been met.
Under AS 38.45.080(a), a trapping cabin permit must be issued if the applicant meets certain conditions.	The commissioner would have discretion in issuance of trapping cabin permits.

AS 29.18.210 authorizes the state to contract with a municipality to conduct an auction of state lands, and allows the municipality to retain expenses from the proceeds of the auction.	Clarifies that capital expenses may also be retained from auction proceeds. This will allow for joint disposals, whereby the municipality would construct the roads on state land and recoup its costs through auction proceeds.

Price of Land

EXISTING LAW	SB 375
AS 38.04.035 requires that, unless otherwise provided, lands be sold at fair market value.	AS 38.05.055 would allow bidding at auctions to begin at 85% of the appraised value of the land.
No general land discounts are currently offered.	AS 38.05.940 would grant a 25% discount on land sales to veterans.

Survey

EXISTING LAW	SB 375
AS 38.04.045(b) requires that all land disposed of must be within two miles of a survey monument. AS 38.09.010(b) requires that land made available for homestead entry be within one mile of a survey monument.	Eliminates the requirement that land made available for homestead entry be within one mile of a survey monument.

Leasing Procedures

EXISTING LAW	SB 375
AS 38.05.070(b) establishes the conditions of a negotiated lease at a 15 year maximum term, and with a maximum appraised value of $250/year.	Increases the value of a lease that may be negotiated to $5000/year, and the term to 10 years.

AS 38.05.070 establishes 55 years as the maximum term of a lease.

In setting the term of a lease, requires the Commissioner to consider the useful life of any approved activities.

AS 38.05.075 establishes surface leasing procedures. Leasing is made at auction to the highest qualified bidder.

AS 38.05.075(c) provides a mechanism for DNR to negotiate leases for tide and submerged lands with upland owners without competitive biddings.

AS 38.05.075(e)-(h) authorizes DNR to require prequalification of bidders for surface leases. Such a procedure is currently required administratively to ensure that applicants can meet the terms of the lease.

Alaska State Legislature

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Superseded

Senate

Committee on Resources

March 5, 1984

CS SB 375, An Act relating to land disposal and management

Sec. 1 Spells out a policy for managing and disposing of state land which takes into account a range of resource values and uses.

Sec. 2 Spells out the policy of soliciting the views, including the holding of local public hearings when appropriate, of the residents of communities affected by land classifications and disposals.

Sec. 3 Passage by the 1983 legislature of SB 41, which awarded the University of Alaska ownership and management of certain state lands, has rendered this provision obsolete.

Sec. 4 Requires that in determining sufficient separation between residences in "remote" areas, the resources in the area shall be considered.

Sec. 5 Requires that a cost estimate for access roads and capital improvements within disposal areas (as may be required by municipal ordinance) be submitted annually. This deletes the "loophole" which allowed for submittal of a schedule for obtaining cost estimates.

Sec. 6 Clarifies that DNR's budget request must include a determination that there is a market demand for the land proposed for disposal. No annual, statewide demand assessment would be required, as this type of analysis is difficult and has had little impact on legislative appropriations for disposal programs.

Sec. 7 Repeals the arbitrary requirement that certain percentages of subdivision land be made available through the homesite method. This will allow disposal methods to better reflect market demand and public policy.

Sec. 8 Allows flexibility in subdivision parcel size to better reflect resources and uses in the area.

Sec. 9 Establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of state land. Funds would be used for implementation of land disposal programs and for grants to municipalities for their disposal programs.

Sec. 10 Expands the authority in issuing remote cabin permits to allow their use where potential resource and use conflicts exist, or where a long-range interest in public ownership exists. Currently, these permits may be issued only where survey and conveyance is impractical.

Sec. 11 Clarifies that all land to be conveyed must have been surveyed, either through monumentation of section corners or monumentation of control points, with no land to be conveyed if it is more than two miles from a survey monument.

Sec. 12 Specifies that legal and feasible access must be provided within subdivisions, and that access meeting local ordinances for subdivision is required of the state.

Sec. 13 In addition to reservation of easements and rights-of-way, allows for retention of land in state ownership to maintain present and future public use and access.

Sec. 14 Would allow an interest holder of state land to restrict the use of an easement with written approval of DNR.

Sec. 15 Requires that other state agencies notify DNR of any land disposals. This is currently required for acquisitions, leases, and exchanges.

Sec. 16 Clarifies that lands assigned by DNR to DOT may be transferred to DNR when they are no longer needed.

Sec. 17 Conforming amendment per University settlement agreement. (see Section 3)

Sec. 18 Limits the right to apply for a preference to three years from the date of error or state action in order to avoid long-standing claims with difficult record reconstruction.

Gives DNR the authority to convey to an adjoining landowner unmanageable remnants of land. Such remnants may be unusable and expensive to maintain in state ownership.

Sec. 18 (cont'd) Provides a mechanism for correcting defects in the state's title to land by authorizing DNR to quitclaim land to the federal government on a determination that the land was wrongly or erroneously conveyed to the state.

Sec. 19 Clarifies the procedure for issuing a best interest finding.

Sec. 20 Amends to require that disposals be held in the community, rather than the municipality, nearest the land to be disposed of, to take into account unincorporated locations.

Sec. 21 Authorizes bidding at auctions to begin at 85% of the current appraised fair market value of the land, rather than the current 100%.

Sec. 22 Establishes an appeal process for contract violations, followed by the prerogative of the commissioner to foreclose the interest of the purchaser if a determination is made that there has been a breach of the contract.

Sec. 23 and 24 Simplifies the selection procedure for agricultural land options for adjacent landowners, by requiring that options be exercised at the time of the disposal and that a single recipient be selected by drawing of lots.

Sec. 25 Increases from $250/year to $5,000/year the value of a lease that may be negotiated, which reflects the increase in land values since this statute was enacted in 1962. Increases the maximum term of a negotiated lease from 5 years to 10 years.

Sec. 26 Specifies that the term of a lease, while not exceeding 55 years, be for the useful life of the approved activity.

Sec. 27 Amends the surface leasing procedure to require applicants to deposit with DNR a sum equal to any survey or appraisal costs incurred by another bidder. The successful applicant's deposit would be credited against lease rental payments. Survey and appraisal are required prior to leasing. In the interest of time, lease applicants will often conduct survey and appraisal at their own expense.

Sec. 28 Provides a mechanism for DNR to negotiate leases for tide and submerged lands with upland land owners without competitive bidding.

Authorizes DNR to require prequalification of bidders for surface leases. Such a procedure is currently required administratively to ensure that applicants can meet the terms of the lease.

Sec. 29 Requires that the assessment of timber and other materials on state lands, and the recommendation for tne sale of materials, take into account the supplies of and markets for materials on nearby private land.

Sec. 30 thru 33 Technical: Substitute "commissioner" for "director".

Sec. 34 Clarifies that land quitclaimed back to the federal government (see section 18) and land transferred to the University in their settlement agreement (see Sec. 3) is not subject to the reservation of mineral rights to the state.

Sec. 35 In addition to reservation of easements and rights-of-way, allows for retention of land in state ownership to allow access to and along navigable and public waters.

Sec. 36 Provides that easements of rights-of-way to navigable and public waters for oil and gas and mineral leases need not be made until the leases are ready to be developed.

Sec. 37 and 38 Technical: substitute "commissioner" for"director" and "land" for "lands".

Sec. 39 Extends the length of time that an appraisal is valid from 120 days to one year, to avoid costly reappraisals in the event of a delay in selling or leasing lands.

Sec. 40 Conforming amendment per University settlement agreement (see Sec. 3)

Sec. 41 Exempts land quitclaimed back to the federal government (see Sec. 18) from the restriction on sale of agricultural land.

Sec. 42 Conforming amendment per relocation in statute of the best interest finding requirement.

Sec. 43 Amends the public notice requirements for classification, sale, lease, and disposal of state lands to require that more that one, rather than just one, of the following notice methods be used: newspaper, electronic media, posting, notification of interested parties.

Sec. 44 Requires that notice be given of negotiated sales of timber exceeding 500,000 board feet or of materials exceeding 25,000 cubic yards. Currently no notice of negotiated sales is required.

Sec. 45 Adds the definition of multiple use that is contained in AS 38.04 to AS 38.05.

Sec. 46 Grants a 25% discount on the purchase price of state land to veterans.

Sec. 47 Conforming amendment per University settlement agreement. (see Section 3)

Sec. 48 Allows the purchase of a homesite parcel at fair market value within 7 years of issuance of the permit if all requirements except the ones for occupancy have been met.

Sec. 49 Eliminates the requirement that land available for homestead entry be within one mile of a survey monument. This will allow for conversion of remote parcel lands to the homestead program. Authorizes DNR to waive the cadastral survey requirement if certain conditions are present.

Sec. 50 Allows the purchase of a homestead parcel at fair market value within five years of issuance of the permit if all requirements except the ones for occupancy have been met.

Sec. 51 thru 62 Amends the Alaska Coordinate System to reflect changes in the federal datum used as a base for this system.

Sec. 63 Provides that the lessee of a pipeline right-of-way shall reimburse the state for costs not only in monitoring pipeline construction, but for processing an application and for monitoring operation, maintenance, and removal of the pipeline.

Sec. 64 Extends the length of time that an appraisal for a land exchange is valid from six months to one year to permit the execution of trades which involve considerable administrative work and public review.

Sec. 65 and 66 Conforming amendments per University settlement agreement. (see Section 3)

Sec. 67 and 68 Streamlines the notice requirements for land exchanges involving less than 640 acres of land or appraised at less than $100,000. Notice would be given as outlined in Sec. 34.

Sec. 69 A public hearing would be required for a land exchange only if the exchange is of more than 640 acres or valued at more than $100,000. The Commissioner maintains discretion to hold hearings for other exchanges.

Sec. 70 Clarifies which land exchanges require legislative approval.

Sec. 71 Gives the Commissioner discretion in issuing trapping cabin permits.

Sec. 72 thru 75 Conforming amendments per University settlement agreement. (see Section 3)

Sec. 76 Clarifies that when the state contracts with a municipality to conduct an auction of state lands, the municipality may retain from the proceeds of the auction capital and other expenses. This will allow for joint disposals, whereby the municipality would construct the roads on state land and recoup its costs through auction proceeds.

Sec. 77 Amends the definition section in Title 29 to clarify that the University has management responsibility for certain state lands. (see Section 3)

Sec. 78 and 79 Requires compliance with local subdivision ordinances which require capital improvements. Exempts from compliance those subdivision plats submitted to the platting board prior to the effective date of this Act.

Sec. 80 Specifies that the contract foreclosure procedure acced in Section 22 applies only to contracts entered into after the effective date of this act.

Sec. 81 Repealers:

AS 29.33.150(e) Conforming amendment requiring compliance with local subdivision ordinances.
AS 38.04.025 Requires demand assessment, reduntant to .04.020(f)
AS 38.04.040 Authorizes sale of University lands. Obsolete with passage of SB 41 in 1983.
AS 38.04.045(a) Conflicts with subdivision parcel size limitations in .04.020(h).
AS 38.05.030(a) Sale of University lands - obsolete per passage of SB 41
AS 38.05.035(a)(14) Embodied in .05.035 (best interest finding).
AS 38.05.069(b) Agricultural preference option - embodied in 05.069(a).
AS 38.05.350 Settlement policy embodied in .04.005-.015.
AS 38.05.362 Classification of 650,000 acres of agricultural land by 9/79 completed.
AS 38.05.365(20) Definition of University lands.

Sec. 82 Effective date July 1, 1984.
Except for quitclaim sections which take effect immediately.

SB 375

THE CITY OF HAINES, ALASKA

P.O. BOX 576
HAINES, ALASKA 99827
(907) 766-2231

In Reply
Refer To:

March 20, 1984

Alaska State Senators
Thirteenth Legislature
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator:

The City of Haines strongly supports Senate Bill 375.

This bill contains provisions relating to Native allotments that are vital to our community, in that the status of Native allotment must be resolved to orderly develop and use our land for the benefit of Alaskans.

Passage of this legislation this year will enable the State of Alaska to keep its promise made to Alaska Natives over one and one-half years ago during the passing of Senate Bill 796.

Please review our attached position paper concerning this Senate Bill 375.

If we can be of any assistance, please let us know.

Sincerely,

Jon Halliwill
Mayor

MAR 22 1984

MERRILL PALMER
Consultant
City of Haines
Baranof Hotel, Rm. 609
Juneau, AK 99801
(907)586-2660

Position Paper Concerning

COMMITTEE SUBSTITUTE SENATE BILL 375
SENATE RESOURCES

The City of Haines has been involved in the development of Senate Bill 375. We support the passing of this legislation.

While we cannot offer expert testimony on all provisions of this bill, we can offer comments concerning certain sections that are of major concern to the Haines community.

These sections are identified as:

Section 18, provision 9, page 10, lines 17 through 20, which reads:

> (9) Quitclaim land on or interest in land to the federal government on a determination that the land or the interest in land was wrongfully or erroneously conveyed by the federal government to the state.

Section 34, provision B.

Section 41, provision 2.

Section 82, which provides for an immediate effective date of Sections 18, 34, and 41.

The four sections will resolve, for the most part, certain Native allotment claims known as "Aguilar" type claims of which there are about 220 of these type claims statewide. Aguilar refers to a court case known as Aquilar vs. U.S.A. Whereas, the State of Alaska was deeded certain lands by the United States Bureau of Land Management that Natives claimed they used and occupied before the state selected the land.

The court held that if the land was used and occupied by the Natives, the land should not have been conveyed to the state if the Natives filed an allotment claim on the land before August 1971. However, the state does not have at this time the authority

to quitclaim the land back to the federal government to correct this situation.

The provisions of this bill that we support will give the state the authority to quitclaim the land back to the federal government, thus resolving many issues as herein listed:

1. The State of Alaska promised to help resolve the Haines Native allotment claims almost two years ago. As a result of this promise, certain Native organizations supported Senate Bill 796 that created the Haines State Forest and the Alaska Chilkat Bald Eagle Preserve. SB 796 was a State of Alaska priority piece of legislation. The State of Alaska has been unable to keep their promise to the Native, thus creating a lot of hard feelings and hardships for all concerned. This bill will allow the state to honor this most important promise. There are more that fifty Native allotments in the Haines area that would be affected by this legislation.

2. The state, where appropriate, could quitclaim the land back to the federal government, thus saving the state costly court proceedings.

3. The issue can be resolved in a timely manner, thus benefiting the Natives, state and other interest groups. It should be noted that the provisions we support are identical to Senate Bill 344 and House Bill 455, which we also support. The House passed HB 455 unanimously, 40-0, which properly reflects the importance of this issue.

In conclusion, we strongly support this legislation and encourage the legislature to pass the bill this year.

Date: 3/29/84

From: Sandra

Phone:

MEMORANDUM

From the Office of

Senator Bettye Fahrenkamp

To: Michael
Senator Mulcahy's

MESSAGE:

"One-pages" on lands bills as you requested. Let me know if more information is needed.

ALASKA LITHO, INC.

SB 375, An Act relating to Land Disposal and Management

SB 375 will allow for more efficient implementation of the State's land disposal program, and revise some land management procedures. (A sectional summary of the bill and a comparison to current statute of major provisions of the bill has been made available to committee members.)

In an effort to provide for orderly disposal of quality land, specific provisions of the bill are especially important. Current statute (AS 29.33.150(b)) exempts the State from compliance with local platting and subdivision ordinances that require capital improvements. This has placed a tremendous burden on the municipalities to provide access. Section 78 of the bill would require State compliance with subdivision ordinances.

To reduce the cost of compliance to the State, SB 375 would allow for "joint disposals". Section 76 clarifies that when the State contracts with a municipality to conduct an auction of state lands, the municipality may retain from auction proceeds capital and other expenses. Both the Fairbanks North Star Borough and the Municipality of Anchorage have expressed interest in such "joint disposals", whereby the municipality would construct roads on state land and recoup its costs through auction proceeds.

In addition, Section 9 establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of State land. Though not intended to fully fund the State's disposal program, this would provide some assurance that sale proceeds would be applied to the direct costs of the state's disposal program.

SB 375 also

1) amends the State's surface leasing procedure by authorizing the Department of Natural Resources to negotiate leases for tide and submerged lands with upland owners without competitive bidding.

2) expedites the State's land exchange procedure by streamlining notice requirements for exchanges involving less than 640 acres of state land or valued at less than $100,000.

3) provides a mechanism for correcting defects in the state's title to land by authorizing the Commissioner to quitclaim land back to the federal government upon a determination that the land was erroneously conveyed. This will allow for expedited settlement of many outstanding Native allotment claims.

SB 222, An Act relating to the organization of DNR, substituting references in the Alaska statutes to the Department and the Commissioner for references to the Division of Lands and the Director of the Division of Lands.

SB 222 was prepared by the revisor of statutes in our Legislative Legal Division. The bill reflects changes in drafting style (the use of "Commissioner" rather than "Director", "Department" rather than "Division", "land" rather than "lands") and deletes obsolete references to "University lands" and repealed statutes. Before approval by the Senate Resources Committee, SB 222 was reviewed by our Legal Division to ensure that the technical changes it proposes to Title 38 are consistent with the changes proposed in SB 375. Passage of SB 222 will facilitate work currently being done in preparation for the replacement of the Title 38 pamphlet later this year.

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

January 25, 1984

SUMMARY OF MAJOR PROVISIONS OF SB 375

Superseded

Access

EXISTING LAW	SB 375
AS 38.04.055 requires reservation of easements and rights-of-way across private land to reach public water and public and private land.	Would allow for retention of land in state ownership across or adjacent to private land.
AS 38.04.050 requires that wherever state land is surveyed for private use, adequate rights-of-way and easements be reserved to each parcel. Further, the director is required to arrange for the development of surface access "where necessary and appropriate."	Would specify that legal and feasible access be provided within subdivisions, and that surface access must meet local ordinances for subdivisions.
AS 29.33.150 exempts the state from compliance with local subdivision ordinances which require capital improvements.	This exemption would be removed.

Costs

EXISTING LAW	SB 375
Funds for implementation of land disposal programs and for grants to municipalities are provided through annual legislative appropriation, based on a request pursuant to AS 38.04.020(e).	Proposed AS 38.04.022 establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of state land.
AS 38.05.310(a) limits the length of time an appraisal is valid to 120 days.	Extends the length of time an appraisal is valid to one year.

Land Exchanges

EXISTING LAW	SB 375
AS 38.05.120(a) gives the commissioner discretion in holding public hearings on proposed land exchanges.	At least one public hearing would be required for exchanges involving more than 640 acres or having an appraised value of $100,000 or more.
AS 38.05.110 establishes notice procedures (in addition to those required under AS 38.05.345) for land exchanges: provide notice to legislators, municipalities and Native Corporations in the area of the proposed exchange, the Governor's Office, and all state departments.	Notice requirements for land exchanges involving less than 640 acres or appraised at less than $100,000 would be only as required under AS 38.05.345 (electronic media, newspaper, posting, personal contact).

Notice

EXISTING LAW	SB 375
Under AS 38.05.345, public notice for classification, sale, lease, or disposal of state lands must be provided by one of the following methods: newspaper, electronic media, posting, or personal contact.	More than one notice method would be required.
AS 38.05.345(d) exempts negotiated sales from notice requirements.	Notice must be provided on negotiated sales.

See also "Land Exchanges."

Preference Rights

EXISTING LAW	SB 375
AS 38.05.035(b) allows for granting of preference rights to correct errors or ommissions of a state of federal agency.	Would limit the right to apply for a preference to 3 years from the time of error.
AS 38.05.069(a) grants owners or lessees of agricultural land a first option to purchase or lease unoccupied adjacent land and establishes a procedure for determining priority if more than one applicant is eligible for the option. This option must be exercised within 60 days after the auction.	Options must be exercised at the time of the auction. A single recipient would be selected by the drawing of lots.

Program Features

EXISTING LAW	SB 375
AS 38.04.020(h) establishes subdivision parcel size at five acres unless topographical features or water and sewage considerations suggest otherwise.	Would allow for consideration of resource values and land uses in determining parcel size.
AS 38.04.020(g)(2) requires that 20% of subdivision parcels be disposed of as homesites.	The number of subdivision parcels disposed of as homesites would be left to the discretion of the commissioner.
AS 38.04.035(4) limits issuance of remote cabin permits to areas where survey and conveyance is impractical.	Permits could also be issued in areas where resource and use conflicts, or a long-range interest in public ownership, exist.
Under AS 38.08.060, the following conditions must be met before a homesite patent can be obtained: Occupancy for 35 months within seven years, erection of a dwelling within five years, payment to the state for survey and platting.	Patent could be obtained at the time of expiration of the entry permit through purchase at fair market value if all but the occupancy requirements have been met.
Under AS 38.09, the following conditions must be met before a homestead patent can be obtained: Occupancy for 25 months within five years, survey within two years, erction of a dwelling within three years.	AS 38.09.090. would allow the purchase of a homestead parcel at fair market value within 5 years of issuance of the entry permit if all but the occupancy requirements have been met.
Under AS 38.45.080(a), a trapping cabin permit must be issued if the applicant meets certain conditions.	The commissioner would have discretion in issuance of trapping cabin permits.

Price of Land

EXISTING LAW	SB 375
AS 38.04.035 requires that, unless otherwise provided, lands be sold at fair market value.	AS 38.05.055 would allow bidding at auctions to begin at 85% of the appraised value of the land.

Survey

EXISTING LAW	SB 375
AS 38.04.045(b) requires that all land disposed of must be within two miles of a survey monument. AS 38.09.010(b) requires that land made available for homestead entry be within one mile of a survey monument.	Eliminates the requirement that land made available for homestead entry be within one mile of a survey monument.

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
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(907) 465-3834
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Senate

Committee on Resources

March 14, 1984

Senator John Sackett
Room 520, Capitol
Juneau, Alaska 99811

Dear John:

On Friday, March 9 the Senate Resources Committee approved SB 375, An Act relating to land disposal and management.

Over the last several months the Senate Resources Committee has undertaken a comprehensive review of Title 38, the State's land statutes. Focused on problems identified by nearly 80 user groups and concerned individuals, the review resulted in several recommendations that will clarify and revise land management procedures and allow for more efficient implementation of the State's land disposal program.

Also on March 9, the Committee approved SB 222, which makes additional amendments to Title 38. Entitled An Act relating to the organization of DNR, substituting references in the Alaska statutes to the Department and the Commissioner for references to the Division of Lands and the Director of the Division of Lands. This bill was prepared by the revisor of statutes. Before approval by the Senate Resources Committee, SB 222 was reviewed by the Legislative Legal Division, who ensured that the technical changes it proposes to Title 38 are consistent with the changes proposed in SB 375.

I would appreciate your scheduling a hearing on both SB 375 and SB 222. I have attached information on the bills and will be happy to discuss them with you at your convenience.

Sincerely,

Bettye Fahrenkamp
Chairman

BF:sm
Enclosures

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
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JUNEAU, ALASKA 99811
(907) 465-3834
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Senate

Committee on Resources

MINUTES

March 9, 1984
3:08 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice Chair
Senator Eliason
Senator Vic Fischer
Senator Mulcahy

CALENDAR

SB 375, An Act relating to land disposal and management.

SB 222, An Act relating to the organization of DNR, substituting references in the Alaska statutes to the Department and the Commissioner for the references to the Division of Lands and the Director of the Division of Lands.

SJR 32, Proposing an amendment to the Constitution of the State of Alaska creating a fund to finance the construction of capital projects and to provide equity for power cost assistance.

SB 423, An Act relating to the Alaska Power Authority.

SB 522, An Act specifying how revenues dedicated to the major projects fund shall be expended; and providing for an effective date.

SB 523, An Act making appropriations from the Major Projects Fund; and providing for an effective date.

Mike Scott, Aide to Senator Ferguson, explained how the power cost assistance provision in the resolution would provide rural Alaska with some benefits of the energy program and thereby gain equity statewide.

Gordon Harrison, Office of Management and Budget, submitted a proposed Committee Substitute to SJR 32. He suggested that funds be dedicated for a limited number of years and that the power cost assistance language be clarified. He expressed concern that with Constitutional authorization of the Susitna project, there would be no avenue of retreat.

The meeting adjourned at 4:37 pm.

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
(907) 586-6526

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

To: Senate Resources Committee

From: Scott A. Burgess, Executive Director

Date: February 20, 1984

Re: SB 375 - Land Disposal and Management

The League urges passage of legislation which requires the State of Alaska to comply with all local subdivision ordinances and regulations in connection with state land disposal programs. The state should meet the same local requirements imposed on private citizens.

SB 375 not only removes the state exemption from compliance with local subdivision ordinances, but also clarifies Title 38 to promote sound land disposal and management practices. The League supports the bill in general as written and offers the following comments:

1. Resource Values and Uses: The League supports the language in Sections 1 and 2 specifically as they relate to recreational and hunting resource values. The League requests the State of Alaska to hold hearings in the community impacted areas in determining recreational or hunting values of individual properties before offering them for disposal.

2. Compliance with Municipal Planning: Removing the exemption of the state to comply with local subdivision ordinances is one of the League's highest priorities; therefore, the League supports the provisions of Sections 5, 11, 60, and 62. The League also supports requiring state land disposals to recognize local planning efforts, such as comprehensive plans and coastal management plans, including existing or planned municipally approved trails, by means of right-of-way dedication. The League believes this is the intent of the land disposal program and SB 375; however, the intent could be clarified in Section 1 (AS 38.04.005(b)) and, specifically, in Section 7 (AS 38.04.020(h)) by substituting "land use" for "zoning" on line 21, page 4.

Revenue for Improvements: The League supports the documentation of demand and costs of disposal and improvement contained in Sections 4 and 5, and the funding in Section 8. Recognizing the pressure on both the state and municipal governments to dispose of land, the League supports a cooperative effort by the state and municipalities to dispose of land in a continuous and orderly manner. The League also supports state funding to provide planning grants, funds for necessary access roads, survey costs for land scheduled for disposal, and state, borough, and city subdivision roads, sewers, and utilities to meet local subdivision improvement ordinances.

A point of clarification in Section 11 (AS 38.04.050), page 6, lines 24-26. how is "... borne by the recipient of the land..." to be interpreted with the amendments? The League favors, and presumes, that required improvements would be made prior to disposal and the cost of those improvements would be reflected in the selling price of the land, whether by auction, bid, etc.

Note
cost borne in price of land

Legal, Adequate, and Feasible Access: The League supports the clarification of access recognizing "legal" access may not, in actuality, provide feasible or buildable access. Requiring surveying and construction of roads also addresses the current problem.

The League also supports preserving needed specific rights-of-way and easements which provide for present and future public access (Section 12). The League has one concern with the language in Section 12. "Roads" should not be confused with "trails" in terms of access. The state has been criss-crossed with trails for access. As the state is developed, roads are needed but trail systems are being recognized and preserved by many communities as a recreational resource. The designation and improvement of historical trails for use by cars and trucks is often incompatible with the recreational activity. Therefore, additional land may have to be preserved to provide rights-of-way to "maintain present and future public use and access to public land and water and to reach adjacent private land" (page 7, lines 2-4) separate from a municipally approved trail.

watch trails

Again, the League supports SB 375 and hopes these comments are helpful. We appreciate the opportunity to testify.

2-24-84

CHAIRMAN
SENATE TRANSPORTATION COMMITTEE
SENATE SPECIAL AGRICULTURE COMMITTEE

MEMBER
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE
LEGISLATIVE COUNCIL
REAA BUDGET OVERSIGHT COMMITTEE

Alaska State Legislature

State Senate

SENATOR
H. PAPPY MOSS
P.O. BOX 182
DELTA JUNCTION, ALASKA 99737
(907) 895-4384

JUNEAU OFFICE:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4921

SENATE SPECIAL COMMITTEE ON AGRICULTURE

***

M E M O R A N D U M — February 24, 1984

RE: Senate Bill 375

TO: Senator Bettye Fahrenkamp, Chair
Senate Resources Committee

FROM: Senator H. Pappy Moss, Chair
Senate Special Committee on Agriculture

The farmers in the Delta II project are in trouble. It is true that many are deeply in debt to the state and are faced with the immediate problem of not being able to make their land payments to the state. This is not a new problem, or one that happened with no warning at all.

The Delta II land was sold in about 15 parcels by public auction in March 1982. Many farmers, and the Agricultural Action Council, agree that some of the information on which the purchasers based their bids, has not been accurate. Many of the predictions for state support of the agricultural projects, from the building of access roads to the availability of a marketing infrastructure, have not come to pass in the timely manner described in the sale brochures.

The farmers have already received time extensions on their deferred payments. Land payments were originally first due in March of 1983, and a short extension was given until December 1983. In December 1983 an extension was given, the deadline of which is the end of this month.

The Alaska Agriculture Action Council considers some of the problem to be that the Division of Land Management had set relatively high prices for the minimum bids on the land and then saw the bidding go much higher. Another problem is the relatively high number of buyers involved that really didn't have a strong agricultural background. One of the positive aspects of this sale is that it did provide an opportunity for beginning farmers in the State of Alaska. These people are helping to build a new

industry in the state, but they're starting from scratch and without a whole lot of experience. It has taken more time and more money for them to get into production than either they or the AAAC anticipated.

The state encouraged the Delta II farmers to come into the project and invest time and work in their land based on state supporting systems, which so far, have not provided the support in the manner originally intended. The farmers, when acquiring their land at this auction, were required to submit a five year plan for the development of their agricultural business. The farmers want the same from the state...some kind of long range plan so that the farmers can understand what governmental framework they are dealing with.

There are successful Delta II farmers. There are Delta II farmers that are not in debt. There are even a few Delta farmers who are actually making a little money. But even these, the successful farmers, are having difficulty making the land payments. Farmers who successfully cleared, planted, and harvested, are sitting on their grain for lack of a market. And for lack of a market, they are unable to come up with the funds to make their land payments.

It is these farmers that the state must continue to support. The attached proposed amendment provides for a schedule under which farmers may earn production credits to reduce the remainder of the purchase price of their land. This system of credit reduces the cost of the land to the farmer, the producing farmer. Under this system the state will benefit by trading some reduced land payments for an increased agricultural production, a healthy business investment.

In addition to the production credits to provide a long range solution to the farmers' crisis, steps must be taken to solve their immediate crisis. A four year deferral of payments on the principal and interest of the purchase price of the land is provided for in subsection (g) of this amendment. Under this subsection, the purchaser would be able to pay those deferred payments of the first four years over the remaining 16 years of the original land sale contract. This amendment is supported by the Director of the Division of Agriculture and the Executive Director of the Alaska Agricultural Action Council.

This amendment is not offered to assist poor businesspeople in the area of farming to continue where they have failed. This amendment is offered to support the successful, producing farmer who is contribuiting to agricultural development in the state of Alaska.

SENATE SPECIAL COMMITTEE ON AGRICULTURE
Senator H. Pappy Moss, Chairman

EMERGENCY FARM ACT OF 1984 February 24, 1984

Offered in the SENATE

A M E N D M E N T

To SB 375:

Page 12, after line 12, insert the following new sub-sections to read:

(e) A purchaser who has entered into a contract of sale with the State for land sold at public auction before January 1, 1984 under AS 38.05.055 may apply for and receive reductions in the remainder of the purchase price due in accordance with the following schedule:

(1) a five percent reduction in the remainder of the purchase price for each year in which more than 40 but less than 60 percent of the land owner's tillable acres are in production and in which the number of acres in production is less than 800; or

(2) a 10 percent reduction in the remainder of the purchase price for each year in which 800 acres or more, or 60 percent of the landowner's tillable acres, whichever is less, are in production.

(f) A reduction in the remainder of the purchase price under (e) of this section may not be granted unless the required acreage is brought under production in accordance with crop and harvest regulations adopted by the Department of Natural Resources.

(g) A purchaser who has entered into a contract of sale with the state under (a) of this section may be granted a deferral of four years from the date of sale on the payment of principal and interest on the purchase price upon application to the Department of Natural Resources. A deferral may not be granted unless the purchaser has maintained his clearing and planting schedule as outlined in the terms of the Farm Development Plan as defined in the contract of sale. A purchaser who qualifies for a deferral will pay those four years' payments in monthly, quarterly or annual installments over the remaining 16 years of the 20 year period of the original contract with the state as in (a) of this section.

University of Alaska
Statewide Office of Land Management
3354 College Road
Fairbanks, Alaska 99701
474-7421

can reinsert these? put in SB 222

February 9, 1984

Senator Bettye Fahrenkamp
Chairman, Committee on Resources
Alaska State Senate
Pouch V
Juneau, Alaska 99801

Dear Bettye:

Thank you for your letter of December 27, 1983 and the opportunity to comment on the proposed bill and the changes it makes to title 38 of the Alaska Statutes.

In our original comments, sent to you on Sept. 23, 1983, we listed specific proposed changes to the statutes which we felt were required due to the passage of the University's lands bill. We explained that those requested changes would be augmented by others following a more complete review of title 38 by our attorney. That review is now complete. Accordingly, we are enclosing a complete version of our "Proposed Changes to Statutes Concerning University Lands". Many of these changes do not appear in your working draft of the bill and would have to be added. Thank you for the opportunity to comment.

Sincerely,

Merry

Merry Tuten
Director

MT/ST/dc
Enclosure
cc: Mark Neumayr

JAN 13 1984

January 30, 1984

PROPOSED CHANGES TO STATUTES
CONCERNING UNIVERSITY LANDS

What follows is the final list of the statutes which should be amended to reflect recent legislation (CSSB 41) removing University-grant land from public domain land. In most cases, actual wording changes, additions and deletions have been suggested for the relevant statute.

Note: words to be deleted are capitalized and enclosed in parentheses; words to be added are underlined.

1. AS 29.18.206(a) (b) (d) and (e) is amended as follows:

School (,UNIVERSITY,) and mental health land, (a) If an entitlement determined as AS 29.18.201 or 29.18.202 results in a per capita entitlement for the municipality of less than one and one-half acre, the municipality may select vacant school (,UNIVERSITY,) or mental health land within the municipality in partial fulfillment of its land entitlement under this chapter. School (,UNIVERSITY,) or mental health land may be selected notwithstanding the fact that these lands are not unappropriated and unreserved within the meaning of this chapter and AS 29.18.190 and 29.18.200, repealed by this act, but each selection of school (,UNIVERSITY,) or mental health land by a municipality must be vacant, unappropriated, or unreserved land as defined in this chapter, except that it need not be general grant land.

(b) The acreage of school (,UNIVERSITY,) or mental health land, if any, within a municipality may not be included in the determination of entitlement under AS 29.18.201 or 29.18.202.

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

(e) The notice and review provisions of AS 38.05.305 and 38.05.345 are applicable to the designation of other general grant land as school (,UNIVERSITY,) or mental health land in replacement of land selected under this section. The provisions of AS 38.50.010 - 38.50.170 and 38.05.032 do not apply to such designations under this section. The provisions of AS 38.05.030(a), 38.05.030(e), and 38.05.035(a) (13) which require the approval of the respective trust board before disposal of lands by the director do not apply to selections of school (,UNIVERSITY,) or mental health land by a municipality under this section.

AS 29.18.206 is further amended by adding a new section to read as follows:

IN OUT OF COURT SETTLEMENT. THIS IS INCORPORATED BY REFERENCE IN SB 40-41,

(f) Nothing in this act precludes or prejudices negotiations between the Municipality of Anchorage and the University of Alaska to settle case Number 3AN-79-2801 Civil, Third Judicial District, State of Alaska, or prejudices or otherwise affects the pursuit or outcome of that litigation or diminishes or affects the rights of the University of Alaska or the Municipality of Anchorage in that pending litigation.

2. AS 29.18.213(4) is amended as follows:

"General Grant Lands" means land patented or tentatively approved to the state from the United States under 6(a) or (b) of the Alaska Statehood Act except university-grant lands and replacement lands.

3. AS 29.18.213(11) is repealed; or

AS 29.18.213(11) is amended as follows:

"university lands" means all sections 33 reserved to the University under 38 Stat. 1214, as amended (48 U.S.C. 353), all lands reserved for or granted to the territory and State of Alaska for the benefit of the University by the Act of 1929 (45 Stat. 1091), as amended, and section 6(k) of the Alaska Statehood Act (72 Stat. 339), as amended, which retain such designation, and all other lands owned in fee by the university, including state lands which have been transferred in fee to the university through its Board of Regents, as trustee, to replace former university lands which have been otherwise managed or disposed of. (AND ALL LANDS GRANTED TO OR RESERVED FOR THE BENEFIT OF THE UNIVERSITY);

DONE IN SB 375

4. AS 38.04.040 is repealed.

5. AS 38.04.020(b) is amended by adding a new paragraph to read:

Land disposal bank does not include

(5) University-grant land or replacement land.

DONE IN SB 375

6. AS 38.05.030(a) is repealed.

DONE IN SB 375

7. AS 38.05.030(c) is amended as follows:

(c) In addition to the requirements specified in AS 38.50.090, the agencies referred to in ((A) AND) (b) of this section and other state agencies with authority to acquire or dispose of land shall give written notification of the fact of acquisition, lease or exchange to the Division of Lands within three months after the date that they make the acquisition, lease or exchange.

8. AS 38.05.030(d) is amended as follows:

DONE IN SB 375

(d) Real property acquired by, and under the management of, the agencies referred to in ((A) AND) (b) of this section, which is no longer needed for its intended use, shall be returned to the jurisdiction of the Division of Lands, except that the Department of Highways may dispose of real property acquired by it under AS 19.05.040(2) and AS 19.05.080 - 19.05.120.

9. AS 38.05.030 is amended by adding a new paragraph to read:

should be included if you do this you don't need to do #10

(f) University-grant lands and replacement lands are not considered public lands and are not subject to the provisions of this chapter.

10. AS 38.05.035(a) (7) is amended to read:

Powers & duties of director:

Have jurisdiction over state lands, except university-grant lands and replacement lands, lands acquired by the Alaska World War II Veterans Board and the Agriculture Loan Board or the departments or agencies succeeding to their respective functions through foreclosure or default; to this end the director possesses the powers and, with the approval of the commissioner, shall perform the duties necessary to protect the state's rights and interest in state lands, including the taking of all necessary action to protect and enforce the state's contractual or other property rights;

11. AS 38.05.070 (c) uses the term "school lands". However, this term is no longer defined in the definitions section (AS 38.05.365). In order to avoid any confusion between "school lands" and University owned lands, either of the two following changes should be made:

a. Remove AS 38.05.070 (c) from the statutes; or

b. Amend AS 38.05.365 by adding a new section to read as follows:

(14) "school lands" means those rectangular sections 16 and 36 within each township surveyed on or before January 3, 1959, and transferred to the state of Alaska upon its admission under 6 (k), Alaska Statehood Act, 72 Stat. 339, and any other lands designated solely for school revenues;

what is the impact - are there any reservations

12. AS 38.05.125 is amended by adding a new paragraph to read:

UNIV. RECEIVED MINERAL RIGHTS, BUT UNIV. MUST RESERVE IF THEY LEASE OUT THE LAND.

Reservation of mineral rights:

(a) Conveyance of title to university-grant lands and replacement lands to the University Board of Regents is not subject to the reservations of this section.

13. AS 38.05.315(d) is amended as follows:

(d) The director may lease the land to an eligible applicant at a reasonable annual rental, taking into consideration the purposes for which

the land is to be used and the financial resources of the applicant. The rental may not be less than one percent of the fair market value on lands acquired primarily for development, or less than five percent of the fair market value on (UNIVERSITY OR) acquired lands.

14. AS 38.05.365(16) is amended as follows:

(16) "state lands" or "lands" means all lands, including shore, tide and submerged lands, or resources belonging to or acquired by the state (.), except university-grant lands.

Amend w/9-

15. AS 38.05.365(20) is repealed; or

AS 38.05.365(20) is amended as follows:

(20) "university lands" means all sections 33 reserved to the University under 38 Stat. 1214, as amended (48 U.S.C. 353), all lands reserved for or granted to the Territory and State of Alaska for the benefit of the University by the Act of 1929 (45 Stat. 1091), as amended, and section 6(k) of the Alaska Statehood Act (72 Stat. 339), as amended, which retain such designation, and all other lands owned in fee by the university, including state lands which have been transferred in fee to the university through its Board of Regents, as trustee, to replace former university lands which have been otherwise managed or disposed of. (AND ALL LANDS GRANTED TO OR RESERVED FOR THE BENEFIT OF THE UNIVERSITY);

16. AS 38.07.030 (c) is amended as follows:

(c) The cost of clearing land leased from the state, including but not limited to school, (University) and mental health land, shall be borne by the state. The lessee shall repay the cost over a 10 year period at five per cent interest.

17. AS 38.50.040 is amended as follows:

Except as otherwise provided in AS 38.50.010 - 38.50.170 the director is authorized to convey for purposes of exchange any state land or interest in land regardless of the authority under which the land or interest was obtained by the state. (THE CONVEYANCE OF UNIVERSITY LAND SHALL BE APPROVED IN THE MANNER PRESCRIBED IN AS 38.05.030 (1 CH 240 SLA 1976; AM 13 CH 181 SLA 1978; AM 17 CH 182 SLA 1978))

18. AS 38.50.090 (b) is amended as follows:

The director shall be afforded an opportunity for review and comment on any land exchange proposed by a state agency other than the Department of Natural Resources and the University of Alaska.

Note: The Legislature has given the University management authority over its lands. Therefore, there should no longer be a requirement that land exchanges contemplated between the University and other private entities or municipalities be reviewed by the director.

19. AS 38.95.160 uses the term "state lands". However, the term "state lands" is not defined for the purposes of this section. In order to avoid any confusion with university lands, this term should be defined either by:

a. Amending AS 38.05.365 as follows:

AS 38.05.365 Definitions. In AS 38.05.005 - 38.95.160 unless the context otherwise requires,.....

b. Or by including a separate definitions statute which applies to this specific section and which defines "state lands" in the same manner as in AS 38.05.365.

ADDITIONAL COMMENTS

1. The working draft of the bill to correct title 38 fails to incorporate several of the changes suggested in our document entitled "Proposed Changes to Statutes Concerning University Lands" contained in our letter to you of September 23, 1983 and appearing in complete form above. These changes are necessary due to the change in status of the University's lands from State to University ownership:

a. Change #1, concerning the Municipal Entitlements Act was not made. Although you note in your comments on the proposed changes that other legislation is being submitted concerning this statute, we still believe that the inapplicable reference to the University should be removed as part of your overall "clean-up" of the statutes. It is not likely that the other legislation of which you speak will concern itself with this change but rather will seek to make more substantive changes to this statute. In addition, if the other legislation fails we will still be left with inapplicable references to the University in this statute.

b. Change #11 (change #13 above) concerning leasing at less than fair market value, was not made. This change is in keeping with the objective of removing inapplicable references to the University where they appear in title 38.

2. In many instances title 38 refers to "state agencies". It would be helpful if the definitions portion of the statutes contained an entry which would define the term "state agency". This is especially necessary in the case of the University which has been defined both as a state agency and not as a state agency at different times and for different purposes.

DNR treats under .315 as state agency.

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
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Senate

Committee on Resources

MINUTES

February 27, 1984
3:05 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

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

CALENDAR

SB 335, An Act amending the Alaska Grain Reserve Program; and providing for an effective date.

SB 337, An Act relating to the Delta Junction bison range; and providing for an effective date.

SB 338, An Act making special appropriations for the development of the Delta Junction bison range and construction of a bison herd drift barrier; and providing for an effective date.

SB 375, An Act relating to land disposal and management; and providing for an effective date.

SB 337

Senator Bettye Fahrenkamp explained that the Committee Substitute addressed the location of the drift barrier and clarified that the bison permit fee had been increased to $10.00.

Senator Mulcahy moved SB 337 from Committee with individual recommendations. There was no objection.

SB 335

Senator Fahrenkamp explained that a Committee Substitute replacing "non-graded" with "non-standardized" had been prepared to clarify that inferior quality grain will not be accepted.

Senator Sturgulewski moved to adopt the Committee Substitute and move it from committee with individual recomendations. There was no objection.

SB 338

Senator Ziegler moved the bill from committee with individual reccomendations. There was no objection.

SB 375

Senator Eliason discussed his proposed amendment (#1) that would allow the state to quitclaim title to lands back to the federal government to settle certain land claims.

Ned Farquhar, Special Assistant to the Commissioner, Department of Natural Resources, suggested additional language that would allow the Commissioner to quitclaim lands classified as agricultural.

Senator Eliason moved amendment #1. There was no objection.

Senator Fahrenkamp discussed amendment #2, which would allow eligible veterans a 25% discount on the purchase price of state land.

Farquhar, and Meg Hayes, Southcentral District, Division of Land and Water Management, Department of Natural Resources, answered questions on the current veterans' preference program and the impact of the proposed amendment.

Senator Eliason moved to adopt the amendment. There was no objection.

Senator Fahrenkamp discussed amendment #3, which would postpone land disposals until area plans have been approved.

Farquhar, and Hayes, testified that the Department supports the concept of planning prior to disposals. However, a statutory moratorium on disposals could seriously disrupt the program.

Senator Fahrenkamp discussed amendment #4, which would repeal the demand assesment statute, AS 38.04.020(f).

Farquhar, testified that the Department uses its area planning program to identify available lands and relies on the market as an indicator of demand. He recommended this section be dropped because of its high administrative and fiscal costs.

Senator Sturgulewski moved to repeal AS 38.04.020(f) and amend to read " The request of the commissioner under (e) of this section shall include an analysis and determination that there is a market demand for the land proposed for disposal. There was no objection.

Senator Fahrenkamp discussed amendment #5, which would require consideration of the useful life of a project in determining the term of a lease.

Farquhar supported the amendment.

Richard Harris and Bob Loescher, Sealaska Corporation, supported the amendment.

Senator Sturgulewski moved the amendment. There was no objection.

Senator Ziegler moved amendment #6, which would change the term and value of a negotiated lease. There was no objection.

Farquhar testified in support of amendment #7, which would amend the surface leasing procedure to allow survey costs to be credited to the lessee.

Senator Eliason moved the amendment. There was no objection.

Senator Eliason moved amendment #8, which would authorize the Commissioner to require prequalification of bidders for surface leases. There was no objection.

Farquhar supported amendment #9, which would amend leasing procedures for tidelands leases.

Senator Mulcahy moved the amendment. There was no objection.

Senator Ziegler moved amendment #10, which would allow the Department to convey remnants of land to an adjoining landowner. There was no objection.

Jay Nelson, Executive Director, Alaska Environmental Lobby, testified in support of amendment #11, which would create citizens advisory boards to offer advice to DNR prior to formal public hearings on land disposals.

Farquhar testified that there are ample opportunities for public involvement in the land offering process.

Senator Sturgulewski moved amendment #12, which would allow for joint disposals. There was no objection.

Farquhar testified in support of amendment #13, which would clarify the appeal process for contract violations.

Senator Sturgulewski moved amendment #13. There was no objection.

The meeting adjourned at 4:18 pm.

Alaska State Legislature

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

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

Senate

Committee on Resources

MINUTES

March 9, 1984
3:08 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice Chair
Senator Eliason
Senator Vic Fischer
Senator Mulcahy

CALENDAR

SB 375, An Act relating to land disposal and management.

SB 222, An Act relating to the organization of DNR, substituting references in the Alaska statutes to the Department and the Commissioner for the references to the Division of Lands and the Director of the Division of Lands.

SJR 32, Proposing an amendment to the Constitution of the State of Alaska creating a fund to finance the construction of capital projects and to provide equity for power cost assistance.

SB 423, An Act relating to the Alaska Power Authority.

SB 522, An Act specifying how revenues dedicated to the major projects fund shall be expended; and providing for an effective date.

SB 523, An Act making appropriations from the Major Projects Fund; and providing for an effective date.

SB 222

Sandra Schubert, Aide to Senator Fahrenkamp, explained that SB 222, which was prepared by the Revisor of Statutes, reflects changes in drafting style. The second Committee Substitute includes changes made to conform with the passage of SB 41, which awarded the University of Alaska ownership and management of certain state lands, and the changes proposed in SB 375, the lands bill.

Senator Mulcahy moved to adopt the second CS SB 222, and move it from committee with individual recommendations. There was no objection.

SB 375

Senator Eliason proposed an amendment to SB 375 that would change the effective date on the quitclaim section of the bill. He moved to adopt the amendment. There was no objection.

Senator Mulcahy moved CS SB 375 from committee with individual recommendations. There was no objection.

SJR 32
SB 423
SB 522
SB 523

Senator Gilman proposed that SJR 32 contain a provision for construction of the Bradley Lake hydroelectric project.

Dave Hutchens, Alaska Rural Electric Cooperative Association, proposed authorizing and funding the Bradley Lake project, and addressed problems associated with a delayed effective date on the repeal of the Susitna "blackmail" clause.

George Matz, Special Assistant, Department of Commerce and Economic Development, presented testimony on the status of negotiations with the four dam pool communities on signing power sales agreements.
Sterling Gallagher, John Nureen and Company, reviewed the problems associated with "roll-over" of APA's short term debt, citing pending Congressional legislation, higher future interest rates, and the assurances bonders would need to be willing to roll the debt.

Senator Halford urged that the language to be inserted in the Constitution be simplified.

Mike Scott, Aide to Senator Ferguson, explained how the power cost assistance provision in the resolution would provide rural Alaska with some benefits of the energy program and thereby gain equity statewide.

Gordon Harrison, Office of Management and Budget, submitted a proposed Committee Substitute to SJR 32. He suggested that funds be dedicated for a limited number of years and that the power cost assistance language be clarified. He expressed concern that with Constitutional authorization of the Susitna project, there would be no avenue of retreat.

The meeting adjourned at 4:37 pm.

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

February 20, 1984
3:12 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice Chair
Senator Eliason
Senator Mulcahy

CALENDAR

SB 371, An Act relating to mining; and providing for an effective date.

SB 375, An Act relating to land disposal and management; and providing for an effective date.

SB 371

Esther Wunnicke, Commissioner, Department of Natural Resources, testified in support of the proposed Committee Substitute, and proposed a delayed effective date for the section dealing with increased acreage for offshore prospecting permits.

R.V. Bailey, Aspen Exploration Corporation, spoke in support of the proposed Committee Substitute.

SB 375

Esther Wunnicke, Commissioner, Department of Natural Resources, testified that the Department strongly supports the bill and recommended that the legislature abolish the annual land demand assessment, allow the Commissioner to waive survey requirements for some homestead offerings, and recognize in statute the planning process the Department follows in offering lands. She supported an amendment proposed by Senator Eliason as SB 344, concerning quitclaiming title to land, and one proposed by Representative Shultz as HB 542, concerning refuse sites.

Jay Nelson, Executive Director, Alaska Environmental Lobby, spoke in support of the bill and discussed several proposed amendments. He recommended encouraging more public involvement in the land disposal program by using common terms in public notices and setting up citizens' advisory boards. He also suggested the implementation of a remote cabin system similar to the one operated by the U.S. Forest Service.

Robert W. Loescher, Vice President, Resource Management, Sealaska Corporation, proposed amendments dealing with tidelands leasing procedures, and the State's land exchange and condemnation procedures.

Dennis Harms, Alaska Master Guide, spoke in support of amendments that would increase the term of negotiated leases from 5 to 20 years.

Kelly Vrem, Alaska Professional Hunters Association, concurred with the testimony of Dennis Harms.

Richard Rainery, Rural Research Agency, spoke in support of Senator Ferguson's amendments to SB 375. These amendments would establish that traditional land uses constitute substantial economic uses, the preservation of which should be considered to be in the public interest.

Scott Burgess, Executive Director, Alaska Municipal League, testified in support of the bill, and specifically those sections that require the State to comply with local subdivision ordinances and regulations governing land disposal.

John Clark, Director, Habitat Division, Alaska Department of Fish and Game, testified in support of SB 375, and recommended that the remote cabin permit program be modified to meet specific needs.

Senator Eliason testified in support of his amendment that would allow the state to quitclaim title to lands back to the federal government.

Esther Wunnicke, Commissioner, Department of Natural Resources, spoke in support of Senator Eliason's amendments.

Dennis Harms, Alaska Master Guide, testified in support of Representative Hurlbert's amendment relating to preference rights.

The meeting adjourned at 4:32 pm.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

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

OFFICE OF THE COMMISSIONER

March 7, 1984

The Honorable Bettye Fahrenkamp
Alaska State Senate
Pouch V
Juneau, Alaska 99801

Dear Senator Fahrenkamp:

I am attaching the Department's fiscal note for CSSB 375 (Resources), preparatory to your Committee hearing on the bill Friday, March 9.

The major costs on the fiscal note are associated with Sec. 28, which has been added during the hearings process in response to Sealaska Corporation's proposal. The Department is largely supportive of the changes to our surface leasing processes embodied in this amendment, and it is my hope that we will be able to respond effectively to the new timelines and procedures in the statute. Without additional funding to support each District Office of the Division of Land and Water Management (Anchorage, Fairbanks, and Juneau), I anticipate that the Commissioner will regularly use the proposed authority to grant time extensions in the prequalification process [38.05.075(e)]. Please note that this prequalification process does not affect just tidelands leasing, but all surface leasing under 38.05.075.

Other major costs are associated with two major items that have also been added to the bill during the hearings process. The new authority to quitclaim interests in land to the federal government will generate many new requests for Departmental land actions; in the House consideration of the same proposal, we have recommended a fiscal note equal to that now included in our note for CSSB 375. We also anticipate new costs in the contract foreclosure process in Sec. 22. The Department requested this new procedure and needs to be able to keep up with the workload in contract administration.

I appreciate very much your attention to Title 38. If I may be of assistance, please contact me.

Sincerely,

Esther C. Wunnicke

Esther C. Wunnicke
Commissioner

Attachment

10-J9LH

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: CSSB 375 (RES)
Title: An Act...land disposal and management
Sponsor: Fahrenkamp
Requestor: Senate Resources
Date of Request:

FISCAL DETAIL
Agency Affected: DNR
Program Category Affected: NRMEC
RU, Program or Subprogram(s) Affected: Management: Land and Water Management: Information/Records Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	208.2	208.2	208.2	208.2	208.2	208.2
200 TRAVEL	5.7	5.7	5.7	5.7	5.7	5.7
300 CONTRACTUAL	9.0	9.0	9.0	9.0	9.0	9.0
400 SUPPLIES	4.5	4.5	4.5	4.5	4.5	4.5
500 EQUIPMENT	1.5	1.5	1.5	1.5	1.5	1.5
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	228.9	228.9	228.9	228.9	228.9	228.9
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	228.9	228.9	228.9	228.9	228.9	228.9
FEDERAL FUNDS						
OTHER						
TOTAL	228.9	228.9	228.9	228.9	228.9	228.9

POSITIONS:

FULL-TIME	4	4	4	4	4	4
PART-TIME	1½	1½	1½	1½	1½	1½
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

General Fund

ANALYSIS: Attach a separate page for analysis

Prepared By: Ned Farquhar NF
Division: Commissioner's Office
Phone: 465-2400
Date: 7 March 1984

Approved by Commissioner: Esther C Wunnicke
Agency: Natural Resources
Date: 7 March 1984

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

DNR BACKUP ANALYSIS FOR
FISCAL NOTE ON CSSB 375 (Resources)

Sec. 2: This change requires increased travel and advertisement to encourage local participation.

Land and Water Management:

200	4.5
300	2.0
Total	6.5

Sec. 9: The fund for land disposal revenues will require some administration.

Management:

100	7.2 (¼ Document Processing Clerk III)

Sec. 12: The requirement to comply with local ordinances regarding access will be expensive but will be budgeted in future disposal projects.

Sec. 18: To respond to quitclaim requests, the Division of Technical Services will need new funding.

Information/Records Management:

100	46.2 (NRM I)
200	1.2
300	4.0
400	2.0
500	1.5
Total	54.9

Sec. 22: Mail, tracking, and programming costs for the Division of Land and Water Management and the Division of Management will increase.

Land and Water Management:

100	14.3 (½ Document Processing Clerk III)
400	1.0
Total	15.3

Management:

100	14.3 (½ NRT I)

Sec. 25: See note for Sec. 28.

Sec. 27: See note for Sec. 28.

Sec. 28: To meet the timeline in statute as a matter of course, the Department would be forced to add staff in each District office of the Division of Land and Water Management. We anticipate difficulty meeting the requirement in subparagraph (e)(2) in completing all procedures required by AS 38.05.035(e) (appraisals, surveys, hearings, preliminary decisions, and written findings).

Land and Water Management:

100	46.4	(SCDO NRM I)
	46.4	(NCDO NRO II)
	40.6	(SEDO NRO II)
	133.4	
300	3.0	
400	1.5	
Total	137.9	

Sec.78-79: The requirement for front-end funding for compliance with local platting and subdivision ordinances will [redacted]l primarily impact the Division of Technical Services and will be addressed in future budget submissions. The total annual impact for compliance with local ordinances on an annual basis is not easily estimated, but could reach tens of millions of dollars.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

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

OFFICE OF THE COMMISSIONER

April 4, 1984

The Honorable Bob Mulcahy
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Mulcahy:

Per your request I am providing a summary position statement from the Department of Natural Resources on CSSB 375 (Res) and CSSB 222 (2nd Res), which are now before the Senate Finance Committee.

The Department, as you are aware from your experience with these bills in the Senate Resources Committee during the past two years, has worked closely with the Legislature in the drafting of both bills. We have reviewed both bills and have asked the Attorney General's Office for its review, and have no amendments to put forward.

As I stated in my testimony before the Senate Resources Committee, I support the bills. SB 375 incorporates some desirable changes affecting the Department's land offerings and land management. With these changes, the Department will comply with local and borough ordinances, provide access and improvements for most nonremote disposals, plan for land offerings in a coordinated fashion at the region and sub-region level, and offer high-quality lands with some preserved amenity values. Our ability to accomplish important land exchanges will also be enhanced.

In making these changes, it is incumbent on the Legislature and the Administration to be sure that our land offerings program remains steady and reliable. As Commissioner, I have encouraged the policy changes that are embodied in the bill because I believe that the State should be balanced and fair in its disposals, especially in carrying its own costs. However, I am constantly aware that the disposal program has gone through radical changes in past years that have left many Alaskans dissatisfied. A major objective of my disposal policy implementation has been to encourage constructive change without disrupting the program. I look forward to cooperating with the Legislature in assuring Alaskans of a stable land disposal program for future years.

Thank you for your work on this bill. Please contact me or my staff if we may be of any assistance.

Sincerely,

Esther C. Wunnicke
Commissioner

cc: Senator Bettye Fahrenkamp

APR 6 1984

10-J8LH

Alaska State Legislature
HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES

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POUCH V
JUNEAU, ALASKA 9811
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MEMORANDUM

2nd DRAFT

To: House Members

From: Rep. John Ringstad

Date: May 23, 1984

Re: HCSCSSB 375 (2d Resources)

***** ***** ***** ***** ***** ***** ***** ***** ***** ***** ***** *****

This legislation is a combined effort by Senate Resources, House Resources, and DNR to streamline existing law with regard to the disposal and management of state land.

There are few major policy changes however, as indicated by the mass of the document there are numerous technical and clerical adjustments. An explanation of each of these changes can be found in the sectional analysis provided.

The major policy sections are Sec. 5 (which deletes the loophole that existed with regard to annual disposal cost estimates), Sec. 9 (establishing a revolving loan fund within the general fund to handle revenues from the sale of state land), Sec. 23 (dealing with title to agricultural lands), Sec. 42 (extending the term of state land appraisals from 120 days to one year), Sec. 69 (involving the legislature in major land exchange decisions), and Sec. 85 (requiring state compliance with local subdivision ordinances when disposing of land within municipalities).

The legislation before you has had extensive review by the public and individual interest groups over the last year under the schedule of Senate Resources hearings as indicated by the attached list. (see appendix page.) In addition the Senate and House Resources Committees had lengthy hearings on this legislation this session and, while I believe that there may still be improvements needed in the future, this legislation, along with HCSCSSB 222, substantially improves existing land disposal law.

rec 2-17-84

STATE OF ALASKA
THE LEGISLATURE

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LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M February 15, 1984

SUBJECT: Sealaska amendments (SB 375)

TO: Senator Bettye Fahrenkamp
Chairman, Senate Resources Committee

FROM: Richard A. Bradley
Legislative Counsel

You have requested my analysis and comments on a group of amendments to SB 375 (land disposal and management) proposed by the Sealaska Corporation.

Section 1 proposes a new section AS 38.04.058. It would permit a grantee, lessee, or interest holder of state land to "restrict the use of any easement or right-of-way reserved under AS 38.04.050 - 38.04.055 or other applicable law in order to protect public safety or property." The provisions cited are concerned with the direction to the director that when state land is surveyed before disposals to members of the public for private use, "adequate rights-of-way and easements" shall be reserved for public use.

The restriction on the easement or right-of-way would apparently occur "under terms agreed to by the director in writing".

It seems rather unusual to grant either a fee owner ("grantee") or someone who owns less than a fee interest ("lessee" or "interest holder of state land") the right to condition the use of what is stated to be a public "easement or right-of-way" on state land.

The reasons suggested for this right: "to protect public safety or (public?/ private?) property" seems unclear. I agree that the director (or DOT/PF) should retain and undoubtedly does retain the authority to close roads in the winter, or for other purposes. Other state officers may have similar powers in their areas of concern.

As drafted, it is not clear whether the director's participation is limited to approval of the framework under which the closure would occur or whether the closure would be directed by the director after consultation with the grantee, etc. To the extent that it suggests that private parties may close public easements and public rights-of-ways that extend over state property, I suggest that it states poor public policy. And perhaps more to the point, it reverses the strong policy stated in AS 38.04.050 - 38.04.055, a policy that derives, I may say, from the Settlement Act as to Native land. See Sec. 17(b) of the Settlement Act, Pub. L. 92-203.

I suggest that the problem be more specifically identified and that DNR or some other appropriate agency be given broad discretion to address the question.

And finally, I doubt that any easements will be reserved under AS 38.04. The better source for the authority of the director to reserve such easements is probably AS 38.05.035(a)(5) or similar law within AS 38.05.

Section 2 proposes an amendment to AS 38.04.065(a). As amended, the subsection would read:

> (a) The commissioner shall, in conformity with AS 44.62.010 - 44.62.300 [WITH LOCAL GOVERNMENTAL AND PUBLIC INVOLVEMENT IN ACCORDANCE WITH AS 38.05.305], develop, maintain and, when appropriate, revise land use plans which provide, by regions or areas, for the use of the state- owned land.

I agree that the subsection is obsolete to the extent that AS 38.05.305 has been repealed. The repealed section had dealt with "notice and review" of proposed disposals of state land; the similar current section now dealing with that concept is AS 38.05.345.

Whether the benefits and burdens of the Administrative Procedure Act (AS 44.62) should be used to "develop, maintain, and . . . revise land use plans" for state-owned land is a question I leave to the committee-- but I would substitute AS 38.05.345 for the existing citation.

The "analysis" that accompanies the proposed amendments notes that land use plans come close to the concept of regulations as that term is defined in AS 44.62.640(a)(2). In

are land use plans regs.?

its review of a "Comprehensive Management Policy for Upper Cook Inlet (fisheries)", the Alaska Supreme Court concluded that the "management policy" was included within the definition of "regulation" at AS 44.62.640(a)(2) and, since it was not adopted under the Administrative Procedure Act, it was invalid.

The court noted that the definition of regulation in the APA is uniquely broad-- much broader than the similar definition in either of the laws from which the APA was derived. It concluded that the management

> "policy . . . make[s] specific management policies for Upper Cook Inlet salmon stocks, and have the effect of regulations or standards of general application for the management of those stocks. As such, they are regulations, and should have been adopted according to APA procedures." Kenai Peninsula Fisherman's Co-op. Ass'n. v. State, 628 P.2d 897, 906 (Alaska 1981).

The differences between the requirements of AS 38.05.345 and regulation adoption procedures of AS 44.62 seem not that significant; in view of the Kenai Peninsula case, the legislative options that I recommend include a recognition that land management plans are subject to the APA-- or the legislature may wish to narrow the breadth of the definition of regulations in AS 44.62.640. The latter option could be accomplished broadly by amending AS 44.62.640 or by a specific amendment, say to AS 38.04.065, providing that land use plans need not be adopted under the APA notwithstanding the definition of regulations at AS 44.62.640.

Section 3 proposes an amendment to AS 38.05.070(c). As amended, it provides:

> (c) A lease may be issued for a period up to 99 [55] years, if it appears to be in the best interests of the state and if the commissioner approves. The term of the lease shall not be less than the projected useful life of any improvements proposed and approved under the pre-qualification process of AS 38.05.075. If the commissioner determines that the land or a part of it which is the subject of a grazing lease is not being used for the purpose issued, the lease may be declared void. [HOWEVER, A NONRENEWABLE LEASE FOR SCHOOL LANDS MAY BE ISSUED FOR A PERIOD NOT TO EXCEED 99 YEARS.]

The section applies to leases of tide and submerged land and it seems that this is the basic concern of the proposed amendment. See AS 38.05.070(a).

The committee should note that AS 38.05.075 as cited in the amendment is repealed and reenacted in the next section proposed.

The amendment is straightforward; it changes the maximum usual term for a lease of the surface estate in state land from the present 55 years to 99 years. The amendment does not deal with the question of the renewal of the lease term; I believe that both 55 and 99 year leases usually do not have any renewal provisions.

To some extent a 55 year lease-- and certainly a 99 year lease-- resembles more the grant of a fee subject to annual rentals and a reverter than the ordinary lease of land.

Note also that what is suggested is a maximum term; the director would have the authority to lease for a shorter term if less than the "projected useful life of any improvements".

lease term— how long limit to use?

The amendment raises policy questions concerning the economic value of land and the length of time it is to be limited to a single purpose. I doubt that the "projected useful life" of anything constructed nowadays approaches even 55 years but I defer judgment on that point to others; beyond that, I have no comments.

Section 4 proposes a complex repeal and reenactment of AS 38.05.075. The existing law provides:

> Sec. 38.05.075. LEASING PROCEDURES. The leasing shall be made at public auction to the highest qualified bidder as determined by the director. An aggrieved bidder may appeal to the commissioner within five days for a review of the director's determination. When a valid existing federal grazing lease is cancelled to allow state selection of the area under lease, the lessee of the lands has the preference right to lease the lands without competitive bidding for a term equal to that originally granted in the cancelled federal lease and upon terms as favorable to the lessee as those contained in the cancelled federal lease. The leasing shall be conducted by the director, or his

representative, and the successful bidder shall deposit the first year's rental, or that portion of it which the commissioner requires, in accordance with his bid. The director or his representative shall immediately issue a receipt containing a description of the land or interest leased, the price bid, and terms of the lease. The receipt shall be acknowledged in writing by the bidder. A lease, on a form approved by the attorney general, shall be signed by the lessee and, upon approval by the commissioner, shall be signed by the director.

I will not attempt to incorporate within this memorandum the provisions of the repealed and reenacted sec. 75; as suggested, it is quite complex.

But it provides essentially as follows:

The section is entitled "surface leasing procedure."

Sec. 75(a) provides that except as provided in AS 38.05.087 [Forest Service permittees' leasing preference: the section is not proposed for amendment] and (b) - (g) of this section, leasing shall be to the "highest pre-qualified bidder as determined by the director." The analysis provided with the amendments suggests that "an applicant (for a lease) does not have an adequate assurance that the lease will ultimately be granted (to the applicant) after survey, appraisal and auction are completed." The analysis suggests that it is because "existing law does not require potential competitive bidders to identify themselves before the date of the auction." This point may be conceded without agreeing that pre-qualification is necessary. And I suggest that identification of potential bidders before the auction is a fact not connected with the ability (or desire) of the applicant to match a high bidder's offer.

While an applicant has some interest in protecting the investment made, the state's interest in obtaining a fresh sampling of bidders should lead to an avoidance of any inhibition of the auction process by establishing pre-qualification.

Rather, the interest of the nominating bidder can be protected by a process that requires the eventual high

bidder to reimburse the applicant for its investment. This is what is done in other areas of the law by the preference concept; see for example, the protections to the applicant in AS 38.05.069(c)(4).

A person apparently denied status as a pre-qualified bidder may appeal the denial of that status to the commissioner. Lease auctions will be conducted by the director and a successful pre-qualified bidder shall deposit after the auction the first year's rental (or a percentage of it required by the director). A deposit required shall include "survey and appraisal costs; "if a bidder who has paid survey and appraisal costs does not become the highest bidder, the latter will pay the former those costs. The remainder of the section deals with the mechanics of the acknowledgement of the high bidder's interest and is only slightly different from existing law.

Sec. 75(b) deals with cancellation of federal grazing leases; it appears to be almost identical to the second sentence of existing sec. 75. Instead of granting the cancelled lessee "a term equal to that originally granted in the cancelled federal lease", the amended sec. 75(b) grants only the unexpired term of the original cancelled federal lease. And rather than granting "terms as favorable" to the cancelled lessee, it permits terms "no less favorable" to the lessee in the new state lease.

Given the premises and the goals of Sealaska, it is not clear why these changes are suggested.

Sec. 75(c) states new concepts of particular interest to Sealaska; it grants a "littoral or riparian owner or lessee . . . a preference right to acquire, without competitive bidding, a lease for tide and submerged land directly adjacent to his upland parcel" on certain conditions. A parcel of property is "littoral" when it "along the coast", that is, directly facing on tide and submerged land. A parcel is "riparian" when it is adjacent to a stream or river or lake.

The conditions in sec. 75(c) under which the preference arises include

(1) the need by the upland owner for access to the tide/submerged land to facilitate water transportation or for other water-dependent purpose;

(2) the use of the tide/submerged land is compatible with the classification of the land and with any land use plan adopted under AS 38.05.065; and

(3) the lease will not interfere with prior existing rights in the leased upland.

Sec. 75(d) provides that annual rental will be determined under AS 38.05.310 ["appraisals": "no land may be . . . leased for less than the approved, appraised market value"]. If the upland ownership has less than a fee interest, the term of the tide/submerged land may not exceed the term of the unexpired upland interest and termination of the upland interest for any reason terminates the tide/submerged land term.

Sec. 75(e) deals with several significant issues including "pre- qualification."

It provides that the department shall require "pre-qualification" of bidders for a lease to be issued under AS 38.05.070 ("surface leasing of land generally"); moreover, it provides that the pre-qualification process for all bidders "must be completed within 50 days of receipt of the first lease application." I do not believe I understand what is implied in the "first" lease application-- unless it simply means receipt of "the" lease application.

if Sealaska submits bid, competitors have only 50 days to prepare their prequalification application.

But "within that (50 day) period", the department is also required to "take necessary classification action under AS 38.05.300", to complete the "finding and consent procedures required by AS 38.05.035(a)(14)", and to take "any other action required by law for the disposal of the lease to the bidder other than survey, appraisal, and auction."

AS 38.05.300 describes classification procedures; AS 38.05.035(a)(14) gives the director disposal authority over state land with certain procedural stipulations and certain findings required.

Sec. 75(f) provides that "If, as a result of pre-qualification," there is only one qualified bidder, then the director may lease to that bidder at appraised value established under AS 38.05.310 "without competitive bidding". The director is also directed to permit entry under reasonable terms and conditions pending survey and appraisal.

Sec. 75(g) requires the director to provide notice of the auction to be made "personally or by registered mail" to all pre-qualified bidders.

Sec. 75(h) permits a person aggrieved by a decision of the director made in the course of prequalification to appeal to the commissioner within five days of the adverse decision. The decision may be further appealed to the superior court but the "pendency of an appeal does not stay (suspend) any further action of the department"; presumably this latter provision is intended to provide that the 50 day period is not extended by difficulties with pre-qualification. Both the commissioner and the court are granted discretion to order otherwise.

Section 5 amends AS 38.05.345(a); the section deals with "notice" of actions with regard to land required of the department. The aim of the amendment is apparently to recognize that under the amendment to the prior section, at AS 38.05.075(g), the director is required to give notice "personally or by registered mail" to pre-qualified bidders. To that extent, the form of the notice required by AS 38.05.345 is changed.

Section 6 amends AS 38.50.020 by adding new subsections (c) and (d). AS 38.50 is the chapter authorizing exchanges of state land with other land. The section amended deals with the [redacted] "value of properties exchanged."

As the analysis of the amendments suggests, Sealaska is concerned with the possibility that if an exchange proposed by the state to acquire private land for a state purpose is rejected, then the state will acquire the property by eminent domain (condemnation). As a later amendment will suggest (see sec. 8), Sealaska wants the state to be required to make an effort at a good faith exchange before it may exercise the eminent domain power. If eminent domain is pursued, then the state will be required under this

amendment to value the land not under its valuation to its then owner but under the value to which the state will intend to put the land.

While that may be a fair policy to Sealaska, I do not believe that it states the current law and does not represent fair protection to the public. The suggestion increases the cost to the public of services, and bears no resemblance to the value of the land to its owner, the proper measure of compensation. The situation described does not appear to be the situation where an intended use is thwarted by state action; rather, the state is being asked to take land that has a certain value and reward its owner for the public benefit that the state intends to construct. It represents a windfall for the owner and does not represent an advance in public policy.

I note moreover the one-sided aspect of the two amendments proposed to AS 38.50.020. In neither (c) nor (d) is there a recognition that the private owner may advocate an exchange and that in that situation, the state land being exchanged could also be valued not at raw value but rather at the value the land would have after the private owner adds its improvements. And in (d), the state may also incur costs in responding to an exchange initiated by a private land owner; it should in such situations also receive "any costs reasonably incurred by the person in negotiating or consummating the exchange . . . ."

My recommendation is that rather than seek to give a one-sided advantage where none seems really necessary, that each party be treated as fairly as seems the case under the existing law.

Section 7 proposes an amendment adding a new subsection to AS 38.50.030. It suggests that when one state agency proposes an exchange of land that would result in land managed by another state agency being traded, that the matter would routinely be resolved by "the office of the governor." The amendment is unnecessary.

It is certainly true that if the two agencies are at an impasse in the exchange, then one option is for the common supervisor of the two agencies to resolve the question; the highest common supervisor is, of course, the governor. As the amendment is now written, however, it seems that it would be entirely possible for the two agencies to be in the

same department with a commissioner to resolve the difficulty; consider, for example, a difficulty between the division of parks and the division of lands.

But I doubt that each such situation is likely to avoid resolution until it reaches the governor's desk. If some or a majority of the situations reach such a settlement without involving the governor or the governor's office, then the law seems unnecessary.

And the power exists for that resolution without the section.

Section 8 amends AS 09.55.270, a provision of the "Code of Civil Procedure" concerned with eminent domain.

all private landshould receive same treatment.

It adds a provision applicable only to corporations established as a result of the Settlement Act; it provides that eminent domain is not available for a taking of land of such a corporation until a "bona fide offer of exchange under AS 38.50" has been made to the corporation and refused by it.

The current law establishes truly substantial burdens on efforts by the state to acquire private land; I cannot recommend further unnecessary protections that do not go uniformly to all property owners.

Section 9 proposes an amendment to AS 09.55.310(a)(1). The section proposed amends a section dealing with the hearing on the eminent domain proceeding and adds language to provide that "if the surface and the subsurface estate have been separated, the value of each estate shall be separately determined".

The situation is a problem for Sealaska, apparently, because the regional corporation is the recipient of the minerals but the village corporation receives the surface.

I understand that when the state takes land for eminent domain purposes, it takes not only the surface estate but also the mineral estate down to 100 feet. This accomplishes a protection to the surface estate acquired by effectively prohibiting an exploitation of the mineral estate for gravel and such minerals but, of course, unaffects oil and gas development.

And in the typical leasehold case, the state expects to and can apply usual appraisal concepts to value the leasehold separately from the fee.

But I understand that in the Settlement Act situation, the problem is more complicated because of Sec. 14(f) the Act (Pub. L. 92-203, as amended; see 43 U.S.C., sec. 1613(f)).

That section provides that "the right to explore, develop, or remove minerals from the subsurface estate in lands within the boundaries of any Native village shall be subject to the consent of the Village Corporation."

In fact, this right to withhold consent is so strongly favored by Congress that when it established legislation permitting the merger or consolidation of the regional and village corporations, it provided that any plan of merger or consolidation shall provide that:

> "the right of any affected Village Corporation pursuant to section 1613(f) of this title to withhold consent to mineral exploration, development, or removal within the boundaries of the Native village shall be conveyed, as part of the merger or consolidation, to a separate entity composed of the Native residents of such Native village."

What I believe that this means for a requirement of appraising the interests separately is that the regional interest is of very uncertain value because it cannot be exercised without the permission of the village corporation. The village corporation exercises an essentially untrammeled discretion to grant permission or to deny permission to the regional corporation to develop the minerals.

I understand that the Department of Law expects to comment on the Sealaska proposals and it may have further comments on this issue.

Section 10 proposes an amendment to AS 09.55.430 to require the separate valuation of the mineral estate be pleaded in the complaint for eminent domain.

To a large extent, my comments regarding the previous amendment also apply here.

If I may be of further assistance, please advise.
RAB:ojb
J3/097

PROPOSED AMENDMENT TO SB 375
FAHRENKAMP

Page 47
Add a new section 77 and renumber remaining sections accordingly:

AS 38.95.080(a) is amended to read:

(a) The commissioner may [DIRECTOR OF THE DIVISION OF LANDS SHALL] issue a nontransferable permit for the construction of a trapping cabin on state land to a person who meets the following qualifications:

(1) the person must have an established trapline with proof of regular use;

(2) the person must have a trapline of sufficient length to justify the need for cabin construction.

RATIONALE:

Current statute directs the Commissioner to issue a trapping cabin permit to any applicant with an established trapline of sufficient length to justify cabin construction. The Senate version of SB 375 made this authority discretionary; the House version maintains current statute.

In those situations where resource or use conflicts may occur, or when the furbearer population is unable to sustain the intensive trapping brought about through cabin use, the Commissioner should have the opportunity to review each permit application.

Alaska MUNICIPAL League

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105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

To: House Resources Committee

From: Scott A. Burgess, Executive Director

Date: April 18, 1984

Re: CSSB 375 (Resources) - Land Disposal and Management

I speak in favor of Committee Substitute for SB 375 (Resources). The Alaska Municipal League urges passage of this legislation for several major reasons:

1. The bill would require the state to meet the same local ordinance requirements imposed on private citizens when disposing of land. Legislation requiring the State of Alaska to comply with local subdivision ordinances and regulations in connection with its land disposal program is a top legislative priority of the League in 1984.

2. The bill provides a mechanism with legislative oversight to fund required improvements such as roads and utilities. The improvement costs would be reflected in the purchase price and paid for by the purchaser, the direct beneficiary of the land and those improvements.

3. The bill requires the Commissioner to consider, among other resources, recreational and hunting values of individual properties before offering them for disposal. The bill also requires the Commissioner to hold public hearings when appropriate to solicit views of the residents of the communities affected by the proposed disposals.

4. The bill would allow the state, by quit claim deed, to return the state land, or interest in land, to the federal government for settlement of Native allotments.

5. Finally, the bill clarifies Title 38 to promote sound land disposal and management practices.

On behalf of the Alaska Municipal League, I support CS for SB 375 (Resources) and ask for the support of the House Resources Committee as well.

DRAFT

586-5864

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105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

To: Senate Resources Committee

From: Scott A. Burgess, Executive Director

Date: February 20, 1984

Re: SB 375 - Land Disposal and Management

The League urges passage of legislation which requires the State of Alaska to comply with all local subdivision ordinances and regulations in connection with state land disposal programs. The state should meet the same local requirements imposed on private citizens.

SB 375 not only removes the state exemption from compliance with local subdivision ordinances, but also clarifies Title 38 to promote sound land disposal and management practices. The League supports the bill in general as written and offers the following comments:

1. Resource Values and Uses: The League supports the language in Sections 1 and 2 specifically as they relate to recreational and hunting resource values. The League requests the State of Alaska to hold hearings in the community impacted areas in determining recreational or hunting values of individual properties before offering them for disposal.

2. Compliance with Municipal Planning: Removing the exemption of the state to comply with local subdivision ordinances is one of the League's highest priorities; therefore, the League supports the provisions of Sections 5, 11, 60, and 62. The League also supports requiring state land disposals to recognize local planning efforts, such as comprehensive plans and coastal management plans, including existing or planned municipally approved trails, by means of right-of-way dedication. The League believes this is the intent of the land disposal program and SB 375; however, the intent could be clarified in Section 1 (AS 38.04.005(b)) and, specifically, in Section 7 (AS 38.04.020(h)) by substituting "land use" for "zoning" on line 21, page 4.

(OK)

AMENDMENT X

"local"

Would cover both zoning & subdivision ordinances

Revenue for Improvements: The League supports the documentation of demand and costs of disposal and improvement contained in Sections 4 and 5, and the funding in Section 8. Recognizing the pressure on both the state and municipal governments to dispose of land, the League supports a cooperative effort by the state and municipalities to dispose of land in a continuous and orderly manner. The League also supports state funding to provide planning grants, funds for necessary access roads, survey costs for land scheduled for disposal, and state, borough, and city subdivision roads, sewers, and utilities to meet local subdivision improvement ordinances.

DNR - covered by "or otherwise provided in statute"

A point of clarification in Section 11 (AS 38.04.050), page 6, lines 24-26. how is "... borne by the recipient of the land..." to be interpreted with the amendments? The League favors, and presumes, that required improvements would be made prior to disposal and the cost of those improvements would be reflected in the selling price of the land, whether by auction, bid, etc.

Legal, Adequate, and Feasible Access: The League supports the clarification of access recognizing "legal" access may not, in actuality, provide feasible or buildable access. Requiring surveying and construction of roads also addresses the current problem.

The League also supports preserving needed specific rights-of-way and easements which provide for present and future public access (Section 12). The League has one concern with the language in Section 12. "Roads" should not be confused with "trails" in terms of access. The state has been criss-crossed with trails for access. As the state is developed, roads are needed but trail systems are being recognized and preserved by many communities as a recreational resource. The designation and improvement of historical trails for use by cars and trucks is often incompatible with the recreational activity. Therefore, additional land may have to be preserved to provide rights-of-way to "maintain present and future public use and access to public land and water and to reach adjacent private land" (page 7, lines 2-4) separate from a municipally approved trail.

Again, the League supports SB 375 and hopes these comments are helpful. We appreciate the opportunity to testify.

condemnation is in Title 9 - leave out of this bill

TESTIMONY OF

ROBERT W. LOESCHER

VICE PRESIDENT, RESOURCE MANAGEMENT

SEALASKA CORPORATION

ON

SENATE BILL 375,

AN ACT RELATING TO LAND DISPOSAL AND MANAGEMENT

FEBRUARY 20, 1984

MY NAME IS ROBERT W. LOESCHER, VICE PRESIDENT OF RESOURCE MANAGEMENT FOR SEALASKA CORPORATION. I AM HERE TODAY TO TESTIFY ON SENATE BILL 375, AN ACT RELATING TO STATE LAND DISPOSAL AND MANAGEMENT.

SEALASKA CORPORATION IS THE SOUTHEAST ALASKA REGIONAL NATIVE CORPORATION WHICH REPRESENTS OVER 15,000 SHAREHOLDERS. SEALASKA WILL ULTIMATELY OWN APPROXIMATELY 330,000 ACRES OF SURFACE ESTATE AND 600,000 PLUS ACRES OF SUBSURFACE ESTATE IN SOUTHEAST ALASKA. SEALASKA LANDS BORDER IN EXCESS OF 1,000 MILES OF STATE OWNED AND MANAGEMENT TIDELANDS. THE MANAGEMENT AND DEVELOPMENT OF OUR UPLAND RESOURCES IS VIRTUALLY DEPENDENT UPON ACCESS TO AND USE OF STATE OWNED AND MANAGED TIDELANDS.

ON JANUARY 20, 1984, SEALASKA SUBMITTED FOR CONSIDERATION, A SERIES OF PROPOSED AMENDMENTS TO SENATE BILL 375. SINCE THAT TIME, WE HAVE DISCUSSED OUR PROPOSED AMENDMENTS WITH VARIOUS INTERESTED PARTIES. AS A RESULT OF THESE DISCUSSIONS, WE SUBMITTED A SECOND LETTER DATED FEBRUARY 15, 1984 MAKING TWO CHANGES TO THE JANUARY 20, 1984 AMENDMENTS.

WE HAVE BEEN ADVISED THAT THE RESOURCES COMMITTEE IS USING THIS HEARING TO BECOME FAMILIARIZED WITH VARIOUS AMENDMENTS BEING PROPOSED TO SB 375 AND WILL NOT ENTERTAIN MOTIONS TO AMEND SB 375 UNTIL THE HEARING SCHEDULED FOR FRIDAY, FEBRUARY 24, 1984.

DURING THIS PERIOD, SEALASKA CORPORATION WILL BE WORKING WITH THE ADMINISTRATION, ALASKA DEPARTMENT OF NATURAL RESOURCES AND OTHERS WHO HAVE EXPRESSED AN INTEREST IN OUR PROPOSED AMENDMENTS TO DEVELOP COMPROMISE LANGUAGE TO OUR AMENDMENTS WHICH WILL BE SUBMITTED TO THE COMMITTEE AT THE FEBRUARY 24, 1984 HEARING.

AT THIS TIME, I WISH TO BRIEFLY EXPLAIN THE INTENT AND EFFECT OF THE SEALASKA PROPOSED AMENDMENTS:

SECTION 1, AS 38.04 IS AMENDED BY ADDING A NEW SECTION .058 RESTRICTIONS ON EASEMENT OR RIGHT-OF-WAY USE. UNDER EXISTING LAW, ALASKA DEPARTMENT OF NATURAL RESOURCES IS AUTHORIZED TO RESERVE EASEMENTS ACROSS STATE LANDS (INCLUDING TIDELANDS) AS PART OF A LAND DISPOSAL OR TIDELAND LEASE. EXISTING LAW DOES NOT PROVIDE AUTHORITY FOR THE DEPARTMENT TO CONDITION A RESERVED EASEMENT TO RESTRICT PUBLIC ACCESS IN ORDER TO PROTECT PROPERTY OR PUBLIC SAFETY. THIS AMENDMENT WILL ALLOW THE PRIVATE OWNER OR LESSEE TO COOPERATE WITH THE DEPARTMENT IN SETTING TERMS AND CONDITIONS FOR PUBLIC USE OF RESERVED EASEMENTS TO PROTECT PROPERTY OR PUBLIC SAFETY.

* * *

SECTION 2, AS 38.04.065(a). THE DEPARTMENT OF NATURAL RESOURCES IS REQUIRED TO PREPARE REGIONAL AND AREA LAND USE PLANS. THESE PLANS INCLUDE RULES OF GENERAL APPLICABILITY FOR THE USE, MANAGEMENT AND PROTECTION OF STATE LAND WITHIN THE PLANNING AREA. THESE RULES OF GENERAL APPLICABILITY, IN ACCORDANCE WITH A RECENT COURT DECISION KENAI PENINSULA FISHERMAN'S COOP ASSOCIATION V. STATE, MUST BE ADOPTED UNDER THE ADMINISTRATIVE PROCEDURES ACT. IN LIGHT OF THIS RECENT COURT DECISION IT IS NECESSARY TO ENSURE THAT ADOPTION OF REGIONAL AND AREA LAND USE PLANS OCCURS IN ACCORDANCE WITH THE APA.

* * *

SECTION 3, AS 38.05.070(c). SEALASKA PROPOSES TO AMEND AS 38.05.070 TO ENSURE THAT THE LENGTH OF THE LEASE IS NOT LESS THAN THE PROJECTED USEFUL LIFE OF ANY IMPROVEMENT APPROVED UNDER THE LEASE. THIS AMENDMENT IS NECESSARY BECAUSE THE DEPARTMENT OF NATURAL RESOURCES PERIODICALLY ISSUES LEASES FOR A LENGTH OF TIME SHORTER THAN THE ANTICIPATED USEFUL LIFE OF THE FACILITY. FOR EXAMPLE, SEALASKA CORPORATION CONSTRUCTED A MAJOR DOCK FACILITY ON KLAWOCK ISLAND WITH A USEFUL LIFE OF 55 YEARS, HOWEVER, THE DEPARTMENT ISSUED A TIDELAND LEASE FOR ONLY 30 YEARS.

* * *

SECTION 4, AS 38.05.075. THIS AMENDMENT MAKES SEVERAL CHANGES TO SURFACE LEASING PROCEDURES.

THE FIRST CHANGE ESTABLISHES A PROCEDURE FOR PRE-QUALIFICATION OF BIDDERS FOR TIDELAND LEASES. UNDER PRESENT PERMITTING PROCEDURES, AN APPLICATION TO CONSTRUCT FACILITIES ON STATE TIDELANDS WILL HAVE ALL NECESSARY APPROVALS (EXCEPT A TIDELAND LEASE) TO START CONSTRUCTION ON THE PROJECT WITHIN 60 DAYS OF APPLICATION. THESE PERMITS ARE OF LITTLE VALUE TO THE APPLICANT IF A NECESSARY TIDELANDS LEASE HAS NOT BEEN OBTAINED. CURRENTLY, IT TAKES ALMOST ONE YEAR TO OBTAIN A TIDELANDS LEASE EVEN THOUGH ALL OF THE SUBTANTIVE DECISIONS REGARDING THE ISSUANCE OF THE LEASE ARE CURRENTLY MADE WITHIN 50-60 DAYS. THE REMAINING TIME IS SPENT IN SURVEY, APPRAISAL AND PUBLIC AUCTION.

UNDER EXISTING PROCEDURES THE DEPARTMENT ALLOWS AN APPLICANT TO ENTER THE PROPERTY, UNDER LEASE APPLICATION, ONCE ALL PERMITS ARE RECEIVED AND A DEPARTMENTAL DECISION TO LEASE HAS BEEN MADE. HOWEVER, THE APPLICANT HAS NO ASSURANCE THAT HE WILL ULTIMATELY RECEIVE THE LEASE FOR ALMOST ONE YEAR FROM DATE OF APPLICATION OF THE LEASE. THUS, AN APPLICANT IS RELUCTANT TO MAKE ANY IMPROVEMENTS ON THE LEASED PROPERTY FOR FEAR THAT AT THE TIME OF AUCTION HE MAY BE OUTBID FROM A PREVIOUSLY UNIDENTIFIED PARTY. THIS IS BECAUSE EXISTING LAW DOES NOT REQUIRE POTENTIAL

aren't supposed to spread lease!

COMPETITIVE BIDDERS TO IDENTIFY THEMSELVES BEFORE THE DATE OF THE AUCTION. THUS, ALTHOUGH THE INITIAL APPLICANT HAS ENDURED THE TIME AND EXPENSE OF INTERAGENCY AND PUBLIC REVIEW, AND HAS SUFFERED PERHAPS A YEAR'S DELAY, HE MAY LOSE HIS PROJECT TO A VIRTUAL LAST MINUTE BIDDER.

THE PURPOSE OF THIS AMENDMENT TO CURE THIS PROBLEM BY REQUIRING ANY PERSON WISHING TO COMPETE FOR THE LAND TO BE LEASED WOULD BE TO SUBMIT HIS OWN APPLICATION WITHIN THE PUBLIC NOTICE PERIOD PROVIDED.

UNDER THIS PROCEDURE AT THE END OF FIFTY DAYS, THE APPLICANT WILL KNOW WHETHER HE HAS QUALIFIED FOR THE LEASE AND WILL ALSO KNOW WHETHER THERE ARE OTHER COMPETITIVE BIDDERS. IF THERE ARE NO OTHER "PREQUALIFIED" BIDDERS, THIS AMENDMENT WOULD DIRECT THE DEPARTMENT TO ALLOW THE INITIAL APPLICANT TO ENTER ONTO THE LANDS. ALL THAT WOULD REMAIN PRIOR TO FINAL CONVEYANCE OF THE LEASE WOULD BE A SURVEY TO ESTABLISH PRECISE BOUNDARIES, AND AN APPRAISAL WHICH WOULD SET THE LEASE FEE.

ANOTHER IMPORTANT PROVISION OF SEALASKA'S AMENDMENTS TO AS 38.05.075 IS THE CREATION OF AN UPLAND OWNER'S PREFERENCE--UNDER CERTAIN SPECIFIC CONDITIONS--FOR LEASE OF ADJACENT TIDE OR SUBMERGED LANDS. TRADITIONALLY, THE GOVERNMENT'S OWNERSHIP OF TIDE AND SUBMERGED LANDS HAS BEEN VIEWED AS A TYPE OF TRUST FOR CERTAIN SPECIAL PURPOSES. THE MOST WELL ESTABLISHED OF THOSE PURPOSES IS FACILITATING TRANSPORTATION AND COMMERCE FROM ADJACENT UPLANDS, WHICH IS VITAL TO UPLAND ECONOMIC DEVELOPMENT. THE PROPOSED AMENDMENTS CONFINE THE PREFERENCE TO ONLY THESE TYPES OF USES, AND IS THUS NOT ONLY CONSISTENT WITH, BUT FURTHERS THOSE TRUST RESPONSIBILITIES. UNDER THE AMENDMENTS, NO PREFERENCE IS AVAILABLE IF THE INTENDED USE IS INCONSISTENT WITH THE CLASSIFICATION OF THE LAND OR ANY APPLICABLE LAND USE PLANS.

THIS AMENDMENT FURTHER ENVISIONS THAT IF AN UPLAND OWNER IS ENTITLED TO A PREFERENCE, HE WILL NORMALLY BE ABLE TO OBTAIN A

LEASE AT FAIR APPRAISED MARKET VALUE WITHOUT COMPETITIVE BIDDING.

THE FINAL AMENDMENT TO THIS SECTION WOULD ALLOW A CREDIT FOR SURVEYING COSTS INCURRED BY THE LESSEE, WHEN FILING FOR A TIDELAND LEASE. SEALASKA BELIEVES THAT THIS SURVEY PROVIDES OBVIOUS LONG TERM BENEFITS TO THE STATE AS THE LANDOWNER AND IF THE APPLICANT UNDERTAKES THESE ADMINISTRATIVE MATTERS ON BEHALF OF THE STATE THEN THESE COSTS SHOULD BE REIMBURSED THROUGH TIDELAND LEASE FEE CREDITS, EQUAL TO THE DOCUMENTED COST OF THE SURVEY.

* * *

SECTION 5 IS SIMPLY CONFORMING LANGUAGE TO MAKE THE EXISTING STATUTE CONFORM WITH THE PROPOSED AMENDMENTS IN SECTION 4.

* * *

SECTION 6 THROUGH 10 OF SEALASKA'S PROPOSED AMENDMENTS DEAL WITH THE STATE'S LAND EXCHANGE (TITLE 38) AND CONDEMNATION AUTHORITIES (TITLE 9). CONGRESS AND THE STATE RECOGNIZED THAT BOUNDARY CHANGES DUE TO STATE AND NATIVE CONVEYANCES MAY BE NECESSARY TO PROMOTE SOUND LAND USE MANAGEMENT. BOTH ALSO RECOGNIZED THAT A EXCHANGE WAS THE MOST EFFECTIVE AND FAIR VEHICLE TO ACCOMPLISH THAT RESULT.

HOWEVER, THE STATE'S CURRENT LAND EXCHANGE AUTHORITY, AS 38.50, CONTAINS SEVERAL PROVISIONS WHICH DISCOURAGE PRIVATE LANDOWNERS FROM ENTERING INTO EXCHANGE NEGOTIATIONS WITH THE STATE. THE SECOND THEME OF SEALASKA'S AMENDMENTS IS TO CURE THOSE DEFICIENCIES, AND PROVIDE A MORE FLEXIBLE AND FAIR PROCEDURE FOR EXCHANGING LAND.

* * *

SECTION 6 PROPOSES A NEW SUBSECTION (c) TO AS 38.50.020. THIS

SUBECTION PROVIDES THE FOLLOWING CHANGES.

IN THE EXISTING LAND EXCHANGE AUTHORITIES THERE IS A LACK OF GUIDELINES FOR VALUATION OF PROPERTY BEING CONSIDERED FOR EXCHANGE BETWEEN THE STATE AND OTHER LANDOWNERS. QUITE OFTEN, THE STATE WILL BE ACQUIRING RAW LAND LOCATED IN THE UNORGANIZED BOROUGH OR OUTSIDE ORGANIZED MUNICIPAL GOVERNMENTS WHERE USE OR SUITABILITY OF LAND IS NOT WELL ESTABLISHED THROUGH LOCAL PLANNING AND ZONING ORDINANCES. IN THESE AREAS THE STATE'S TENDENCY HAS BEEN TO EVALUATE THE PROPERTY TO BE ACQUIRED SOLELY AT ITS PRESENT, UNIMPROVED VALUE. AS WITH ANY VALUATION, THE STATE SHOULD BE REQUIRED TO APPRAISE THE FAIR MARKET VALUE OF THE PROPERTY TO BE RECEIVED AT ITS HIGHEST AND BEST USE. THE PROPOSED CHANGES TO AS 38.50.020 WOULD ACHIEVE THIS RESULT.

In Title 9, state recognizes separate value (surface vs. subsurface) at time of condemnation but not at any time during negotiations.

UNDER EXISTING LAW, THE STATE DOES NOT ASSESS A DISTINCT VALUE FOR SEPARATELY OWNED SURFACE AND SUBSURFACE ESTATES. FOR ANCSA LANDS, THESE ESTATES ARE SEPARATED BETWEEN VILLAGE (SURFACE) AND REGIONAL (SUBSURFACE) CORPORATIONS. IN ORDER TO ASSURE JUST COMPENSATION IN ANY EXCHANGE TO BOTH INTEREST HOLDERS, IT IS IMPORTANT THAT THESE ESTATES BE SEPARATELY VALUATED AT THE OUTSET FOR ACQUISITION FOR EXCHANGES PURPOSES, AS WELL AS FOR CONDEMNATION PURPOSES.

THE PROPOSED CHANGES TO AS 38.50.020 WOULD ALSO RECOGNIZE THAT THE STATE RECEIVES A SUBSTANTIAL PUBLIC BENEFIT FROM ANY EXCHANGE, AND THEREFORE ANY COST REASONABLY INCURRED BY THE PRIVATE LANDOWNER IN HELPING TO CONSUMMATE THAT EXCHANGE SHOULD BE CONSIDERED AS PART OF THE VALUE RECEIVED BY THE STATE.

* * *

SECTION 7 PROPOSES TO ADD A NEW SUBSECTION (c) TO AS 38.50.030. THE RESULT OF THIS AMENDMENT PROVIDES FOR THE GOVERNOR'S RESOLUTION OF INTERAGENCY CONFLICTS INVOLVING LAND EXCHANGES. IT HAS BEEN OUR EXPERIENCE WITH CERTAIN LAND EXCHANGES, FOR EXAMPLE,

THAT THE DEPARTMENT OF TREANSPORTATION AND PUBLIC FACILITIES WILL DESIRE TO OBTAIN LAND THROUGH AN EXCHANGE FOR ITS USE. INVARIABLY, THE LAND OFFERED IN EXCHANGE WILL BE ADMINISTERED BY THE DEPARTMENT OF NATURAL RESOURCES. THE RESULT IS INTERAGENCY DISAGREEMENT OVER WHICH THE PRIVATE LANDOWNER HAS LITTLE CONTROL. IN ORDER TO ENSURE THAT THE POSSIBILITY OF A MUTUALLY VALUABLE EXCHANGE IS NOT LOST AS A RESULT OF INTERAGENCY DISAGREEMENTS, IT IS VITAL THAT ONE ACCOUNTABLE OFFICIAL BE DESIGNATED TO ARBITRATE THOSE PROBLEMS, AND MOVE THE PROCESS ALONG. SEALASKA BELIEVES THAT THE OFFICE OF THE GOVERNOR IS THE PROPER PLACE FOR THAT AUTHORITY TO RESIDE.

* * *

SECTION 8 THROUGH 10 ARE AMENDMENTS TO TITLE 9'S CONDEMNATION PROCEEDINGS WHICH NEED TO BE MADE IN ORDER TO MAINTAIN CONTINUITY IN POLICY WITH SEALASKA'S PROPOSED LAND EXCHANGE AUTHORITY AMENDMENT IN TITLE 38 (SEE SECTION 6 SEALASKA AMENDMENTS).

OCCASIONALLY, NATIVE LANDS MAY BE NECESSARY FOR VITAL PUBLIC SERVICES. THESE LANDS MAY BE ACQUIRED THROUGH EXCHANGE OR CONDEMNATION PROCEEDINGS. THERE IS A TENDENCY BY STATE AGENCIES TO INITIATE CONDEMNATION PROCEEDINGS OF ANCSA INTEREST LANDS INSTEAD OF WORKING OUT A MUTUALLY AGREEABLE ACQUISITION OR LAND EXCHANGE. IT IS IMPORTANT TO UNDERSTAND THAT THE LAND BASE CONVEYED THROUGH ANCSA IS FAR MORE THAN A MERE CAPITAL ASSET. WHILE THE LAND IS HELD IN FEE, RATHER THAN TRUST, ANCSA LANDS HOLD A SOCIAL, CULTURAL AND EMOTIONAL VALUE WHICH CANNOT, IN ALL CIRCUMSTANCES, BE COMPENSATED FOR WITH CASH. AN EXAMPLE OF THIS ANTICIPATED PROBLEM IN FEDERAL LAW IS FOUND IN SECTION 1302(B) OF ANILCA, WHICH PROHIBITS THE USE OF EMINENT DOMAIN TO ACQUIRE ANCSA-CONVEYED LANDS FOR ADDITIONS TO THE CONSERVATION SYSTEM.

SEALASKA IS NOT RECOMMENDING A SIMILAR PROHIBITION IN STATE LAW. HOWEVER, IN ORDER TO PRESERVE THE INTENT OF THE ANCSA LAND CONVEYANCES, WE ARE PROPOSING IN AN AMENDMENT TO AS 09.55.270,

THAT THE STATE BE REQUIRED TO FIRST MAKE A BONA FIDE, ARMS-LENGTH OFFER TO EXCHANGE BEFORE CONDEMNATION IS INITIATED.

THIS AMENDMENT NOT ONLY ADDS CREDIBILITY TO THE EXCHANGE PROCESS; IT ALSO FURTHERS THE CONGRESSIONAL POLICY OF ANCSA. THE PRIMARY PURPOSE OF ANCSA WAS TO GRANT TO ALASKA NATIVES AN ADEQUATE LAND BASE--A BASE WHICH CONGRESS RECOGNIZED COULD NOT BE REPLACED WITH CASH. THE PURPOSES OF ANCSA ARE ILL-SERVED IF THAT BASE IS ERODED OVER THE YEARS THROUGH THE EXERCISE OF EMINENT DOMAIN AUTHORITY BY THE STATE OF ALASKA.

WE URGE THE COMMITTEE'S CONSIDERATION OF THESE PROPOSED AMENDMENTS. WE STAND READY TO MEET WITH YOU OR YOUR TECHNICAL STAFF TO UNDERTAKE FURTHER WORK ON THESE AMENDMENTS, IF DEEMED NECESSARY.

SB 375

STATEMENT OF ESTHER C. WUNNICKE,
COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES
REGARDING SB 375 ON LAND MANAGEMENT
BEFORE THE SENATE COMMITTEE ON RESOURCES
February 20, 1984

Madame Chair, members of the Committee, I appreciate this opportunity to appear before you today to discuss the Committee's proposed amendments to Title 38. On behalf of the Sheffield Administration, I commend you and your staff for your careful review of this important statute.

The bill before you today, SB 375, generally has my strong support. It incorporates some needed changes affecting the Department's land offerings and land management. In fact, as you will note through my testimony and in the Department's sectional analysis of the bill, there are very few areas of disagreement between us.

Today I will address several major points in SB 375 and two other proposals for amendment that have come to our attention.

The major issues in SB 375 relate to the State's land offerings program. The book released by the Resources Committee last month, "Review of the State's Land Disposal Program," showed that Alaskans are concerned about the amount of acreage for disposal statewide, the costs of land and of the disposal program itself, state compliance with local subdivision rules, and the quality and value of lands included in the disposal program.

Public response to the Department's own review, "Proposed Policies to Guide State Land Offerings and Disposals," indicates that Alaska's citizens generally support the policy changes that we are considering: to comply with municipal and borough ordinances, to provide access and improvements for most non-remote disposals, to plan for land offerings in a coordinated fashion at the region and sub-region level, and to offer high-quality lands with some preserved amenity values. These are popular, sensible policies that are included in SB 375 and which have the Department's support.

I have several further recommendations about the land disposal sections of SB 375. The wording of these possible changes is provided in the sectional analysis of SB 375 that I sent you last week.

First, it is my suggestion that the Legislature abolish the requirement for an annual assessment of demand for land in AS 38.04.020(f). (This is addressed in our comments on Section 5 of the proposed Committee Substitute.) The demand assessment requirement was originally enacted at the Department's request when DNR was striving to comply with a fixed legislative quota of 100,000 acres of disposals yearly. Unfortunately, the demand study has never been useful to the Legislature or the Department in defining the land disposal program. As your "Review..." stated last month, DNR's disposals "are as much a function of funds available for implementation of the disposal program (particularly survey, which is required prior to disposal of any state land) as of an assessment of demand." (p.41) Now that the quota no longer exists, the Department uses its planning process and the demonstrated response to

prior land disposals as the benchmark for disposals. The land demand assessment requirement should be repealed.

Second, I recommend allowing the Commissioner to waive survey requirements for some homestead offerings, which I expect would reduce some of the public's concern about costs and acreage offered under the new Homestead law. (See our comments on Section 38 of the proposed Committee Substitute.) Survey is an expensive and difficult task for many entrymen on State lands, and at times it is unnecessary because of low public interest in a disposal site, poor topography, or remoteness from existing monuments. Survey requirements as they exist sometimes prevent the offering of good lands, with no benefit to the State or the entryman.

Third, I would like to see the Legislature recognize in statute the funding process that the Department must follow in offering lands. (This is addressed in our comment on Section 4 of SB 375.) It takes three years, after candidate lands are identified for disposal, to provide for 1) public review, project approval, and classification by the Commissioner; 2) project development (surveying, lot design, contracting, platting); and 3) sale (interest findings, notice, appraisal information distribution, filing, and sales). If the Committee needs any more information about this process, I will gladly provide it, because I think it is important for Alaskans to know what procedures are required before an offering can take place.

There are other land disposal issues that are important and I'm sure will come up for discussion. The Senate Community and Regional Affairs Committee last week produced a report on rural disposals and has proposed amendments that would constrain our disposal program in remote parts of the state. We have not reviewed this document in its entirety, but generally have found that although we do not agree with the proposed statutory amendments, we are sympathetic to the principle that the disposal program should be sensitive to rural needs and that its impacts should be limited as much as possible. The interests of local residents and the statewide interest in land disposals and management are sometimes divergent, and it is our obligation as land managers to balance these interests.

The legislation as proposed includes some important changes in the land exchange statutes. We support these proposals, particularly those which extend the period in which appraisals remain valid. With the other requirements in the exchange process, we have found that it is very difficult to keep the process within the statutorily designated six-month timeframe.

In its sectional analysis of the bill, the Department has not addressed in its comments Sections 21¼ and 21½ of the draft Committee Substitute. The Department supports Sec. 21¼, raising negotiated lease limits, but opposes 21½, which would lengthen the term of long-term leases to 99 years. We believe that this is just too long to predetermine the use of state-owned land.

There are other proposals to amend Title 38 before the Legislature this session. I will address two of those that are not incorporated in SB 375.

One of them, proposed by Senator Eliason as SB 344 and Representative Goll as HB 455, concerns our preference right statute, AS 38.05.035(b). This bill is very important to the Department because it will give us a legal mechanism for court-ordered reconveyance of valid Native allotment claims held by the State but owed by the federal government to claimants. There is no established means for the commissioner otherwise to assure that these lands are conveyed to their rightful owners.

Another worthy amendment to Title 38 has been proposed by Representative Shultz, Co-Chairman of the House Resources Committee. His bill, HB 542, would allow less-than-fair-market leasing of special sites for local refuse disposal. We support this proposal.

Before closing, I would also recommend dropping our proposed charge to Section 36 of the proposed Committee Substitute. This would have reduced the temperature definition for geothermal leasing, but we believe upon review that change is unnecessary.

This concludes my testimony today. I appreciate your attention to Title 38 and look forward to more work with you in the future. With me are Tom Hawkins, Director of the Division of Land and Water Managment, and Deputy Commissioner Robert Arnold. We would be pleased to respond to your questions.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
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Senate

Committee on Resources

MEMORANDUM

TO: Senate Resources Committee Members

FROM: Senate Resources Committee Staff

RE: SB 375, Lands Bill

DATE: March 7, 1984

SB 375, relating to land disposal and management, is scheduled for committee action on Friday, March 9. Attached is a Committee Substitute that incorporates the amendments adopted by the Committee at our February 27 hearing. Also attached are a revised sectional summary and an outline of the major provisions of the Committee Substitute.

Specifically, the following sections have been added:

Section 18 gives DNR the authority to quitclaim land to the federal government.

Section 25 increases from $250/year to $5000/year the value of a lease that may be negotiated, and increases the term from 5 to 10 years.

Section 26 requires consideration by DNR of the useful life of any approved activities in determining the term of a lease.

Section 28 provides a mechanism for DNR to negotiate leases for tide and submerged lands with upland owners without competitive bidding. Authorizes DNR to require prequalification of bidders for surface leases.

Section 46 grants a 25% discount on the purchase price of state land to veterans.

Section 76 clarifies that when the state contracts with a municipality to conduct an auction of state lands, the municipality may retain from the proceeds of the auction capital and other expenses.

Sections 3, 17, 34, 40, 47, 65, 66, 72-75, and 77 amend current statute to reflect passage by the 1983 legislature of SB 41, which awarded the University of Alaska ownership and management of certain state lands.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
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Senate

Committee on Resources

M E M O R A N D U M

TO: Senate Resources Committee Members

FROM: Senate Resources Committee Staff

RE: Committee Meeting, Monday, February 20, 1984

DATE: February 14, 1984

Please find attached back-up information on SB 375, An Act relating to land management and disposal, which is scheduled for a hearing on Monday, February 20 at 3:00 pm in the Beltz Room.

As you know, during the past interim Committee staff conducted a substantial review of Title 38, the State's land statutes. SB 375 is a result of that process. Our proposed amendments to the statute are intended to clarify current language and allow for more efficient implementation of the land management and disposal programs.

Included in the attached notebook are several other amendments that have been presented to the Committee for consideration. These amendments were not a part of the public review process conducted during the interim. Testimony will be provided on them at our February 20 hearing; decisions on the amendments will be made at a follow-up hearing on Friday, February 24.

A number of people have expressed interest in testifying at our initial hearing on the 20th. Committee members should therefore plan on a lengthy meeting on that date. Please have the attached notebook available at the hearings.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES / POUCH M

OFFICE OF THE COI

- Sec. 5, 16, 20, 38 need discussion
- no comment yet on sec. 21(4)-(6)
- Sec 4 am. not in mark-up
All others O.K.

February 13, 1984

The Honorable Bettye Fahrenkamp
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

After close review of your proposed revisions to Title 38 (including SB 371 on mining and SB 375 on land disposal and management), I wish to express appreciation for your careful attention to the statutes that guide Alaska land and resource management.

The attached comments are based on the proposed Committee substitute for SB 375 prepared by your staff prior to the bill's first hearing. I am providing our comments and a mark-up of the bill itself; I will provide a fiscal note later this week.

Still outstanding are numerous proposed amendments to Title 38 from other sources. I have attached a list of known proposals and would appreciate your additions to this list. The Department will of course prepare analyses and fiscal backup for any of these that you and the Committee request.

I look forward to meeting with the Committee next week to discuss the proposed legislation, and am available prior to the hearing to answer any inquiries.

Sincerely,

BV Arnold, Deputy

for Esther C. Wunnicke
Commissioner

10-J9LH

DEPARTMENT OF NATURAL RESOURCES
SECTIONAL ANALYSIS OF SB 375 (Proposed CS)
February 13, 1984

The following is the Department's sectional analysis of the draft Committee substitute for SB 375.

Sec. 1 (p.1): The proposed amendment comports with current Departmental policy and practice; if the amendment is enacted and new programs are envisioned, further detail of legislative intent should be provided.
FISCAL IMPACT: None anticipated unless new programs are required.
DNR RECOMMENDATION: Enact.

Sec. 2 (p.1): The proposed amendment comports with current Departmental policy and practice, and with 11 AAC 55.250. If the Legislature envisions something beyond present practice, further detail of intent should be provided. In the past year, the Department has held almost 100 public meetings and hearings on proposed land offerings. The three-year process that precedes any public land offering is an effective means of gathering and considering public views on proposed land disposals.
FISCAL IMPACT: None anticipated unless new programs are required.
DNR RECOMMENDATION: Enact. Correct drafting error.

Sec. 3 (p.2): 1) The existing statute requires separation of residences even though efficient land use planning and public demand sometimes justify clustered rural and recreational development. 2) The amendment should be clarified to indicate which resources the Department must consider, rather than stating "resources such as timber, firewood and water."
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact, but amend the final sentence to read "The availability of timber, firewood, and water resources shall be considered in determining separation among residences."

Sec. 4 (p.2): 1) The Department's current practice is to request and use capital funding for disposal planning, survey and design, and access two years prior to the disposal. This is necessary to allow adequate time for contracting, public involvement and planning. The existing statute, which needs amendment to reflect this two-year disposal process, implies an immediate relationship between disposal budgeting and land offerings that would be impossible to achieve. 2) The statute should provide for land acquisition by purchase for the provision of access.
FISCAL IMPACT: None anticipated unless new programs are required.
DNR RECOMMENDATION: 1) Revise statute to reflect current practice. This can be accomplished by substituting the following wording for lines 14-18 on p. 2: "(e) Recognizing that two fiscal years are needed to prepare for the disposal of any state lands in the land disposal bank, the commissioner shall annually submit to the governor an appropriation request for funding for the next two years to allow:" and by deleting "for" on lines 19, 22, 25, and 27 of p.2 and on line 6 of p.3. 2)

not on Dave's mark up

Provide for land acquisition in provision of access by adding "right-of-way acquisition," after "work," on line 28, p.2.

Sec. 5 (p.3-4): The need for a land demand assessment arose in past years when the disposal program was subject to sudden changes and was affected by acreage quotas. The Department has striven to stabilize land offerings, relying on the market response as an indicator of demand. The demand assessment is of little value to the Department and the Legislature in predicting the market response, and the requirement for demand assessment should be dropped owing to its administrative and fiscal costs. The Department uses its area planning program to identify available lands and maintains a disposal land bank to meet current demands for lands. Together these programs provide for demand assessment in the context of current conditions.
FISCAL IMPACT: Beneficial if the Legislature removes demand assessment requirements now in effect.
DNR RECOMMENDATION: Repeal AS 38.04.020(f).

policy

Sec. 6 (p.4): The Department supports the proposed amendment.
FISCAL IMPACT: Will increase revenues to the state from land offerings.
DNR RECOMMENDATION: Enact.

Sec. 7 (p.4): The Department supports the proposed amendment.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact.

not intended to install fund the program

opinion coming from Bradley

Sec. 8 (p.4): The Department supports the concept of a fund providing for some land disposal costs. This will encourage a more stable land offerings program. In its early years, the fund will be unable to meet demands upon it because land payments will initially reflect unimproved land values. If the fund is to be established, the need for front-end funding must be recognized. There are concerns about the constitutionality of the proposed fund.
FISCAL IMPACT: May increase some administrative costs.
DNR RECOMMENDATION: Enact.

Sec. 9 (p.5): The proposed amendment reflects current Department practice. FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact. To clarify that the proposed amendment does not constrain expansion of the remote cabin permitting program, add "or" at line 14, p.5, before "where".

add "or"

Sec. 10 (p.5): The Department supports the proposed amendment. Local survey and monumentation requirements may supersede this provision.
FISCAL IMPACT: Savings to the state.
DNR RECOMMENDATION: Enact.

Sec. 11 (p.6): The requirement to plan and provide access in compliance with local subdivision ordinances generally comports with Departmental policy proposals.
FISCAL IMPACT: Potentially large, but recoverable in increased revenue from land sales (except for the homesite program).
DNR RECOMMENDATION: Enact.

Sec. 12 (p.6): The Department recommends maintaining the existing statute as written, and adding a sentence that would accomplish the purpose of the proposed amendment. The existing statute rightly requires the commissioner to reserve easements and rights-of-way, but our concern is that the proposed amendment also would require the commissioner to retain any public lands that have received, or may receive, public use. This, obviously, would prevent waterfront disposals in many areas of the state, even though the same public purpose can be achieved by selective retention of lands.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Retain existing language, but add at the end of line 7, p.7, the words: "The commissioner may retain public lands to maintain present and future public use and access."

Sec. 13 (p.7): The Department supports the proposed amendment.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact.

Sec. 14 (p.7): The Department supports the proposed amendment.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact.

Sec. 15 (p.7): The Department supports the proposed amendment. The second sentence of the existing statute (lines 3-9 on p.8) more logically belongs in another section than in the section on best interest findings (possibly 38.05.045).
FISCAL IMPACT: Beneficial.
DNR RECOMMENDATION: Enact.

Sec. 16 (p.8): The Department supports the proposed amendment, but suggests adding wording to 38.05.035(b)(7) to allow the Director to convey scraps and remnants of land that would be unusable and expensive to maintain in state ownership. Lacking such authority, the Department once auctioned 3/100ths of an acre in Ketchikan.
FISCAL IMPACT: Beneficial.
DNR RECOMMENDATION: Enact, adding after "landowner" on line 12, p.10, the words "any remnant of land that the Director considers unmanageable or".

policy-increasing authority

Sec. 17 (p.10): The Department supports the proposed amendment.
FISCAL IMPACT: Beneficial.
DNR RECOMMENDATION: Enact.

Sec. 18 (p.11): The Department supports the proposed amendment.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact.

Sec. 19 (p.12): The Department supports the proposed amendment.
FISCAL IMPACT: Beneficial.
DNR RECOMMENDATION: Enact.

Sec. 20 (p.12): The Department supports the proposed amendment, but recommends restricting the provision to adjacent lands.
FISCAL IMPACT: None.

maybe controversial

DNR RECOMMENDATION: Enact, removing the language "or in close proximity to" at line 21, p.12.

Sec. 21 (p.13): The Department supports the proposed amendment.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact.

Sec. 21¼ (p.13½): The Department has not analyzed this section but will be prepared to comment before the first hearing.

Sec. 21½ (p.13½): The Department has not analyzed this section but will be prepared to comment before the first hearing.

Sec. 22 (p.14): The Department supports the proposed amendment, which comports with current Departmental policy to avoid competition with the private sector in the commerce of timber and materials.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact.

Sec. 23 (p.14): The Department supports the proposed amendment.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact.

Sec. 24 (p.14-15): The Department supports the proposed amendment.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact.

Sec. 25 (p.15): The Department supports the proposed amendment.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact.

Sec. 26 (p.15): The Department supports the proposed amendment.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact.

Sec. 27 (p.16): The Department supports the proposed amendment.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact.

Sec. 28 (p.16): The Department supports the proposed amendment.
FISCAL IMPACT: Beneficial.
DNR RECOMMENDATION: Enact.

Sec. 29 (p.16-17): The Department supports the deletion of the proposed amendment.
FISCAL IMPACT: None.
DNR RECOMMENDATION: No action necessary.

Sec. 30 (p.17-18): The Department supports the proposed amendment.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact.

Sec. 31 (p.18): The Department supports the proposed amendment.
FISCAL IMPACT: None.

DNR RECOMMENDATION: Enact.

Sec. 32 (p.18-19): The Department supports the proposed amendment.
FISCAL IMPACT: Beneficial.
DNR RECOMMENDATION: Enact.

done in C.S.

Sec. 33 (p.19): This appears to be a drafting error.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Instead of deleting lines 10-14 on p.19, the references to "(a)(14)" on lines 10 and 14 should be changed to "(e)".

Sec. 34 (p.19): The proposed amendment is consistent with current Departmental policy and practice.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact.

Sec. 35 (p.19-20): The Department concurs with the purpose of the proposed amendment; however, revocable permits and negotiated sales should be exempted from the requirement for notice rather than exempted from the definition of "interests in land".
FISCAL IMPACT: Increased notice expenses.
DNR RECOMMENDATION: Amend (d) to read "(d) No notice is required under this section for:" at line 29, p.19 ff.

why?

Sec. 36 (p.20): The Department supports the proposed amendment, and proposes amending the definition of "geothermal resources", line 56, p.23, to 110°C instead of 120°C.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact, but substitute "110" for "120" at line 6, p.23.

Sec. 37 (p.23): The Department supports the proposed amendment.
FISCAL IMPACT: Beneficial.
DNR RECOMMENDATION: Enact.

policy
Why was cadastral required in 1st place.

Sec. 38 (p.23-24): The Department recognizes the intent of the amendment, but expects it to create a more confused and complex survey situation for the entryman. The statute should instead be amended by the addition of wording to provide for the waiver of cadastral survey monumentation requirements (instead allowing control monumentation) where topographic features, diffuse settlement, or low public interest do not justify or require cadastral survey.
FISCAL IMPACT: Reduction in future survey costs.
DNR RECOMMENDATION: Enact, adding after "entry" on line 28, p.23 the words ", but this requirement may be waived where the Commissioner determines that topographic features, diffuse settlement, or low public interest do not justify or require cadastral survey".

Sec. 39 (p.24): The Department supports the proposed amendment.
FISCAL IMPACT: Beneficial.
DNR RECOMMENDATION: Enact.

Sec.40-51 (p.24-32): The Department supports these proposed amendments related to the survey and coordinate system.

FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact.

Sec. 52 (p.32): The Department supports the proposed amendment.
FISCAL IMPACT: Beneficial.
DNR RECOMMENDATION: Enact.

Sec. 53 (p.32): The Department supports the proposed amendment.
FISCAL IMPACT: Beneficial.
DNR RECOMMENDATION: Enact.

Sec. 54 (p.32): The Department supports the proposed amendment.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact.

Sec. 55 (p.33): The Department supports the proposed amendment.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact.

Sec. 56 (p.33-34): The Department supports the proposed amendment.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact.

Sec. 57 (p.34): The Department supports the proposed amendment, but suggests clarifying whether the aggregate totals comprise all land and value in the exchange or just those of the state.
FISCAL IMPACT: Beneficial.
DNR RECOMMENDATION: Enact, substituting at lines 6-8, p.34: For an exchange of more than 640 acres of state land or state land having an appraised or estimated fair market value of more than $100,000, there...".

adopt

Sec. 58 (p.34): The Department supports the proposed amendment.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact.

Sec. 59 (p.34-35): The Department supports the proposed amendment.
FISCAL IMPACT: Beneficial.
DNR RECOMMENDATION: Enact.

Sec. 60 (p.35): This amendment is generally consistent with current Departmental policy proposals.
FISCAL IMPACT: There will be new costs in land disposals that should be recovered in revenues from land sales (higher appraised values).
DNR RECOMMENDATION: Enact.

Sec. 61 (p.35): The Department supports the proposed amendment.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact.

Sec. 62 (p.35-36): The proposed amendment comports with the Department's proposed policies.
FISCAL IMPACT: None.
DNR RECOMMENDATION: Enact.

demand assessment

Sec. 63 (p.36): The Department supports the proposed amendment, but recommends repealing AS 38.04.020(f), as stated at the comment on Sec.5.
FISCAL IMPACT: Beneficial.
DNR RECOMMENDATION: Enact, but add "38.04.020(f)" at line 9, p.36.

Introduced: 1/25/84

DNR MARKUP 2/13/84

Original sponsor: Fahrenkamp

DNR CHANGES

IN THE SENATE BY THE RESOURCES COMMITTEE

CS FOR SENATE BILL NO. 375

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

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

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

* Section 1. AS 38.04.005(b) is amended to read:

(b) In classifying and making state land available for private use and settlement purposes, the director shall consider the natural resources and conditions present on the land and shall seek to minimize the effect of private [use and] settlement on wildlife, fishery, mineral, timber, and other significant resources on the land; the director shall also make adequate provision for public open space which is accessible to communities so that natural areas are easily reached from all communities and settled areas. The amount of that land shall be sufficient to meet existing and projected needs for accessible public recreation land. Special care shall be taken to preserve public access to public water and to retain state ownership of sufficient land which combine high value for recreation and other public purposes with accessibility to settled areas. This classification for public purposes does not constitute dedication to open space, but the division's management of land so classified shall be in a manner to preserve the identified values.

* Sec. 2. AS 38.04.005(e) is repealed and reenacted to read:

INVOLVEMENT OF MUNICIPALITIES AND LOCAL RESIDENTS IS ESSENTIAL

(e) In classifying and making state land available for private use and settlement, the director shall, when appropriate, hold public [hearings] MEETINGS in the communities affected by the disposal to solicit the

views of the residents of the communities affected.

* Sec. 3. AS 38.04.010(b) is amended to read:

(b) State land which is located beyond the range of existing schools and other necessary public services, or which is located where development of sources of employment is improbable, may be made available for seasonal recreational purposes or for low density settlement. The seasonal recreation use or low density settlement shall have [, WITH] sufficient separation between residences so that public services will not be necessary or expected. ~~Resources such as timber,~~ The availability of resources, firewood, and water shall be considered in determining separation between residences.

* Sec. 4. AS 38.04.020(e) as amended by sec. 3, ch. 103, SLA 1983 is amended to read:

~~Recognizing that two fiscal years are needed to prepare for the disposal of any state lands in the land disposal bank~~

(e) The commissioner shall annually submit to the governor an appropriation request for funding for the next two years to allow: ~~necessary for the disposal of state land in the land disposal bank that shall be included in the budget submitted to the legislature by the governor. For each fiscal year, the request shall include an estimate of the amount necessary.~~

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

(2) ~~for~~ survey and disposal of land to be offered as agricultural, commercial, industrial, or other uses under AS 38.05.055 or 38.05.057, with the general location of the land;

(3) ~~for~~ the survey and disposal of land proposed to be offered as subdivisions, with the general location of the land;

(4) ~~for~~ preliminary feasibility studies, engineering design work, right-of-way acquisition and construction of access roads and capital improvements required by municipal subdivision ordinance or regulation of the

platting board under AS 29.33.150; [IF AN ACCURATE DETERMINATION OF THE AMOUNTS NECESSARY FOR ACCESS ROADS OR CAPITAL IMPROVEMENTS CANNOT BE MADE AT THE TIME THE ESTIMATE IS SUBMITTED, A SCHEDULE FOR OBTAINING THE ESTIMATES, CONSTRUCTING THE ACCESS ROADS OR CAPITAL IMPROVEMENTS, AND DISPOSING OF THE LAND SHALL BE SUBMITTED;]

(5) [identification of land that will be proposed for disposal under this subsection in future fiscal years.

* Sec. 5. AS 38.04.020(f) is amended to read: ← DELETE SEC. 5 *

*(Delete Sec. 5) COMMENT:

An accurate analysis of demand is difficult and has had little impact on legislative appropriations for disposal programs. Adding another aspect to the demand assessment, such as identifying demand for public services and capital improvements, will be time consuming and costly. In past years DNR has budgeted up to $60,000 for the assessment.

DNR wants to repeal (f) = demand assessment requirement

#2 Repeal AS 38.04.020(f) Demand assessment

[(f) The request of the commissioner under (e) of this section shall be based on an annual written assessment by the commissioner of the market for state land in the different regions of the state. If the state land is in or adjacent to municipalities or unincorporated communities, the assessment shall be developed in consultation with the municipalities or unincorporated communities. The assessment must include a survey of the supply of privately owned land offered for sale, municipal land for which a disposal plan has been completed, and federal land available for sale, lease, or permit for specific activities. The assessment of the market for state land shall be based on an analysis of the amount of private, municipal, and federal land available for disposal on terms equivalent to those used in comparable state land disposal programs and shall include the length of time land remains on the market before it is sold. The assessment must include findings regarding the amount and general location of state land, in addition to land offered by private landowners or available from a municipal government or the federal government, that is necessary to meet the statewide demand for at least five fiscal years immediately after the year in which the assessment is made. The assessment must also state the general location of land proposed for disposal in the next fiscal year and recommendations for the method of disposal under which the land will be offered to the public.]

which the land will be offered to the public. [The assessment shall also identify the demand for public services and capital improvements, including roads, associated with the market for state land.]

* Sec. 6. AS 38.04.020(g)(2) is amended to read:

(2) Land designated as suitable for subdivision and homesite disposal shall be surveyed, subdivided, classified, and disposed of under this chapter, AS 38.05, and AS 38.08 [AS FOLLOWS:

(A) UP TO 80 PERCENT OF THE PARCELS SHALL BE SOLD UNDER THE LOTTERY SALE PROCEDURES ESTABLISHED IN AS 38.05.057 AND 38.05.065;

(B) AT LEAST 10 PERCENT OF THE PARCELS SHALL BE DISPOSED OF AS HOMESITES UNDER AS 38.08.010 - 38.08.120; AND

(C) AT LEAST AN ADDITIONAL 10 PERCENT OF THE PARCELS SHALL BE DISPOSED OF AS HOMESITES UNDER AS 38.08.010 - 38.08.120 EXCEPT THAT, NOTWITHSTANDING AS 38.08.040(b), PARCELS OFFERED UNDER THIS SUBPARAGRAPH SHALL BE OFFERED BY LOTTERY UNDER AS 38.-05.057].

* Sec. 7. AS 38.04.020(h) is amended to read:

(h) Individual parcels disposed of in subdivisions may not exceed five acres unless the commissioner determines that a larger size is necessary to comply with zoning ordinances, [OR] to permit the design of a viable subdivision because of topographical features, soil conditions, on-site sewage disposal requirements, or water drainage or supply considerations that are unique to the subdivision, to minimize adverse effect on wildlife, fishery, timber, or other significant resources in the area, or to minimize adverse effect on other residential uses in the area.

* Sec. 8. AS 38.04 is amended by adding a new section to read:

Sec. 38.04.022. FUNDS FOR LAND DISPOSAL. (a) The revenue from

the sale of state land shall be deposited in a special state land disposal income account in the state general fund. The legislature may appropriate money from the special state land disposal income account for expenditure by the Department of Natural Resources for necessary costs incurred by the commissioner in the implementation of state land disposal programs authorized under AS 38 and for implementation of AS 38.04.021.

(b) Within 30 days after the legislature convenes in regular session the Department of Natural Resources shall submit a report reflecting all money deposited [or] anticipated to be deposited] in the fund established under (a) of this section for the next fiscal year.

* Sec. 9. AS 38.04.035(4) is amended to read:

(4) For enabling isolated cabin development in remote locations where survey and conveyance is impractical, [or] where potential conflicts with other resources and uses require additional conditions, or where a long-range interest in public ownership and use exist, a system for cabin permits on public land may be used.

* Sec. 10. AS 38.04.045(b) is amended to read:

(b) Before the conveyance of surface rights to state land, an official cadastral survey shall be accomplished, unless a comparable, acceptable survey exists that has been conducted by the federal Bureau of Land Management. The rectangular survey section corner positions shall be monumented and shown on a cadastral survey plat approved by the state. However, for those areas where the state may wish to convey surface estate outside of an official cadastral survey grid, the director may waive monumentation of all individual section corner positions and substitute an official control survey with control points being monumented [AT APPROXIMATELY TWO-MILE INTERVALS] and shown on control survey plats approved by the state. No portion of

land to be conveyed may be located more than two miles from such a survey control monument. The lots and tracts in state subdivisions shall be monumented and the cadastral survey and plats for the subdivision shall be approved by the state. Where land is located within a municipality with planning, platting, and zoning powers, plats for state subdivisions shall comply with local ordinances and regulations in the same manner and to the same extent as plats for subdivisions by other landowners. State subdivisions shall be filed in the district recorder's office. The requirements of this section do not apply to land made available through a cabin permit system, material sales, or short-term leases; however, for short-term leases the lessee must comply with local subdivision ordinances unless waived by the municipality under procedures specified by ordinance.

* Sec. 11. AS 38.04.050 is amended to read:

Sec. 38.04.050. ACCESS TO PRIVATE USE AREAS. Wherever state land is surveyed for purposes of private use, legal [ADEQUATE] rights-of-way and easements shall be reserved [AS NECESSARY] for access and, where appropriate, for utility services [POWER AND TELEPHONE SERVICE] to each parcel of land. A right-of-way or easement shall be located to assure adequate and feasible access for the purposes for which the right-of-way or easement was intended. Where necessary and appropriate for the use intended or where required by local subdivision ordinances, the director shall arrange for the development of surface access as part of the land availability program. The direct cost of local access development shall be borne by the recipient of the land unless otherwise provided by state statutes or regulations.

* Sec. 12. AS 38.04.055 is amended to read:

Sec. 38.04.055. ACCESS THROUGH PRIVATE USE AREAS. The director shall reserve easements [,] [AND] rights-of-way ~~and land in state~~

~~ownership~~ on [LAND] across ~~[land]~~ land which is made available for private use as necessary to ~~maintain present and future public use and access to public land and water and to reach adjacent private land~~ [REACH OR USE PUBLIC WATER AND PUBLIC AND PRIVATE LAND]. An easement [OR] right-of-way ~~or state land~~ reserved under this section may include established trails traditionally used for commerce, recreation, or transportation. The commissioner may retain state ownership to maintain present and future public access.

* Sec. 13. AS 38.05.030(c) is amended to read:

(c) In addition to the requirements specified in AS 38.50.090, the agencies referred to in [(a)** and] (b) of this section and other state agencies with authority to acquire or dispose of land shall give written notification of the fact of acquisition, lease, disposal, or exchange to the commissioner [DIVISION OF LANDS] within three months after the date that they make the acquisition, lease, disposal, or exchange.

* Sec. 14. AS 38.05.030(d) is amended to read:

(d) Real property acquired by [,] and under the management of [,] the agencies referred to in [(a)** and] (b) of this section that [, WHICH] is no longer needed for its intended use [,] shall be transferred [RETURNED] to the commissioner [JURISDICTION OF THE DIVISION OF LANDS], except that the Department of Transportation and Public Facilities [HIGHWAYS] may dispose of real property acquired by it under AS 19.05.040(2) and AS 19.05.080 - 19.05.120.

* Sec. 15. AS 38.05.035 is amended by adding a new subsection to read:

(e) Upon a written finding that the interests of the state will be best served, the director may, with the consent of the commissioner, approve contracts for the sale, lease, or other disposal of available land, resources, property or interests in them, and, in addition to the conditions and limitations imposed by law, may impose

* We repealed (a) which dealt with disposal of University lands.

additional conditions or limitations in the contracts as the director determines, with the consent of the commissioner, will best serve the interests of the state. A contract for the sale, lease, or other disposal of available land or an interest in land is not legally binding on the state until the commissioner approves the contract but if the appraised value is not greater than $50,000 in the case of the sale of land or an interest in land, or $5,000 in the case of the annual rental of land or interest in land, the director may execute the contract without the approval of the commissioner. Before a public hearing, if held, or in any case no less than 21 days before the sale, lease, or other disposal of available land, property, resources, or interests in them, the director shall make available to the public a written finding that sets out the facts and applicable law upon which the determination that the sale, lease, or other disposal will best serve the interests of the state was based. A written finding is not required before the approval of

(1) a contract for a negotiated sale authorized under AS 38.05.115;

(2) a lease of land for a shore fishery site under AS 38.05.052; or

(3) a permit or other authorization revocable by the commissioner.

* Sec. 16. AS 38.05.035(b) is amended to read:

(b) The director may

(1) delegate the administrative duties, functions or powers imposed upon <u>the director</u> [HIM] to a responsible employee in the division;

(2) grant preference rights for the lease or purchase of state land without competitive bid in order to correct [THE PAST OR

FUTURE] errors or omissions of a state or federal administrative agency when inequitable detriment would otherwise result to a diligent claimant or applicant due to situations over which the claimant or applicant had no control; the exercise of this discretionary power operates only to divest the state of its title to or interests in land and may be exercised only

(A) with the express approval of the commissioner; and

(B) if the application for the preference right is filed with the director within three years from the occurrence of the error or omission;

(3) grant a preference right to a claimant who shows bona fide improvement of state land [,] or of federal land subsequently acquired by the state [,] and who has in good faith sought to obtain title to the land but who, through error or omission of others occurring within the three years before the application for the preference right, has been denied title to it; upon a showing satisfactory to the commissioner, the claimant may lease or purchase the land at the price set on the date of original entry on the land or, if a price was not set at that time at a price determined by the director [DIVISION] to fairly represent the value of unimproved land at the time the claim was established, but in no event less than the cost of administration including survey; the error or omission of a predecessor in interest or an agent, administrator, or executor which has clearly prejudiced the claimant may be the basis for granting a preference right;

(4) sell land [LANDS] by lottery for less than the [THEIR] appraised value when, in the [HIS] judgment of the director, past scarcity of land suitable for private ownership in any particular area has resulted in unrealistic land values;

(5) when the director [HE] determines it is in the best

interest of the state and will avoid injustice to a person or the [HIS] heirs or devisees of a person, dispose of land, by direct negotiation to that person who presently uses and who used and made improvements to that land before January 3, 1959 or to the [HIS] heirs or devisees of the person; the amount paid for the land shall be its fair market value on the date that the person first entered the land, as determined by the director; a parcel of land disposed of under this paragraph shall be of a size consistent with the person's prior use, but may not exceed five acres;

(6) dispose of an interest in land limited to use for agricultural purposes by lottery;

(7) convey to an adjoining landowner any remnant of land that the director considers unmanageable or a parcel of land created by a highway right-of-way alignment or realignment, or a parcel created by the vacation of a state-owned right-of-way if

(A) the director [HE] determines that it is in the best interests of the state;

(B) the parcel does not exceed the minimum lot size under an applicable zoning code; and

(C) the director and the platting authority having land use planning jurisdiction agree that conveyance of the parcel to the adjoining landowner will result in boundaries that are convenient for the use of the land by the landowner and compatible with municipal land use plans;

(8) for good cause extend for up to 90 days the time for rental or installment payments by a lessee or purchaser of state land under AS 38.05.005 - 38.05.370 if reasonable penalties and interest set by the director are paid.

* Sec. 17. AS 38.05.050 is amended to read:

Sec. 38.05.050. DISPOSAL OF LAND FOR PRIVATE OWNERSHIP. The

commissioner [, UPON THE RECOMMENDATION OF THE DIRECTOR,] shall determine the land to be disposed of for private use. The commissioner [DIRECTOR] shall determine the time and place of disposal. An auction sale, a lottery sale, or a disposal of land for homesites [UNDER AS 38.04.020(g)(2)(C)] must be held in the community [MUNICIPALITY] that is closest to the land to be sold or disposed of [and in which regular sessions of a court of the state are held].

* Sec. 18. AS 38.05.055 is amended to read:

Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another method of sale is required under AS 38.05.005 - 38.05.370, under AS 38.07.010 - 38.07.060, or under AS 38.08.010 - 38.08.120, the sale of state land shall be made at public auction to the highest qualified bidder as determined by the director. The director may accept bids and sell state land under this section at no less than 85 percent of the appraised fair market value of the land. A bidder must appear in person at the auction unless medical reasons, attendance at school, or military service outside the state prevent attendance. A bidder may be represented by an attorney or agent at the auction if the land offered for disposal is commercial, industrial, or agricultural land. An aggrieved bidder may appeal to the commissioner within five days after the sale for a review of the director's determination. The sale shall be conducted by the director [OR HIS REPRESENTATIVE,] and at the time of sale the successful bidder shall deposit an amount equal to five percent of the purchase price [, OR IF THE PURCHASER ELECTS TO USE LAND DISCOUNTS GRANTED UNDER AS 38.05.058, FIVE PERCENT OF THE AMOUNT BID AFTER DEDUCTION OF THE DISCOUNT]. The director [OR HIS REPRESENTATIVE] shall immediately issue a receipt containing a description of the land or property purchased, the price bid, and the amount deposited [, AND THE AMOUNT OF ANY DISCOUNT ALLOWED]. The receipt shall

be acknowledged in writing by the bidder.

* Sec. 19. AS 38.05.065 is amended by adding a new subsection to read:

(d) If the director believes that a material breach of a contract for a sale of land has occurred, the director shall afford the purchaser and any other person with an interest in the contract an opportunity to appear and present evidence. On a determination based on the evidence presented that there has been a material breach of the contract, the director may foreclose ** WITHOUT JUDICIAL ACTION the interest of the purchaser or any other person with an interest under the contract. If the state has transferred or assigned its interest in the contract to a third person, the transferee or assignee has the rights of the state under the contract.

* Sec. 20. AS 38.05.069(a) is amended to read:

(a) On a determination [IF THE DIRECTOR DETERMINES] that the highest and best use of unoccupied land is for agricultural purposes [,] and [IF HE DETERMINES] that it is in the best interests of the state to sell or lease the land, the commissioner [HE] shall grant to an Alaskan resident owning and using or leasing and using land for agricultural purposes a [60-DAY] first option at [AFTER THE DATE OF] the auction to purchase or lease the unoccupied land situated adjacent to ~~[or in close proximity to]~~ land presently held by the Alaskan resident [THE APPROXIMATE VICINITY OF HIS PRESENTLY HELD LAND] for the amount of the high bid received at public auction. If more than one Alaskan resident qualifies for a first option under this section, eligibility for the first option shall be determined by lot and the option must be exercised on the conclusion of the public auction. A parcel of agricultural land sold under this section may not be less than 20 acres and a parcel of agricultural land that [WHICH] is acquired by exercise of the option granted in this subsection may not

may be controversial

** Clarifies that the Director is allowed to foreclose without court action.

exceed 320 acres. Agricultural land that [WHICH] is acquired under this section must be used for agricultural purposes as required by law.

* Sec. 21. AS 38.05.069(c) is amended to read:

(c) Under this section

(1) the director may convey or lease an interest in the land only for agricultural purposes, and all other interests in the land remain in the state; the sale or lease shall be at public auction;

(2) the remaining interests may subsequently be conveyed or leased by the director only upon the request of the grantee or lessee or the [HIS] assigns of the grantee or lessee and the determination of the director, with the written concurrence of the commissioner, that the conveyance or lease is in the public interest;

(3) the conveyance or lease of the remaining interests shall be at public auction; the original grantee or lessee or the [HIS] assigns of the grantee or lessee have a preference right to meet the high bid at the time of [WITHIN 30 DAYS AFTER THE DAY OF] the auction; if the right is exercised, the value of improvements owned by the holder of the preference right, included with the remaining interests sold, shall be deducted from the purchase price;

(4) by requesting the conveyance or lease of the remaining interest, the original grantee or lessee or the [HIS] assigns of the grantee or lessee

(A) consents to the sale or lease, and

(B) if the preference right provided by (3) of this subsection is not exercised, consents to sell at fair market value the improvements related to the remaining interest, as appraised by the director;

(5) the remaining interests in the land may not be conveyed or leased for less than their appraised value together with improvements except for the deduction allowed by (3) of this subsection.

ADD A NEW SECTION

* Sec. 21½. AS 38.05.070(b) is amended to read:

(b) The director, with the approval of the commissioner, shall determine the land to be leased and the limitations conditions and terms of the lease. If the appraised value of the transaction is $5,000 [$250] a year or less the director may negotiate a lease without advertisement for a period not to exceed five years, and on the limitations, conditions and terms which the director [he] considers are in the best interests of the state. A lease negotiated under this subsection is not eligible for a preference under AS 38.05.102.

COMMENT ON SEC. 21 ½: THIS INCREASE REFLECTS THE INCREASE IN LAND VALUES SINCE THIS STATUTE WAS ENACTED IN 1962. THE LEASE TERM REMAINS AT 5 YEARS.

ADD A NEW SECTION

* Sec. 21½. AS 30.05.070(c) is amended to read:

(c) A lease may be issued for a period up to [55] 99 years, if it appears to be in the best interests of the state and if the commissioner approves. If the commissioner determines that the land or a part of it which is the subject of a grazing lease is not being used for the purpose issued, the lease may be declared void. However, a nonrenewable lease for school lands may be issued for a period not to exceed 99 years.

COMMENT ON SEC. 21 ½: THIS INCREASE IN TERM WILL ENSURE THAT THE LEASE CAN BE ISSUED FOR THE USEFUL LIFE OF THE INTENDED ACTIVITY.

* Sec. 22. AS 38.05.110 is amended to read:

Sec. 38.05.110. SALE OF TIMBER AND MATERIALS. The commissioner [DIRECTOR] shall provide for cruises of timber and appraisals of other materials in or upon state land and shall assess the supply of and current markets for timber on and other materials in privately owned land in close proximity to state land to determine [LANDS AND TRANSMIT THIS DATA TO THE COMMISSIONER, TOGETHER WITH HIS RECOMMENDATIONS WITH RESPECT TO]

(1) the timber and other materials that [WHICH] should be offered for sale, and

(2) the terms of sale of the timber or other materials.

* Sec. 23. AS 38.05.115(a) is amended to read:

(a) The commissioner [, UPON RECOMMENDATION OF THE DIRECTOR,] shall determine the timber and other materials to be sold, and the limitations, conditions and terms of sale. The limitations, conditions and terms shall include the utilization, development and maintenance of the sustained yield principle, subject to preference among other beneficial uses. The commissioner [DIRECTOR] may negotiate sales of timber or materials without advertisement and on the limitations, conditions, and terms that are considered to be [WHICH HE CONSIDERS ARE] in the best interests of the state [, SUBJECT TO THE APPROVAL OF THE COMMISSIONER]. However, not more than 500 M.B.M. or equivalent other measure of timber or more than 25,000 cubic yards of materials may be sold by nonadvertised, negotiated sale to the same purchaser within a one-year period.

* Sec. 24. AS 38.05.118(a) is amended to read:

(a) Notwithstanding any other provision of AS 38.05.110 - 38.05.120, the commissioner [DIRECTOR, WITH THE APPROVAL OF THE COMMISSIONER,] may negotiate a sale of timber to a local manufacturer at appraised value. The period of a contract for a sale of timber negotiated under this section may not exceed 25 years. The contract shall provide that the appraised value of timber remaining to be harvested under the provisions of the contract shall be redetermined at least once every five years.

* Sec. 25. AS 38.05.118(c) is amended to read:

(c) A [NO] sale of timber may not be negotiated by the commissioner [DIRECTOR] under this section except on a finding [UNLESS HE FIRST FINDS] that, within an area proximate to the business site which the manufacturer may economically serve, there exists

(1) a high level of local unemployment;

(2) an underutilized timber manufacturing capacity; and

(3) an underutilized allowable cut of state timber.

* Sec. 26. AS 38.05.120 is amended to read:

Sec. 38.05.120. DISPOSAL PROCEDURE. Timber and other materials shall be sold either by sealed bids or public auction, depending on which method is determined by the commissioner to be in the best interests of the state, to the highest qualified bidder as determined by the commissioner [DIRECTOR. AN AGGRIEVED BIDDER MAY APPEAL TO THE COMMISSIONER WITHIN FIVE DAYS AFTER THE SALE FOR A REVIEW OF THE DIRECTOR'S DETERMINATION]. The sale shall be conducted by the commissioner [DIRECTOR OR HIS REPRESENTATIVE], and at the time of sale the successful bidder shall deposit the amount specified in the terms of sale. The means by which the amount of deposit is determined shall be prescribed by appropriate regulation. The commissioner [DIRECTOR OR HIS REPRESENTATIVE] shall immediately issue a receipt containing a

description of the timber or materials purchased, the price bid, and the terms of sale. The receipt shall be acknowledged in writing by the bidder. A contract of sale, on a form approved by the attorney general, shall be signed by the purchaser and [, FOLLOWING THE APPROVAL OF THE COMMISSIONER,] the contract shall be signed by the commissioner [DIRECTOR] on behalf of the state. The commissioner [DIRECTOR, WITH THE APPROVAL OF THE COMMISSIONER,] may impose conditions, limitations, and terms considered [WHICH HE CONSIDERS] necessary and proper to protect the interests of the state. Violation of any provision of this chapter or the terms of the contract of sale subjects the purchaser to appropriate legal action.

* Sec. 27. AS 38.05.127(a) is amended to read:

(a) Before the sale, lease, grant, or other disposal of any interest in state land adjacent to a body of water or waterway, the department [DEPARTMENT OF NATURAL RESOURCES] shall,

(1) under regulations, determine if the body of water or waterway is navigable water, public water, or neither;

(2) upon finding that the body of water or waterway is navigable or public water, provide for the specific easements, [OR] rights-of-way, or retention of land in state ownership [BOTH], reasonably necessary to ensure [INSURE] free access to and along the body of water, unless the department finds that regulating or limiting access is necessary for other beneficial uses or public purposes.

* Sec. 28. AS 38.05.127 is amended by adding a new subsection to read:

(e) The establishment of easements or rights-of-way for oil and gas and mineral leases under (a) of this section need not be made until the leases are ready to be developed.

* Sec. 29. AS 38.05.205(a) is amended to read: ← DELETE SEC. 29

(REFER TO COMMENTS ON PAGE 17)

(Delete Sec. 29) COMMENT:

By statute, the lease is granted as a right. A simple notice that the lease will be issued is currently required.

notice requirement for mining lease -

* Sec. 30. AS 38.05.205(c) is amended to read:

(c) A mining lease shall be for any period up to 55 years, and the lessee has a right to a new lease at the end of each lease period.

The commissioner may make reasonable adjustments of the rental rate at the end of each 20 year period, based upon changed conditions in production costs and markets. A valid mining claim located and held under AS 38.05.195 may be converted to a lease at any time upon application by the owner, and issuance by the commissioner [DIRECTOR]. No rights granted by a mining lease may be exercised until the lease has been filed for record in the recording district where the land is located.

* Sec. 31. AS 38.05.300(a) is amended to read:

(a) The commissioner shall classify for surface use land [LANDS] in areas considered [WHERE HE CONSIDERS IT] necessary and proper. This section does not prevent reclassification of land [LANDS] where the public interest warrants reclassification, nor does it preclude multiple purpose use of land [LANDS] whenever different uses are compatible. State [NO STATE] land, water, or land and water area may not, [SHALL] except by act of the state legislature, be closed to multiple purpose use [,] if the area involved contains more than 640 acres.

* Sec. 32. AS 38.05.310(a) is amended to read:

(a) No land may be sold or leased, or a renewal lease issued, except in the case of an oil or gas or mineral lease, unless it has been appraised within one year [120 DAYS] before the date fixed for the sale or lease. When land is offered at public sale but is not sold and is available at private sale, no reappraisal is required unless the director considers that a change in value of the land [LANDS] may have occurred. A grazing lease may be granted to a lessee of federal grazing land [LANDS] without prior appraisal, if the [HIS] federal lease was cancelled to allow the state to select the land [LANDS] under lease. No land may be sold or leased for less than the

approved, appraised market value, except as provided in AS 38.05.055, 38.05.057, 38.05.075 - 38.05.085, 38.05.097, 38.05.315, and 38.05.320.

* Sec. 33. AS 38.05.345(a) is amended to read:

(a) This section establishes the requirements for notice given by the department for the following actions:

(1) classification or reclassification of state land under AS 38.05.300 and the closing of land to mineral leasing or entry under AS 38.05.185;

(2) zoning of land under applicable law;

(3) A DECISION UNDER AS 38.05.035(a)(14) REGARDING THE SALE, LEASE, OR DISPOSAL OF AN INTEREST IN STATE LAND OR RESOURCES: AND

(4) A COMPETITIVE DISPOSAL OF AN INTEREST IN STATE LAND OR RESOURCES AFTER FINAL DECISION UNDER AS 38.05.035(a)(14).

* Sec. 34. AS 38.05.345(b) is amended to read:

(b) Notice of one or more actions described in (a) of this section shall be given by more than one of the following methods at least 30 days before the action: [BY] (1) publication in newspapers of statewide circulation and in a newspaper of general circulation in the vicinity of the proposed action, (2) publication through public service announcements on the electronic media serving the area affected by the action, (3) posting in a conspicuous location in the vicinity of the action, (4) notification of parties known or likely to be affected by the action, or (5) another method calculated to reach affected persons. A notice shall contain sufficient information to inform the public of the nature of the action and the opportunity of the public to comment on the action.

* Sec. 35. AS 38.05.345(d) is amended to read:

(d) No notice is required under this section for: ~~For purposes of this section an "interest in state land or~~

** Drafting error. (a)(14) has simply been restated in (e).

~~resources" does not include~~]

(1) a permit or other authorization revocable by the department, or

(2) negotiated sales of timber not exceeding 25,000 board feet or materials not exceeding 2500 cubic yards under AS 38.05.115.

* Sec. 36. AS 38.05.365 is amended to read:

Sec. 38.05.365. DEFINITIONS. In AS 38.05.005 - 38.05.370, unless the context otherwise requires,

(1) "acquired land [LANDS]" means land [LANDS] belonging to the state including tide, submerged and shoreland [SHORELANDS] which has [HAVE] been obtained by escheat, purchase, or any means other than by general land grant;

(2) "agricultural land [LANDS]" means land [LANDS] chiefly valuable for agricultural purposes;

(3) "commissioner" means the commissioner [OF THE DEPARTMENT] of natural resources;

(4) "department" means the Department of Natural Resources;

(5) "director" means the director of the division of lands of the Department of Natural Resources;

(6) "industrial and commercial land [LANDS]" means land [LANDS] chiefly valuable for industrial trade, manufacturing or business use;

(7) "lieu and indemnity land [LANDS]" means land [LANDS] which the state is entitled to select under the provisions of 38 Stat. 1214, as amended (48 USC 353) or a similar statute to compensate for land [LANDS] in place of surveyed rectangulars, which have been lost to the state by reason of deficient sections, prior rights, claims, withdrawals, reservations and other appropriations;

[(8) repealed.]

(8) [(9)] "mineral land [LANDS]" means land [LANDS]

prospectively valuable for mineral deposits;

(9) "multiple use" has the meaning given in AS 38.04.910;

(10) "park and recreation land [LANDS]" means land [LANDS] chiefly valuable for public park and recreation use;

(11) "preference right forest lease" means a lease granted to a lessee whose United States Forest Service term special use permit was cancelled to allow the land under permit to be selected by the state;

(12) "preference right grazing lease" means a grazing lease granted to a lessee whose federal grazing lease was cancelled to allow the land under lease to be selected by the state;

(13) "rule of approximation" is the rule which is applied in determining whether or not a lease complies with the area limits set forth in AS 38.05.005 - 38.05.370 and regulations adopted under it and in keeping the boundaries of leased land [LANDS] coincidental with legal subdivisions; under the rule, if the area covered by a lease in excess of the permitted maximum is smaller than the area of any deficiency that would result by eliminating from the lease the smallest legal subdivision covered by the lease or application for lease, the excess area will be permitted to remain in the lease; if the excess area is greater than the deficient area would be, then the smallest legal subdivision will be eliminated from the lease;

[(14) repealed.]

(14) "shoreland" [(15) "SHORELANDS"] means land [LANDS] belonging to the state which is [ARE] covered by nontidal water [WATERS] that is [ARE] navigable under the laws of the United States up to ordinary high water mark as modified by accretion, erosion, or reliction;

(15) [(16)] "state land [LANDS]" or "land" ["LANDS"] means

all land [LANDS], including shore, tide and submerged land [LANDS], or resources belonging to or acquired by the state;

(16) [(17)] "submerged land [LANDS]" means land [LANDS] covered by tidal water [WATERS] between the line of mean low water and seaward to a distance of three geographical miles or further as may hereafter be properly claimed by the state;

(17) "tideland" [(18) "TIDELANDS"] means land [THOSE LANDS] which is [ARE] periodically covered by tidal water [WATERS] between the elevation of mean high and mean low tides;

(18) [(19)] "timber land [LANDS]" and "material land [LANDS]" mean state land [LANDS] chiefly valuable for materials, including, but not limited to, sand, stone, gravel, pumice, common clay, or timber and other forest products;

(19) [(20)] "university land [LANDS]" means all sections 33 reserved to the university under 38 Stat. 1214, as amended (48 USC 353) and all land [LANDS] granted to or reserved for the benefit of the university;

(20) [(21)] "grazing land [LANDS]" means land [LANDS] chiefly valuable for grazing purposes; [.]

(21) [(22)] "navigable water [WATERS]" means any water of the state forming a river, stream, lake, pond, slough, creek, bay, sound, estuary, inlet, strait, passage, canal, sea or ocean, or any other body of water or waterway within the territorial limits of the state or subject to its jurisdiction, that is navigable in fact for any useful public purpose, including but not limited to water suitable for commercial navigation, floating of logs, landing and takeoff of aircraft, and public boating, trapping, hunting waterfowl and aquatic animals, fishing, or other public recreational purposes;

(22) [(23)] "public water [WATERS]" means navigable water

and all other water, whether inland or coastal, fresh or salt, that is reasonably suitable for public use and utility, habitat for fish and wildlife in which there is a public interest, or migration and spawning of fish in which there is a public interest; [.]

(23) [(24)] "geothermal resources" means the natural heat of the earth at temperatures greater than [~~120~~ 110] degrees Celsius, measured at the point where the highest-temperature resources encountered enter or contact a well or other resource extraction device, and includes

(A) the energy, including pressure, in whatever form present in, resulting from, created by, or that may be extracted from that natural heat;

(B) the material medium, including the geothermal fluid naturally present, as well as substances artificially introduced to serve as a heat transfer medium; and

(C) all dissolved or entrained minerals and gases that may be obtained from the material medium, but excluding hydrocarbon substances and helium.

* Sec. 37. AS 38.08.060 is amended by adding a new subsection to read:

(e) A permit holder who meets each of the provisions of (a) of this section except for (a)(1), and who tenders the commissioner an amount equal to 5% of the present fair market value of the land within seven years of the issuance of the permit, may purchase the land under AS 38.05.065.**

* Sec. 38. AS 38.09.010(b) is amended to read:

(b) The commissioner shall complete a [CADASTRAL] survey of homestead entry state land under AS 38.04.045 before designating the state land for homestead entry[.] [NO PORTION OF LAND MADE AVAILABLE FOR HOMESTEAD ENTRY MAY BE LOCATED MORE THAN A MILE FROM A SURVEY

but this requirement may be waived where the commissioner determines that topographic features, diffuse settlement or low public interest do not justify or require cadastral survey.

** COMMENT: Would remove burden on DNR to determine that a "good faith" effort to occupy had been made.

CONTROL MONUMENT.]

* Sec. 39. AS 38.09.090 is amended by adding a new subsection to read:

(b) An applicant who complies with AS 38.09.050(a)(2) - (5) and who tenders the commissioner an amount equal to five percent of the present fair market value of the land within five years of the issuance of the permit may purchase the land under AS 38.05.065 [if the commissioner determines that the applicant has made a good faith effort to meet the occupancy requirements.] The purchase price is the fair market value of the land at the time of the purchase.

SEE COMMENT FOR SEC. 37 (p 23)

* Sec. 40. AS 38.20.010 is amended to read:

Sec. 38.20.010. ADOPTION. The systems [SYSTEM] of rectangular plane coordinates established by the National Geodetic Survey, National Ocean Service [UNITED STATES COAST AND GEODETIC SURVEY] for defining and stating the positions or locations of points on the surface of the earth in this state are [IS] adopted. The systems are [IT IS] to be known as the "Alaska Coordinate System of 1927" and the "Alaska Coordinate System of 1983."

* Sec. 41. AS 38.20.030 is amended to read:

Sec. 38.20.030. DESIGNATION OF ZONES. In any land description in which a coordinate system [IT] is used a zone of the coordinate system is designated the "Alaska Coordinate System of 1927, Zone ....." or the "Alaska Coordinate System of 1983, Zone ....."

* Sec. 42. AS 38.20.040 is amended to read:

Sec. 38.20.040. USE OF COORDINATE SYSTEM. The plane coordinates of a point on the earth's surface, to be used in expressing the position or location of the point in the appropriate zone of this system, consist of two distances, expressed in feet and decimals of a foot when using the Alaska Coordinate System of 1927 and expressed in meters and decimals of a meter when using the Alaska Coordinate System

of 1983. One of these distances, known as the "x-coordinate," gives the position in an east-and-west direction; the other known as the "y-coordinate" gives the position in a north-and-south direction. These coordinates shall be made to depend upon and conform to the coordinates of the North American Horizontal Geodetic Control Network as determined by the National Geodetic Survey, National Ocean Service [, ON THE ALASKA COORDINATE SYSTEM, OF THE TRIANGULATION AND TRAVERSE STATIONS OF THE UNITED STATES COAST AND GEODETIC SURVEY IN THE STATE, AS THOSE COORDINATES HAVE BEEN DETERMINED BY THE SURVEY].

* Sec. 43. AS 38.20.060 is amended to read:

Sec. 38.20.060. CHARACTERISTICS OF ZONES. The zones of the Alaska Coordinate System of 1927 have the following characteristics:

(1) Zone 1 is an oblique Mercator projection of the Clarke spheroid of 1866, having an origin at the intersection of parallel 57° 00 minutes [MINUTE] north latitude and meridian 133° 40 minutes [MINUTE] west of Greenwich, at which the scale is set one part in 10,000 too small, and through which the axis of symmetry is in geodetic azimuth arc tangent-3/4, reckoned clockwise from south. The origin is assigned values such that all final coordinates will be positive.

(2) Zone 2 is a transverse Mercator projection of the Clarke spheroid of 1866, having a central meridian 142° 00 minutes [MINUTE] west of Greenwich, on which meridian the scale is set one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 142° 00 minutes [MINUTE] west of Greenwich and the parallel of 54° 00 minutes [MINUTE] north latitude. This origin is given the coordinates: x = 500,000 feet and y = 0 feet.

(3) Zone 3 is a transverse Mercator projection of the Clarke spheroid of 1866, having a central meridian 146° 00 minutes

[MINUTE] west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 146° 00 minutes [MINUTE] west of Greenwich and the parallel 54° 00 minutes [MINUTE] north latitude. This origin is given the coordinates: x = 500,000 feet and y = 0 feet.

(4) Zone 4 is a transverse Mercator projection of the Clarke spheroid of 1866, having a central meridian 150° 00 minutes [MINUTE] west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 150° 00 minutes [MINUTE] west of Greenwich and the parallel 54° 00 minutes [MINUTE] north latitude. This origin is given the coordinates: x = 500,000 feet and y = 0 feet.

(5) Zone 5 is a transverse Mercator projection of the Clarke spheroid of 1866, having a central meridian 154° 00 minutes [MINUTE] west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 154° 00 minutes [MINUTE] west of Greenwich and the parallel 54° 00 minutes [MINUTE] north latitude. This origin is given the coordinates: x = 500,000 feet and y = 0 feet.

(6) Zone 6 is a transverse Mercator projection of the Clarke spheroid of 1866, having a central meridian 158° 00 minutes [MINUTE] west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 158° 00 minutes [MINUTE] west of Greenwich and the parallel 54° 00 minutes [MINUTE] north latitude. This origin is given the coordinates: x = 500,000 feet and y = 0 feet.

(7) Zone 7 is a transverse Mercator projection of the Clarke spheroid of 1866, having a central meridian 162° 00 minutes [MINUTE] west of Greenwich, on which meridian the scale is set at one

part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 162° 00 minutes [MINUTE] west of Greenwich and the parallel 54° 00 minutes [MINUTE] north latitude. This origin is given the coordinates: x = 700,000 feet and y = 0 feet.

(8) Zone 8 is a transverse Mercator projection of the Clarke spheroid of 1866, having a central meridian 166° 00 minutes [MINUTE] west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 166° west of Greenwich and the parallel 54° 00 minutes [MINUTE] north latitude. This origin is given the coordinates: x = 500,000 feet and y = 0 feet.

(9) Zone 9 is a transverse Mercator projection of the Clarke spheroid of 1866, having a central meridian 170° 00 minutes [MINUTE] west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 170° 00 minutes [MINUTE] west of Greenwich and the parallel 54° 00 minutes [MINUTE] north latitude. This origin is given the coordinates: x = 600,000 feet and y = 0 feet.

(10) Zone 10 is a Lambert conformal conic projection of the Clarke spheroid of 1866, having standard parallels at north latitude 51° 50 minutes [MINUTE] as and 53° 50 minutes, along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 176° 00 minutes [MINUTE] west of Greenwich and the parallel 51° 00 minutes [MINUTE] north latitude. This origin is given the coordinates: x = 3,000,000 feet and y = 0 feet.

* Sec. 44. AS 38.20.060 is amended by adding a new subsection to read:

(b) The zones of the Alaska Coordinate System of 1983 have the following characteristics:

(1) Zone 1 is an oblique Mercator projection of the World

Reference Ellipsoid, having an origin at the intersection of parallel 57° 00 minutes north latitude and meridian 133° 40 minutes west of Greenwich, at which the scale is set one part in 10,000 too small, and through which the axis of symmetry is in geodetic azimuth arc tangent-3/4, reckoned clockwise from south. The origin is assigned values such that all final coordinates will be positive.

(2) Zone 2 is a transverse Mercator projection of the World Reference Ellipsoid, having a central meridian 142° 00 minutes west of Greenwich, on which meridian the scale is set one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 142° 00 minutes west of Greenwich and the parallel of 54° 00 minutes north latitude. This origin is given the coordinates: x = 500,000 meters and y = 0 meters.

(3) Zone 3 is a transverse Mercator projection of the World Reference Ellipsoid, having a central meridian 146° 00 minutes west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 146° 00 minutes west of Greenwich and the parallel 54° 00 minutes north latitude. This origin is given the coordinates: x = 500,000 meters and y = 0 meters.

(4) Zone 4 is a transverse Mercator projection of the World Reference Ellipsoid, having a central meridian 150° 00 minutes west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 150° 00 minutes west of Greenwich and the parallel 54° 00 minutes north latitude. This origin is given the coordinates: x = 500,000 meters and y = 0 meters.

(5) Zone 5 is a transverse Mercator projection of the World Reference Ellipsoid, having a central meridian 154° 00 minutes west of

Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 154° 00 minutes west of Greenwich and the parallel 54° 00 minutes north latitude. This origin is given the coordinates: x = 500,000 meters and y = 0 meters.

(6) Zone 6 is a transverse Mercator projection of the World Reference Ellipsoid, having a central meridian 158° 00 minutes west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 158° 00 minutes west of Greenwich and the parallel 54° 00 minutes north latitude. This origin is given the coordinates: x = 500,000 meters and y = 0 meters.

(7) Zone 7 is a transverse Mercator projection of the World Reference Ellipsoid, having a central meridian 162° 00 minutes west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 162° 00 minutes west of Greenwich and the parallel 54° 00 minutes north latitude. This origin is given the coordinates: x = 500,000 meters and y = 0 meters.

(8) Zone 8 is a transverse Mercator projection of the World Reference Ellipsoid, having a central meridian 166° 00 minutes west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 166° west of Greenwich and the parallel 54° 00 minutes north latitude. This origin is given the coordinates: x = 500,000 meters and y = 0 meters.

(9) Zone 9 is a transverse Mercator projection of the World Reference Ellipsoid, having a central meridian 170° 00 minutes west of Greenwich, on which meridian the scale is set at one part in 10,000

too small. The origin of coordinates is at the intersection of the meridian 170° 00 minutes west of Greenwich and the parallel 54° 00 minutes north latitude. This origin is given the coordinates: x = 500,000 meters and y = 0 meters.

(10) Zone 10 is a Lambert conformal conic projection of the World Reference Ellipsoid, having standard parallels at north latitude 51° 50 minutes as and 53° 50 minutes, along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 176° 00 minutes west of Greenwich and the parallel 51° 00 minutes north latitude. This origin is given the coordinates: x = 1,000,000 meters and y = 0 meters.

* Sec. 45. AS 38.20.070 is amended to read:

Sec. 38.20.070. POSITION OF SYSTEM. The position of the Alaska Coordinate System <u>of 1927</u> shall be <u>as</u> marked on the ground by triangulation or traverse stations established in conformity with the standards adopted by the <u>National Geodetic Survey, National Ocean Service</u> [UNITED STATES COAST AND GEODETIC SURVEY FOR FIRST-ORDER, SECOND-ORDER, AND THIRD-ORDER WORK,] whose geodetic positions have been rigidly adjusted on the North American datum of 1927 and whose coordinates have been computed on the system defined in this chapter. [ANY SUCH STATION MAY BE USED FOR ESTABLISHING A SURVEY CONNECTION WITH THE ALASKA COORDINATE SYSTEM.]

* Sec. 46. AS 38.20.070 is amended by adding a new subsection to read:

(b) The position of the Alaska Coordinate System of 1983 shall be as marked on the ground by triangulation or traverse stations established in conformity with the standards adopted by the National Geodetic Survey, National Ocean Service whose geodetic positions have been rigidly adjusted on the North American datum of 1983 and whose plane coordinates have been computed on the system defined in this

chapter.

* Sec. 47. AS 38.20.080 is amended to read:

Sec. 38.20.080. LIMITATION. Coordinates [NO COORDINATES] based on the Alaska Coordinate System, purporting to define the position of a point on a land boundary, may not [SHALL] be presented to be recorded in any public land records or deed records unless the point is within two miles of a horizontal control [TRIANGULATION OR TRAVERSE] station established in conformity with National Geodetic Survey, National Ocean Service standards and specifications for first-order, second-order, or third-order work [THE STANDARDS PRESCRIBED IN AS 38.-20.070]. The two-mile limitation may be modified by a state agency to meet local conditions.

* Sec. 48. AS 38.20.090 is amended to read:

Sec. 38.20.090. USE OF SYSTEM NAME. The use of the term "Alaska Coordinate System of 1927" on a map, report of survey, or other document is limited to coordinates based on the Alaska Coordinate System of 1927 as defined in this chapter.

* Sec. 49. AS 38.20.090 is amended by adding a new subsection to read:

(b) The use of the term "Alaska Coordinate System of 1983" on a map, report of survey, or other document is limited to coordinates based on the Alaska Coordinate System of 1983 as defined in this chapter.

* Sec. 50. AS 38.20.100 is amended to read:

Sec. 38.20.100. USE OF PUBLIC LAND SURVEY DESCRIPTIONS. When coordinates based on the Alaska Coordinate System of 1927 or the Alaska Coordinate System of 1983 are used to describe a tract of land which in the same document is also described by reference to a subdivision, line, or corner of the United States public land surveys, the description by coordinates shall be construed as supplemental to

the basic description of the subdivisions, line, or corner contained in the official plats and field notes filed of record, and in the event of a conflict the description by reference to the subdivision, line, or corner of the United States public land surveys prevails over the description by coordinates.

* Sec. 51. AS 38.20.110 is amended to read:

Sec. 38.20.110. USE OF SYSTEM NOT REQUIRED. Nothing in this chapter requires a purchaser or mortgagee to rely on a description, any part of which depends exclusively upon the Alaska Coordinate System <u>of 1927 or the Alaska Coordinate System of 1983</u>.

* Sec. 52. AS 38.35.140(b) is amended to read:

(b) The lessee shall reimburse the state for all reasonable costs incurred <u>in processing an application filed under AS 38.35.050 and</u> in monitoring the construction<u>, operation, maintenance, and removal</u> of the pipeline on the right-of-way.

* Sec. 53. AS 38.50.020(b) is amended to read:

(b) An appraisal required by this section is presumed accurate and valid for a period of <u>one year</u> [SIX MONTHS] from the time the appraisal is completed. After that time, or if the director has reason to believe that the value of the appraised property has changed significantly during the original <u>one year</u> [SIX-MONTH] period, a reappraisal of the property is required.

* Sec. 54. AS 38.50.040 is amended to read:

Sec. 38.50.040. LAND SUBJECT TO EXCHANGE. Except as otherwise provided in this chapter, the director is authorized to convey for purposes of exchange any state land or interest in land regardless of the authority under which the land or interest was obtained by the state. [THE CONVEYANCE OF UNIVERSITY LAND SHALL BE APPROVED IN THE MANNER PRESCRIBED IN AS 38.05.030.]

* Sec. 55. AS 38.50.110(a) is amended to read:

(a) Not more than 60 days nor less than 30 days before a public hearing is scheduled under AS 38.50.120 the director shall circulate a notice containing the information specified in (b) of this section except as provided in (c) of this section. The director shall

(1) publish or post the notice as provided in AS 38.05.345, except as otherwise specified in this section; the [. THE] director shall publish the notice in a newspaper of general circulation in the vicinity of the land which the state will receive and in the three most populated cities of the state;

(2) mail the notice to any person who has filed a request for notice of proposed exchanges;

(3) mail the notice to each member of the legislature;

(4) mail the notice to each municipality the boundaries of which encompass or are located within six linear miles of land involved in the proposed exchange;

(5) circulate the notice to the Office of the Governor and to all state departments;

[(6) Repealed]

(6) [(7)] mail the notice to any corporation organized under the Alaska Native Claims Settlement Act, which corporation owns or has selected land located within a radius of 15 linear miles from land or property involved in the proposed exchange; and

(7) [(8)] mail the notice to any other party, including an organization of land users, that the director [HE] considers appropriate.

* Sec. 56. AS 38.50.110 is amended by adding a new subsection to read:

(c) The director shall provide the information required under (b) of this section under AS 38.05.345(b) - (c) for exchanges of

(1) less than 640 acres of STATE land; or

(2) STATE land having an appraised or estimated fair market value of less than $100,000.

* Sec. 57. AS 38.50.120(a) is amended to read:

(a) The commissioner [DIRECTOR] may hold as many public hearings as is considered appropriate. For an exchange of more than 640 acres of state land [, HAVING 640 ACRES OR MORE, OR] having an appraised or estimated fair market value of more than $100,000 [OR MORE], there [THERE] shall be at least one public hearing.

* Sec. 58. AS 38.50.140 is amended to read:

Sec. 38.50.140. LEGISLATIVE REVIEW. Within 10 days of the convening of a regular legislative session, the governor shall transmit to the president of the senate and the speaker of the house of representatives any proposal for a land exchange required to be submitted to the legislature under AS 38.50.020(a) that [FOR OTHER THAN EQUAL APPRAISED FAIR MARKET VALUE WHICH] is scheduled to occur before the next legislative session. If [, IN HIS VIEW,] exigent circumstances seriously affecting state interests so require, the governor may submit the proposed exchange to the legislature at some other time. A finding of exigent circumstances shall be carefully documented in the letter of transmittal. The director is authorized to conclude a proposed exchange agreement unless either house of the legislature by simple resolution disapproves of the exchange within 60 legislative days of transmittal by the governor. A decision by the legislature to disapprove a proposed exchange shall be accompanied by a recommendation to the governor with respect to future actions which the director should take concerning the exchange.

* Sec 59. AS 38.95.080(a) is amended to read:

(a) The commissioner may [DIRECTOR OF THE DIVISION OF LANDS

SHALL] issue a nontransferable permit for the construction of a trapping cabin on state land to a person who meets the following qualifications:

(1) the person must have an established trapline with proof of regular use;

(2) the person must have a trapline of sufficient length to justify the need for cabin construction.

* Sec. 60. AS 29.33.150(b) is amended to read:

(b) The regulations adopted under (a) of this section apply to subdivision plats of undeveloped state land for disposal under AS 38.05 or AS 38.08 filed with the platting board. [THE PLATTING BOARD MAY NOT DISAPPROVE THE SUBDIVISION PLAT ON THE BASIS OF REGULATIONS WHICH REQUIRE CAPITAL IMPROVEMENTS ON OR TO STATE LAND INCLUDED IN THE SUBDIVISION PLAT.] Regulations adopted after the platting board is notified by the commissioner of natural resources of a proposed sale of subdivided state land under AS 38.05 or AS 38.08 do not apply to the state land in the proposed sale. This section does not apply to any subdivision plat submitted to the platting board prior to the effective date of this Act.

* Sec. 61. AS 29.18.206(e) is amended to read:

(e) The notice and review provisions of AS [38.05.305 AND] 38.05.345 are applicable to the designation of other general grant land as school, university or mental health land in replacement of land selected under this section. The provisions of AS 38.50.010 - 38.50.170 and 38.05.032 do not apply to such designations under this section. [THE PROVISIONS OF AS 38.05.030(a), 38.05.030(e), AND 38.05.035(a)(13) WHICH REQUIRE THE APPROVAL OF THE RESPECTIVE TRUST BOARD BEFORE DISPOSAL OF LANDS BY THE DIRECTOR DO NOT APPLY TO SELECTIONS OF SCHOOL, UNIVERSITY OR MENTAL HEALTH LAND BY A MUNICIPALITY UNDER THIS SECTION.]

* Sec. 62. AS 29.33.150(c) is amended to read:

(c) The platting board must approve and sign the subdivision plat within 60 days of its receipt from the commissioner of natural resources unless the platting board

(1) determines that the plat does not comply with subdivision regulations, unless the plat was submitted to the platting board prior to the effective date of this Act. [OTHER THAN THOSE REQUIRING CAPITAL IMPROVEMENTS TO STATE LAND]; and

(2) notifies the commissioner of each determination of noncompliance within the 60-day period established in this subsection.

* Sec. 63. AS 29.33.150(e); [AS 38.04.020(f);] AS 38.04.025, 38.04.040, 38.04.045(a); AS 38.05.030(a), 38.05.035(a)(14), 38.05.069(b), [38.05.345(e),] 38.05.350, 38.05.362 and 38.05.365(20) are repealed.

* Sec. 64. This Act takes effect July 1, 1984.

#2 Repeal AS 38.04.020(f) Demand assessment

[(f) The request of the commissioner under (e) of this section shall be based on an annual written assessment by the commissioner of the market for state land in the different regions of the state. If the state land is in or adjacent to municipalities or unincorporated communities, the assessment shall be developed in consultation with the municipalities or unincorporated communities. The assessment must include a survey of the supply of privately owned land offered for sale, municipal land for which a disposal plan has been completed, and federal land available for sale, lease, or permit for specific activities. The assessment of the market for state land shall be based on an analysis of the amount of private, municipal, and federal land available for disposal on terms equivalent to those used in comparable state land disposal programs and shall include the length of time land remains on the market before it is sold. The assessment must include findings regarding the amount and general location of state land, in addition to land offered by private landowners or available from a municipal government or the federal government, that is necessary to meet the statewide demand for at least five fiscal years immediately after the year in which the assessment is made. The assessment must also state the general location of land proposed for disposal in the next fiscal year and recommendations for the method of disposal under which the land will be offered to the public.]

2/24/84

CHANGES TO COMMITTEE SUBSTITUTE

1. Proposed by Environmental Lobby. In making land available for private use, commissioner will also consider scenic values.

2. Recognizes that two fiscal years are needed to prepare for disposal of any state land in the land disposal bank.

3. Proposed by Alaska Municipal League. Clarifies that in determining subdivision parcel size local ordinances shall be complied with.

4. Authorizes the commissioner to retain public lands in state ownership to maintain present and future access, but clarifies that retention would not be required of all public lands that have received public use.

5. Proposed by Sealaska. Would allow an interest holder of state land to restrict the use of an easement with written approval of DNR.

6. Proposed by Environmental Lobby. Would require that notice of disposals include "common terms" (not just legal property descriptions).

Introduced: 1/25/84

2/23/84

Original sponsor: Fahrenkamp

IN THE SENATE BY THE RESOURCES COMMITTEE

CS FOR SENATE BILL NO. 375

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

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

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

* Section 1. AS 38.04.005(b) is amended to read:

(b) In classifying and making state land available for private use and settlement purposes, the director shall consider the natural resources and conditions present on the land and shall seek to minimize the effect of private [use and] settlement on wildlife, fishery, (1) scenic mineral, timber, and other significant resources on the land; the director shall also make adequate provision for public open space which is accessible to communities so that natural areas are easily reached from all communities and settled areas. The amount of that land shall be sufficient to meet existing and projected needs for accessible public recreation land. Special care shall be taken to preserve public access to public water and to retain state ownership of sufficient land which combine high value for recreation and other public purposes with accessibility to settled areas. This classification for public purposes does not constitute dedication to open space, but the division's management of land so classified shall be in a manner to preserve the identified values.

* Sec. 2. AS 38.04.005(e) is repealed and reenacted to read:

(e) INVOLVEMENT OF MUNICIPALITIES AND LOCAL RESIDENTS IS ESSENTIAL In classifying and making state land available for private use and settlement, the director shall, when appropriate, hold public [hearings] MEETINGS in the communities affected by the disposal to solicit the

views of the residents of the communities affected.

* Sec. 3. AS 38.04.010(b) is amended to read:

(b) State land which is located beyond the range of existing schools and other necessary public services, or which is located where development of sources of employment is improbable, may be made available for seasonal recreational purposes or for low density settlement. The seasonal recreation use or low density settlement shall have [, WITH] sufficient separation between residences so that public services will not be necessary or expected. The availability of timber, firewood, and water resources shall be considered in determining separation between residences.

* Sec. 4. AS 38.04.020(e) as amended by sec. 1, ch. 103, SLA 1983 is amended to read:

(e) The commissioner shall annually submit to the governor an estimated funding for the next two years follow (2) appropriation request [necessary for the disposal of state land in the land disposal bank that shall be included in the budget submitted to the legislature by the governor. For each fiscal year, the request shall include an estimate of the amount necessary]

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

(2) [for] survey and disposal of land to be offered as agricultural, commercial, industrial, or other uses under AS 38.05.055 or 38.05.057, with the general location of the land;

(3) [for] the survey and disposal of land proposed to be offered as subdivisions, with the general location of the land;

(4) [for] preliminary feasibility studies, engineering design work, right-of-way acquisition and construction of access roads and capital improvements required by municipal subdivision ordinance or regulation of the

platting board under AS 29.33.150; [IF AN ACCURATE DETERMINATION OF THE AMOUNTS NECESSARY FOR ACCESS ROADS OR CAPITAL IMPROVEMENTS CANNOT BE MADE AT THE TIME THE ESTIMATE IS SUBMITTED, A SCHEDULE FOR OBTAINING THE ESTIMATES, CONSTRUCTING THE ACCESS ROADS OR CAPITAL IMPROVEMENTS, AND DISPOSING OF THE LAND SHALL BE SUBMITTED;]

(5) [for] identification of land that will be proposed for disposal under this subsection in future fiscal years.

* Sec. 5. AS 38.04.020(f) is amended to read: ←DELETE SEC. 5 *

(Delete Sec. 5) COMMENT:

An accurate analysis of demand is difficult and has had little impact on legislative appropriations for disposal programs. Adding another aspect to the demand assessment, such as identifying demand for public services and capital improvements, will be time consuming and costly. In past years DNR has budgeted up to $60,000 for the assessment.

which the land will be offered to the public. [The assessment shall also identify the demand for public services and capital improvements, including roads, associated with the market for state land.]

* Sec. 6. AS 38.04.020(g)(2) is amended to read:

(2) Land designated as suitable for subdivision and homesite disposal shall be surveyed, subdivided, classified, and disposed of under this chapter, AS 38.05, and AS 38.08 [AS FOLLOWS:

(A) UP TO 80 PERCENT OF THE PARCELS SHALL BE SOLD UNDER THE LOTTERY SALE PROCEDURES ESTABLISHED IN AS 38.05.057 AND 38.05.065;

(B) AT LEAST 10 PERCENT OF THE PARCELS SHALL BE DISPOSED OF AS HOMESITES UNDER AS 38.08.010 - 38.08.120; AND

(C) AT LEAST AN ADDITIONAL 10 PERCENT OF THE PARCELS SHALL BE DISPOSED OF AS HOMESITES UNDER AS 38.08.010 - 38.08.120 EXCEPT THAT, NOTWITHSTANDING AS 38.08.040(b), PARCELS OFFERED UNDER THIS SUBPARAGRAPH SHALL BE OFFERED BY LOTTERY UNDER AS 38.05.057].

* Sec. 7. AS 38.04.020(h) is amended to read:

(h) Individual parcels disposed of in subdivisions may not exceed five acres unless the commissioner determines that a larger size is necessary to comply with [zoning] local ordinances, [OR] to permit the design of a viable subdivision because of topographical features, soil conditions, on-site sewage disposal requirements, or water drainage or supply considerations that are unique to the subdivision, to minimize adverse effect on wildlife, fishery, timber, or other significant resources in the area or to minimize adverse effect on other residential uses in the area.

* Sec. 8. AS 38.04 is amended by adding a new section to read:

Sec. 38.04.022. FUNDS FOR LAND DISPOSAL. (a) The revenue from

the sale of state land shall be deposited in a special state land disposal income account in the state general fund. The legislature may appropriate money from the special state land disposal income account for expenditure by the Department of Natural Resources for necessary costs incurred by the commissioner in the implementation of state land disposal programs authorized under AS 38 and for implementation of AS 38.04.021.

(b) Within 30 days after the legislature convenes in regular session the Department of Natural Resources shall submit a report reflecting all money deposited [or anticipated to be deposited] in the fund established under (a) of this section for the next fiscal year.

* Sec. 9. AS 38.04.035(4) is amended to read:

(4) For enabling isolated cabin development in remote locations where survey and conveyance is impractical, or where potential conflicts with other resources and uses require additional conditions, or where a long-range interest in public ownership and use exist, a system for cabin permits on public land may be used.

* Sec. 10. AS 38.04.045(b) is amended to read:

(b) Before the conveyance of surface rights to state land, an official cadastral survey shall be accomplished, unless a comparable, acceptable survey exists that has been conducted by the federal Bureau of Land Management. The rectangular survey section corner positions shall be monumented and shown on a cadastral survey plat approved by the state. However, for those areas where the state may wish to convey surface estate outside of an official cadastral survey grid, the director may waive monumentation of all individual section corner positions and substitute an official control survey with control points being monumented [AT APPROXIMATELY TWO-MILE INTERVALS] and shown on control survey plats approved by the state. No portion of

land to be conveyed may be located more than two miles from such a survey control monument. The lots and tracts in state subdivisions shall be monumented and the cadastral survey and plats for the subdivision shall be approved by the state. Where land is located within a municipality with planning, platting, and zoning powers, plats for state subdivisions shall comply with local ordinances and regulations in the same manner and to the same extent as plats for subdivisions by other landowners. State subdivisions shall be filed in the district recorder's office. The requirements of this section do not apply to land made available through a cabin permit system, material sales, or short-term leases; however, for short-term leases the lessee must comply with local subdivision ordinances unless waived by the municipality under procedures specified by ordinance.

* Sec. 11. AS 38.04.050 is amended to read:

Sec. 38.04.050. ACCESS TO PRIVATE USE AREAS. Wherever state land is surveyed for purposes of private use, legal [ADEQUATE] rights-of-way and easements shall be reserved [AS NECESSARY] for access and, where appropriate, for utility services [POWER AND TELEPHONE SERVICE] to each parcel of land. A right-of-way or easement shall be located to assure adequate and feasible access for the purposes for which the right-of-way or easement was intended. Where necessary and appropriate for the use intended or where required by local subdivision ordinances, the director shall arrange for the development of surface access as part of the land availability program. The direct cost of local access development shall be borne by the recipient of the land unless otherwise provided by state statutes or regulations.

* Sec. 12. AS 38.04.055 is amended to read:

(4) Sec. 38.04.055. ACCESS THROUGH PRIVATE USE AREAS. The director shall reserve easements[[AND]] rights-of-way[, and land in state

38.04.058 Restrictions on easement or right-of-way use. The grantee, lessee, or interest holder of state land may, under terms agreed to by the director in writing, restrict the use of any easement or right-of-way reserved under AS 38.04.050 - .055, or other applicable law, in order to protect public safety or property.

(5)

ownership on, and across, or adjacent to land which is made available for private use as necessary to maintain present and future public use and access to public land and water and to reach adjacent private land [REACH OR USE PUBLIC WATER AND PUBLIC AND PRIVATE LAND]. An easement, or right-of-way, or state land reserved under this section may include established trails traditionally used for commerce, recreation, or transportation. The commissioner may retain in state ownership public lands to maintain present and future public access.

* Sec. 13. AS 38.05.030(c) is amended to read:

(c) In addition to the requirements specified in AS 38.50.090, the agencies referred to in (a) ** and (b) of this section and other state agencies with authority to acquire or dispose of land shall give written notification of the fact of acquisition, lease, disposal, or exchange to the commissioner [DIVISION OF LANDS] within three months after the date that they make the acquisition, lease, disposal, or exchange.

* Sec. 14. AS 38.05.030(d) is amended to read:

(d) Real property acquired by [,] and under the management of [,] the agencies referred to in (a) ** and (b) of this section that [, WHICH] is no longer needed for its intended use [,] shall be transferred [RETURNED] to the commissioner [JURISDICTION OF THE DIVISION OF LANDS], except that the Department of Transportation and Public Facilities [HIGHWAYS] may dispose of real property acquired by it under AS 19.05.040(2) and AS 19.05.080 - 19.05.120.

* Sec. 15. AS 38.05.035 is amended by adding a new subsection to read:

(e) Upon a written finding that the interests of the state will be best served, the director may, with the consent of the commissioner, approve contracts for the sale, lease, or other disposal of available land, resources, property or interests in them, and, in addition to the conditions and limitations imposed by law, may impose

** We repealed (a) which dealt with disposal of University lands.

additional conditions or limitations in the contracts as the director determines, with the consent of the commissioner, will best serve the interests of the state. A contract for the sale, lease, or other disposal of available land or an interest in land is not legally binding on the state until the commissioner approves the contract but if the appraised value is not greater than $50,000 in the case of the sale of land or an interest in land, or $5,000 in the case of the annual rental of land or interest in land, the director may execute the contract without the approval of the commissioner. Before a public hearing, if held, or in any case no less than 21 days before the sale, lease, or other disposal of available land, property, resources, or interests in them, the director shall make available to the public a written finding that sets out the facts and applicable law upon which the determination that the sale, lease, or other disposal will best serve the interests of the state was based. A written finding is not required before the approval of

(1) a contract for a negotiated sale authorized under AS 38.05.115;

(2) a lease of land for a shore fishery site under AS 38.05.082; or

(3) a permit or other authorization revocable by the commissioner.

* Sec. 16. AS 38.05.035(b) is amended to read:

(b) The director may

(1) delegate the administrative duties, functions or powers imposed upon <u>the director</u> [HIM] to a responsible employee in the division;

(2) grant preference rights for the lease or purchase of state land without competitive bid in order to correct [THE PAST OR

FUTURE] errors or omissions of a state or federal administrative agency when inequitable detriment would otherwise result to a diligent claimant or applicant due to situations over which the claimant or applicant had no control; the exercise of this discretionary power operates only to divest the state of its title to or interests in land and may be exercised only

(A) with the express approval of the commissioner; and

(B) if the application for the preference right is filed with the director within three years from the occurrence of the error or omission;

(3) grant a preference right to a claimant who shows bona fide improvement of state land [,] or of federal land subsequently acquired by the state [,] and who has in good faith sought to obtain title to the land but who, through error or omission of others occurring within the three years before the application for the preference right, has been denied title to it; upon a showing satisfactory to the commissioner, the claimant may lease or purchase the land at the price set on the date of original entry on the land or, if a price was not set at that time at a price determined by the director [DIVISION] to fairly represent the value of unimproved land at the time the claim was established, but in no event less than the cost of administration including survey; the error or omission of a predecessor in interest or an agent, administrator, or executor which has clearly prejudiced the claimant may be the basis for granting a preference right;

(4) sell land [LANDS] by lottery for less than the [THEIR] appraised value when, in the [HIS] judgment of the director, past scarcity of land suitable for private ownership in any particular area has resulted in unrealistic land values;

(5) when the director [HE] determines it is in the best

interest of the state and will avoid injustice to a person or the [HIS] heirs or devisees of a person, dispose of land, by direct negotiation to that person who presently uses and who used and made improvements to that land before January 3, 1959 or to the [HIS] heirs or devisees of the person; the amount paid for the land shall be its fair market value on the date that the person first entered the land, as determined by the director; a parcel of land disposed of under this paragraph shall be of a size consistent with the person's prior use, but may not exceed five acres;

(6) dispose of an interest in land limited to use for agricultural purposes by lottery;

(7) convey to an adjoining landowner a parcel of land created by a highway right-of-way alignment or realignment, or a parcel created by the vacation of a state-owned right-of-way if

(A) the director [HE] determines that it is in the best interests of the state;

(B) the parcel does not exceed the minimum lot size under an applicable zoning code; and

(C) the director and the platting authority having land use planning jurisdiction agree that conveyance of the parcel to the adjoining landowner will result in boundaries that are convenient for the use of the land by the landowner and compatible with municipal land use plans;

(8) for good cause extend for up to 90 days the time for rental or installment payments by a lessee or purchaser of state land under AS 38.05.005 - 38.05.370 if reasonable penalties and interest set by the director are paid.

* Sec. 17. AS 38.05.050 is amended to read:

Sec. 38.05.050. DISPOSAL OF LAND FOR PRIVATE OWNERSHIP. The

commissioner [, UPON THE RECOMMENDATION OF THE DIRECTOR,] shall determine the land to be disposed of for private use. The commissioner [DIRECTOR] shall determine the time and place of disposal. An auction sale, a lottery sale, or a disposal of land for homesites [UNDER AS 38.04.020(g)(2)(C)] must be held in the community [MUNICIPALITY] that is closest to the land to be sold or disposed of [and in which regular sessions of a court of the state are held].

* Sec. 18. AS 38.05.055 is amended to read:

Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another method of sale is required under AS 38.05.005 - 38.05.370, under AS 38.07.-010 - 38.07.060, or under AS 38.08.010 - 38.08.120, the sale of state land shall be made at public auction to the highest qualified bidder as determined by the director. The director may accept bids and sell state land under this section at no less than 85 percent of the appraised fair market value of the land. A bidder must appear in person at the auction unless medical reasons, attendance at school, or military service outside the state prevent attendance. A bidder may be represented by an attorney or agent at the auction if the land offered for disposal is commercial, industrial, or agricultural land. An aggrieved bidder may appeal to the commissioner within five days after the sale for a review of the director's determination. The sale shall be conducted by the director [OR HIS REPRESENTATIVE,] and at the time of sale the successful bidder shall deposit an amount equal to five percent of the purchase price [, OR IF THE PURCHASER ELECTS TO USE LAND DISCOUNTS GRANTED UNDER AS 38.05.058, FIVE PERCENT OF THE AMOUNT BID AFTER DEDUCTION OF THE DISCOUNT]. The director [OR HIS REPRESENTATIVE] shall immediately issue a receipt containing a description of the land or property purchased, the price bid, and the amount deposited [, AND THE AMOUNT OF ANY DISCOUNT ALLOWED]. The receipt shall

be acknowledged in writing by the bidder.

* Sec. 19. AS 38.05.065 is amended by adding a new subsection to read:

(d) If the director believes that a material breach of a contract for a sale of land has occurred, the director shall afford the purchaser and any other person with an interest in the contract an opportunity to appear and present evidence. On a determination based on the evidence presented that there has been a material breach of the contract, the director may foreclose ** WITHOUT JUDICIAL ACTION the interest of the purchaser or any other person with an interest under the contract. If the state has transferred or assigned its interest in the contract to a third person, the transferee or assignee has the rights of the state under the contract.

* Sec. 20. AS 38.05.069(a) is amended to read:

(a) On a determination [IF THE DIRECTOR DETERMINES] that the highest and best use of unoccupied land is for agricultural purposes [,] and [IF HE DETERMINES] that it is in the best interests of the state to sell or lease the land, the commissioner [HE] shall grant to an Alaskan resident owning and using or leasing and using land for agricultural purposes a [60-DAY] first option at [AFTER THE DATE OF] the auction to purchase or lease the unoccupied land situated adjacent to [or in close proximity to] land presently held by the Alaskan resident [THE APPROXIMATE VICINITY OF HIS PRESENTLY HELD LAND] for the amount of the high bid received at public auction. If more than one Alaskan resident qualifies for a first option under this section, eligibility for the first option shall be determined by lot and the option must be exercised on the conclusion of the public auction. A parcel of agricultural land sold under this section may not be less than 10 acres and a parcel of agricultural land that [WHICH] is acquired by exercise of the option granted in this subsection may not

** Clarifies that the Director is allowed to foreclose without court action.

exceed 320 acres. Agricultural land that [WHICH] is acquired under this section must be used for agricultural purposes as required by law.

* Sec. 21. AS 38.05.069(c) is amended to read:

(c) Under this section

(1) the director may convey or lease an interest in the land only for agricultural purposes, and all other interests in the land remain in the state; the sale or lease shall be at public auction;

(2) the remaining interests may subsequently be conveyed or leased by the director only upon the request of the grantee or lessee or the [HIS] assigns of the grantee or lessee and the determination of the director, with the written concurrence of the commissioner, that the conveyance or lease is in the public interest;

(3) the conveyance or lease of the remaining interests shall be at public auction; the original grantee or lessee or the [HIS] assigns of the grantee or lessee have a preference right to meet the high bid at the time of [WITHIN 30 DAYS AFTER THE DAY OF] the auction; if the right is exercised, the value of improvements owned by the holder of the preference right, included with the remaining interests sold, shall be deducted from the purchase price;

(4) by requesting the conveyance or lease of the remaining interest, the original grantee or lessee or the [HIS] assigns of the grantee or lessee

(A) consents to the sale or lease, and

(B) if the preference right provided by (3) of this subsection is not exercised, consents to sell at fair market value the improvements related to the remaining interest, as appraised by the director;

(5) the remaining interests in the land may not be conveyed or leased for less than their appraised value together with improvements except for the deduction allowed by (3) of this subsection.

ADD A NEW SECTION

* Sec. 21½. AS 38.05.070(b) is amended to read:

(b) The director, with the approval of the commissioner, shall determine the land to be leased and the limitations, conditions and terms of the lease. If the appraised value of the transaction is $5,000 [$250] a year or less the director may negotiate a lease without advertisement for a period not to exceed five years, and on the limitations, conditions and terms which the director [he] considers are in the best interests of the state. A lease negotiated under this subsection is not eligible for a preference under AS 38.05.102.

COMMENT ON SEC. 21 ½: THIS INCREASE REFLECTS THE INCREASE IN LAND VALUES SINCE THIS STATUTE WAS ENACTED IN 1958. THE LEASE TERM REMAINS AT 5 YEARS.

ADD A NEW SECTION

* Sec. 21½. AS 38.05.070(c) is amended to read:

(c) A lease may be issued for a period up to [55] 99 years, if it appears to be in the best interests of the state and if the commissioner approves. If the commissioner determines that the land or a part of it which is the subject of a grazing lease is not being used for the purpose issued, the lease may be declared void. However, a nonrenewable lease for school lands may be issued for a period not to exceed 99 years.

COMMENT ON SEC. 21 ½: THIS INCREASE IN TERM WILL ENSURE THAT THE LEASE CAN BE ISSUED FOR THE USEFUL LIFE OF THE INTENDED ACTIVITY.

* Sec. 22. AS 38.05.110 is amended to read:

Sec. 38.05.110. SALE OF TIMBER AND MATERIALS. The commissioner [DIRECTOR] shall provide for cruises of timber and appraisals of other materials in or upon state land and shall assess the supply of and current markets for timber on and other materials in privately owned land in close proximity to state land to determine [LANDS AND TRANSMIT THIS DATA TO THE COMMISSIONER, TOGETHER WITH HIS RECOMMENDATIONS WITH RESPECT TO]

(1) the timber and other materials that [WHICH] should be offered for sale, and

(2) the terms of sale of the timber or other materials.

* Sec. 23. AS 38.05.115(a) is amended to read:

(a) The commissioner [, UPON RECOMMENDATION OF THE DIRECTOR,] shall determine the timber and other materials to be sold, and the limitations, conditions and terms of sale. The limitations, conditions and terms shall include the utilization, development and maintenance of the sustained yield principle, subject to preference among other beneficial uses. The commissioner [DIRECTOR] may negotiate sales of timber or materials without advertisement and on the limitations, conditions, and terms that are considered to be [WHICH HE CONSIDERS ARE] in the best interests of the state [, SUBJECT TO THE APPROVAL OF THE COMMISSIONER]. However, not more than 500 M.B.M. or equivalent other measure of timber or more than 25,000 cubic yards of materials may be sold by nonadvertised, negotiated sale to the same purchaser within a one-year period.

* Sec. 24. AS 38.05.118(a) is amended to read:

(a) Notwithstanding any other provision of AS 38.05.110 - 38.05.120, the commissioner [DIRECTOR, WITH THE APPROVAL OF THE COMMISSIONER,] may negotiate a sale of timber to a local manufacturer at appraised value. The period of a contract for a sale of timber negotiated under this section may not exceed 25 years. The contract shall provide that the appraised value of timber remaining to be harvested under the provisions of the contract shall be redetermined at least once every five years.

* Sec. 25. AS 38.05.118(c) is amended to read:

(c) A [NO] sale of timber may not be negotiated by the commissioner [DIRECTOR] under this section except on a finding [UNLESS HE FIRST FINDS] that, within an area proximate to the business site which the manufacturer may economically serve, there exists

(1) a high level of local unemployment;

(2) an underutilized timber manufacturing capacity; and

(3) an underutilized allowable cut of state timber.

* Sec. 26. AS 38.05.120 is amended to read:

Sec. 38.05.120. DISPOSAL PROCEDURE. Timber and other materials shall be sold either by sealed bids or public auction, depending on which method is determined by the commissioner to be in the best interests of the state, to the highest qualified bidder as determined by the commissioner [DIRECTOR. AN AGGRIEVED BIDDER MAY APPEAL TO THE COMMISSIONER WITHIN FIVE DAYS AFTER THE SALE FOR A REVIEW OF THE DIRECTOR'S DETERMINATION]. The sale shall be conducted by the commissioner [DIRECTOR OR HIS REPRESENTATIVE], and at the time of sale the successful bidder shall deposit the amount specified in the terms of sale. The means by which the amount of deposit is determined shall be prescribed by appropriate regulation. The commissioner [DIRECTOR OR HIS REPRESENTATIVE] shall immediately issue a receipt containing a

description of the timber or materials purchased, the price bid, and the terms of sale. The receipt shall be acknowledged in writing by the bidder. A contract of sale, on a form approved by the attorney general, shall be signed by the purchaser and [, FOLLOWING THE APPROVAL OF THE COMMISSIONER,] the contract shall be signed by the commissioner [DIRECTOR] on behalf of the state. The commissioner [DIRECTOR, WITH THE APPROVAL OF THE COMMISSIONER,] may impose conditions, limitations, and terms considered [WHICH HE CONSIDERS] necessary and proper to protect the interests of the state. Violation of any provision of this chapter or the terms of the contract of sale subjects the purchaser to appropriate legal action.

* Sec. 27. AS 38.05.127(a) is amended to read:

(a) Before the sale, lease, grant, or other disposal of any interest in state land adjacent to a body of water or waterway, the department [DEPARTMENT OF NATURAL RESOURCES] shall,

(1) under regulations, determine if the body of water or waterway is navigable water, public water, or neither;

(2) upon finding that the body of water or waterway is navigable or public water, provide for the specific easements, [OR] rights-of-way, or retention of land in state ownership [BOTH], reasonably necessary to ensure [INSURE] free access to and along the body of water, unless the department finds that regulating or limiting access is necessary for other beneficial uses or public purposes.

* Sec. 28. AS 38.05.127 is amended by adding a new subsection to read:

(e) The establishment of easements or rights-of-way for oil and gas and mineral leases under (a) of this section need not be made until the leases are ready to be developed.

* Sec. 29. AS 38.05.205(a) is amended to read: DELETE SEC. 29

(REFER TO COMMENTS ON PAGE 17)

(Delete Sec. 29) COMMENT:

By statute, the lease is granted as a right. A simple notice that the lease will be issued is currently required.

* Sec. 30. AS 38.05.205(c) is amended to read:

(c) A mining lease shall be for any period up to 55 years, and the lessee has a right to a new lease at the end of each lease period.

The commissioner may make reasonable adjustments of the rental rate at the end of each 20 year period, based upon changed conditions in production costs and markets. A valid mining claim located and held under AS 38.05.195 may be converted to a lease at any time upon application by the owner, and issuance by the commissioner [DIRECTOR]. No rights granted by a mining lease may be exercised until the lease has been filed for record in the recording district where the land is located.

* Sec. 31. AS 38.05.300(a) is amended to read:

(a) The commissioner shall classify for surface use land [LANDS] in areas considered [WHERE HE CONSIDERS IT] necessary and proper. This section does not prevent reclassification of land [LANDS] where the public interest warrants reclassification, nor does it preclude multiple purpose use of land [LANDS] whenever different uses are compatible. State [NO STATE] land, water, or land and water area may not, [SHALL] except by act of the state legislature, be closed to multiple purpose use [,] if the area involved contains more than 640 acres.

* Sec. 32. AS 38.05.310(a) is amended to read:

(a) No land may be sold or leased, or a renewal lease issued, except in the case of an oil or gas or mineral lease, unless it has been appraised within one year [120 DAYS] before the date fixed for the sale or lease. When land is offered at public sale but is not sold and is available at private sale, no reappraisal is required unless the director considers that a change in value of the land [LANDS] may have occurred. A grazing lease may be granted to a lessee of federal grazing land [LANDS] without prior appraisal, if the [HIS] federal lease was cancelled to allow the state to select the land [LANDS] under lease. No land may be sold or leased for less than the

approved, appraised market value, except as provided in AS 38.05.055, 38.05.057, 38.05.075 - 38.05.085, 38.05.097, 38.05.315, and 38.05.320.

* Sec. 33. AS 38.05.345(a) is amended to read:

(a) This section establishes the requirements for notice given by the department for the following actions:

(1) classification or reclassification of state land under AS 38.05.300 and the closing of land to mineral leasing or entry under AS 38.05.185;

(2) zoning of land under applicable law [;

(3) A DECISION UNDER AS 38.05.035[**(a)(14)] REGARDING THE SALE, LEASE, OR DISPOSAL OF AN INTEREST IN STATE LAND OR RESOURCES: AND

(4) A COMPETITIVE DISPOSAL OF AN INTEREST IN STATE LAND OR RESOURCES AFTER FINAL DECISION UNDER AS 38.05.035[**(a)(14)].

* Sec. 34. AS 38.05.345(b) is amended to read:

(b) Notice of one or more actions described in (a) of this section shall be given by more than one of the following methods at least 30 days before the action: [BY] (1) publication in newspapers of statewide circulation and in a newspaper of general circulation in the vicinity of the proposed action, (2) publication through public service announcements on the electronic media serving the area affected by the action, (3) posting in a conspicuous location in the vicinity of the action, (4) notification of parties known or likely to be affected by the action, or (5) another method calculated to reach affected persons. A notice shall contain sufficient information in commonly understood terms to inform the public of the nature of the action and the opportunity of the public to comment on the action.

(6)

* Sec. 35. AS 38.05.345(d) is amended to read:

(d) [No notice is required under this section for For purposes of this section an "interest in state land or]

** Drafting error. (a)(14) has simply been restated in (e).

resources" does not include

(1) a permit or other authorization revocable by the department, or

(2) negotiated sales of timber not exceeding 25,000 board feet or materials not exceeding 2500 cubic yards under AS 38.05.115.

* Sec. 36. AS 38.05.365 is amended to read:

Sec. 38.05.365. DEFINITIONS. In AS 38.05.005 - 38.05.370, unless the context otherwise requires,

(1) "acquired land [LANDS]" means land [LANDS] belonging to the state including tide, submerged and shoreland [SHORELANDS] which has [HAVE] been obtained by escheat, purchase, or any means other than by general land grant;

(2) "agricultural land [LANDS]" means land [LANDS] chiefly valuable for agricultural purposes;

(3) "commissioner" means the commissioner [OF THE DEPARTMENT] of natural resources;

(4) "department" means the Department of Natural Resources;

(5) "director" means the director of the division of lands of the Department of Natural Resources;

(6) "industrial and commercial land [LANDS]" means land [LANDS] chiefly valuable for industrial trade, manufacturing or business use;

(7) "lieu and indemnity land [LANDS]" means land [LANDS] which the state is entitled to select under the provisions of 18 Stat. 1214, as amended (48 USC 353) or a similar statute to compensate for land [LANDS] in place of surveyed rectangulars, which have been lost to the state by reason of deficient sections, prior rights, claims, withdrawals, reservations and other appropriations;

[(8) repealed.]

(8) [(9)] "mineral land [LANDS]" means land [LANDS]

prospectively valuable for mineral deposits;

(9) "multiple use" has the meaning given in AS 38.04.910;

(10) "park and recreation land [LANDS]" means land [LANDS] chiefly valuable for public park and recreation use;

(11) "preference right forest lease" means a lease granted to a lessee whose United States Forest Service term special use permit was cancelled to allow the land under permit to be selected by the state;

(12) "preference right grazing lease" means a grazing lease granted to a lessee whose federal grazing lease was cancelled to allow the land under lease to be selected by the state;

(13) "rule of approximation" is the rule which is applied in determining whether or not a lease complies with the area limits set forth in AS 38.05.005 - 38.05.370 and regulations adopted under it and in keeping the boundaries of leased land [LANDS] coincidental with legal subdivisions; under the rule, if the area covered by a lease in excess of the permitted maximum is smaller than the area of any deficiency that would result by eliminating from the lease the smallest legal subdivision covered by the lease or application for lease, the excess area will be permitted to remain in the lease; if the excess area is greater than the deficient area would be, then the smallest legal subdivision will be eliminated from the lease;

[(14) repealed.]

(14) "shoreland" [(15) "SHORELANDS"] means land [LANDS] belonging to the state which is [ARE] covered by nontidal water [WATERS] that is [ARE] navigable under the laws of the United States up to ordinary high water mark as modified by accretion, erosion, or reliction;

(15) [(16)] "state land [LANDS]" or "land" ["LANDS"] means

all land [LANDS], including shore, tide and submerged land [LANDS], or resources belonging to or acquired by the state;

(16) [(17)] "submerged land [LANDS]" means land [LANDS] covered by tidal water [WATERS] between the line of mean low water and seaward to a distance of three geographical miles or further as may hereafter be properly claimed by the state;

(17) "tideland" [(18) "TIDELANDS"] means land [THOSE LANDS] which is [ARE] periodically covered by tidal water [WATERS] between the elevation of mean high and mean low tides;

(18) [(19)] "timber land [LANDS]" and "material land [LANDS]" mean state land [LANDS] chiefly valuable for materials, including, but not limited to, sand, stone, gravel, pumice, common clay, or timber and other forest products;

(19) [(20)] "university land [LANDS]" means all sections 33 reserved to the university under 38 Stat. 1214, as amended (48 USC 353) and all land [LANDS] granted to or reserved for the benefit of the university;

(20) [(21)] "grazing land [LANDS]" means land [LANDS] chiefly valuable for grazing purposes; [.]

(21) [(22)] "navigable water [WATERS]" means any water of the state forming a river, stream, lake, pond, slough, creek, bay, sound, estuary, inlet, strait, passage, canal, sea or ocean, or any other body of water or waterway within the territorial limits of the state or subject to its jurisdiction, that is navigable in fact for any useful public purpose, including but not limited to water suitable for commercial navigation, floating of logs, landing and takeoff of aircraft, and public boating, trapping, hunting waterfowl and aquatic animals, fishing, or other public recreational purposes;

(22) [(23)] "public water [WATERS]" means navigable water

and all other water, whether inland or coastal, fresh or salt, that is reasonably suitable for public use and utility, habitat for fish and wildlife in which there is a public interest, or migration and spawning of fish in which there is a public interest; [.]

(23) [(24)] "geothermal resources" means the natural heat of the earth at temperatures greater than 120 degrees Celsius, measured at the point where the highest-temperature resources encountered enter or contact a well or other resource extraction device, and includes

(A) the energy, including pressure, in whatever form present in, resulting from, created by, or that may be extracted from that natural heat;

(B) the material medium, including the geothermal fluid naturally present, as well as substances artificially introduced to serve as a heat transfer medium; and

(C) all dissolved or entrained minerals and gases that may be obtained from the material medium, but excluding hydrocarbon substances and helium.

* Sec. 37. AS 38.08.060 is amended by adding a new subsection to read:

(e) A permit holder who meets each of the provisions of (a) of this section except for (a)(1), and who tenders the commissioner an amount equal to 5% of the present fair market value of the land within seven years of the issuance of the permit, may purchase the land under AS 38.05.065.**

* Sec. 38. AS 38.09.010(b) is amended to read:

(b) The commissioner shall complete a [CADASTRAL] survey of homestead entry state land under AS 38.04.045 before designating the state land for homestead entry. [NO PORTION OF LAND MADE AVAILABLE FOR HOMESTEAD ENTRY MAY BE LOCATED MORE THAN A MILE FROM A SURVEY

** COMMENT: Would remove burden on DNR to determine that a "good faith" effort to occupy had been made.

CONTROL MONUMENT.]

* Sec. 39. AS 38.09.090 is amended by adding a new subsection to read:

(b) An applicant who complies with AS 38.09.050(a)(2) - (5) and who tenders the commissioner an amount equal to five percent of the present fair market value of the land within five years of the issuance of the permit may purchase the land under AS 38.05.065 [if the commissioner determines that the applicant has made a good faith effort to meet the occupancy requirements.] The purchase price is the fair market value of the land at the time of the purchase.

See COMMENT FOR Sec. 37 (p. 23)

* Sec. 40. AS 38.20.010 is amended to read:

Sec. 38.20.010. ADOPTION. The systems [SYSTEM] of rectangular plane coordinates established by the National Geodetic Survey, National Ocean Service [UNITED STATES COAST AND GEODETIC SURVEY] for defining and stating the positions or locations of points on the surface of the earth in this state are [IS] adopted. The systems are [IT IS] to be known as the "Alaska Coordinate System of 1927" and the "Alaska Coordinate System of 1983."

* Sec. 41. AS 38.20.030 is amended to read:

Sec. 38.20.030. DESIGNATION OF ZONES. In any land description in which a coordinate system [IT] is used a zone of the coordinate system is designated the "Alaska Coordinate System of 1927, Zone ....." or the "Alaska Coordinate System of 1983, Zone ....."

* Sec. 42. AS 38.20.040 is amended to read:

Sec. 38.20.040. USE OF COORDINATE SYSTEM. The plane coordinates of a point on the earth's surface, to be used in expressing the position or location of the point in the appropriate zone of this system, consist of two distances, expressed in feet and decimals of a foot when using the Alaska Coordinate System of 1927 and expressed in meters and decimals of a meter when using the Alaska Coordinate System

of 1983. One of these distances, known as the "x-coordinate," gives the position on an east-and-west direction; the other known as the "y-coordinate" gives the position in a north-and-south direction. These coordinates shall be made to depend upon and conform to the coordinates of the North American Horizontal Geodetic Control Network as determined by the National Geodetic Survey, National Ocean Service [, ON THE ALASKA COORDINATE SYSTEM, OF THE TRIANGULATION AND TRAVERSE STATIONS OF THE UNITED STATES COAST AND GEODETIC SURVEY IN THE STATE, AS THOSE COORDINATES HAVE BEEN DETERMINED BY THE SURVEY].

* Sec. 43. AS 38.20.060 is amended to read:

Sec. 38.20.060. CHARACTERISTICS OF ZONES. The zones of the Alaska Coordinate System of 1927 have the following characteristics:

(1) Zone 1 is an oblique Mercator projection of the Clarke spheroid of 1866, having an origin at the intersection of parallel 57° 00 minutes [MINUTE] north latitude and meridian 133° 40 minutes [MINUTE] west of Greenwich, at which the scale is set one part in 10,000 too small, and through which the axis of symmetry is in geodetic azimuth arc tangent-3/4, reckoned clockwise from south. The origin is assigned values such that all final coordinates will be positive.

(2) Zone 2 is a transverse Mercator projection of the Clarke spheroid of 1866, having a central meridian 142° 00 minutes [MINUTE] west of Greenwich, on which meridian the scale is set one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 142° 00 minutes [MINUTE] west of Greenwich and the parallel of 54° 00 minutes [MINUTE] north latitude. This origin is given the coordinates: x = 500,000 feet and y = 0 feet.

(3) Zone 3 is a transverse Mercator projection of the Clarke spheroid of 1866, having a central meridian 146° 00 minutes

[MINUTE] west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 146° 00 minutes [MINUTE] west of Greenwich and the parallel 54° 00 minutes [MINUTE] north latitude. This origin is given the coordinates: x = 500,000 feet and y = 0 feet.

(4) Zone 4 is a transverse Mercator projection of the Clarke spheroid of 1866, having a central meridian 150° 00 minutes [MINUTE] west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 150° 00 minutes [MINUTE] west of Greenwich and the parallel 54° 00 minutes [MINUTE] north latitude. This origin is given the coordinates: x = 500,000 feet and y = 0 feet.

(5) Zone 5 is a transverse Mercator projection of the Clarke spheroid of 1866, having a central meridian 154° 00 minutes [MINUTE] west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 154° 00 minutes [MINUTE] west of Greenwich and the parallel 54° 00 minutes [MINUTE] north latitude. This origin is given the coordinates: x = 500,000 feet and y = 0 feet.

(6) Zone 6 is a transverse Mercator projection of the Clarke spheroid of 1866, having a central meridian 158° 00 minutes [MINUTE] west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 158° 00 minutes [MINUTE] west of Greenwich and the parallel 54° 00 minutes [MINUTE] north latitude. This origin is given the coordinates: x = 500,000 feet and y = 0 feet.

(7) Zone 7 is a transverse Mercator projection of the Clarke spheroid of 1866, having a central meridian 162° 00 minutes [MINUTE] west of Greenwich, on which meridian the scale is set at one

part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 162° 00 minutes [MINUTE] west of Greenwich and the parallel 54° 00 minutes [MINUTE] north latitude. This origin is given the coordinates: x = 700,000 feet and y = 0 feet.

(8) Zone 8 is a transverse Mercator projection of the Clarke spheroid of 1866, having a central meridian 166° 00 minutes [MINUTE] west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 166° west of Greenwich and the parallel 54° 00 minutes [MINUTE] north latitude. This origin is given the coordinates: x = 500,000 feet and y = 0 feet.

(9) Zone 9 is a transverse Mercator projection of the Clarke spheroid of 1866, having a central meridian 170° 00 minutes [MINUTE] west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 170° 00 minutes [MINUTE] west of Greenwich and the parallel 54° 00 minutes [MINUTE] north latitude. This origin is given the coordinates: x = 500,000 feet and y = 0 feet.

(10) Zone 10 is a Lambert conformal conic projection of the Clarke spheroid of 1866, having standard parallels at north latitude 51° 50 minutes [MINUTE] as and 53° 50 minutes, along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 176° 00 minutes [MINUTE] west of Greenwich and the parallel 51° 00 minutes [MINUTE] north latitude. This origin is given the coordinates: x = 3,000,000 feet and y = 0 feet.

* Sec. 44. AS 38.20.060 is amended by adding a new subsection to read:

(b) The zones of the Alaska Coordinate System of 1983 have the following characteristics:

(1) Zone 1 is an oblique Mercator projection of the World

Reference Ellipsoid, having an origin at the intersection of parallel 57° 00 minutes north latitude and meridian 133° 40 minutes west of Greenwich, at which the scale is set one part in 10,000 too small, and through which the axis of symmetry is in geodetic azimuth arc tangent-3/4, reckoned clockwise from south. The origin is assigned values such that all final coordinates will be positive.

(2) Zone 2 is a transverse Mercator projection of the World Reference Ellipsoid, having a central meridian 142° 00 minutes west of Greenwich, on which meridian the scale is set one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 142° 00 minutes west of Greenwich and the parallel of 54° 00 minutes north latitude. This origin is given the coordinates: x = 500,000 meters and y = 0 meters.

(3) Zone 3 is a transverse Mercator projection of the World Reference Ellipsoid, having a central meridian 146° 00 minutes west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 146° 00 minutes west of Greenwich and the parallel 54° 00 minutes north latitude. This origin is given the coordinates: x = 500,000 meters and y = 0 meters.

(4) Zone 4 is a transverse Mercator projection of the World Reference Ellipsoid, having a central meridian 150° 00 minutes west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 150° 00 minutes west of Greenwich and the parallel 54° 00 minutes north latitude. This origin is given the coordinates: x = 500,000 meters and y = 0 meters.

(5) Zone 5 is a transverse Mercator projection of the World Reference Ellipsoid, having a central meridian 154° 00 minutes west of

Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 154° 00 minutes west of Greenwich and the parallel 54° 00 minutes north latitude. This origin is given the coordinates: x = 500,000 meters and y = 0 meters.

(6) Zone 6 is a transverse Mercator projection of the World Reference Ellipsoid, having a central meridian 158° 00 minutes west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 158° 00 minutes west of Greenwich and the parallel 54° 00 minutes north latitude. This origin is given the coordinates: x = 500,000 meters and y = 0 meters.

(7) Zone 7 is a transverse Mercator projection of the World Reference Ellipsoid, having a central meridian 162° 00 minutes west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 162° 00 minutes west of Greenwich and the parallel 54° 00 minutes north latitude. This origin is given the coordinates: x = 500,000 meters and y = 0 meters.

(8) Zone 8 is a transverse Mercator projection of the World Reference Ellipsoid, having a central meridian 166° 00 minutes west of Greenwich, on which meridian the scale is set at one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 166° west of Greenwich and the parallel 54° 00 minutes north latitude. This origin is given the coordinates: x = 500,000 meters and y = 0 meters.

(9) Zone 9 is a transverse Mercator projection of the World Reference Ellipsoid, having a central meridian 170° 00 minutes west of Greenwich, on which meridian the scale is set at one part in 10,000

too small. The origin of coordinates is at the intersection of the meridian 170° 00 minutes west of Greenwich and the parallel 54° 00 minutes north latitude. This origin is given the coordinates: x = 500,000 meters and y = 0 meters.

(10) Zone 10 is a Lambert conformal conic projection of the World Reference Ellipsoid, having standard parallels at north latitude 51° 50 minutes as and 53° 50 minutes, along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 176° 00 minutes west of Greenwich and the parallel 51° 00 minutes north latitude. This origin is given the coordinates: x = 1,000,000 meters and y = 0 meters.

* Sec. 45. AS 38.20.070 is amended to read:

Sec. 38.20.070. POSITION OF SYSTEM. The position of the Alaska Coordinate System of 1927 shall be as marked on the ground by triangulation or traverse stations established in conformity with the standards adopted by the National Geodetic Survey, National Ocean Service [UNITED STATES COAST AND GEODETIC SURVEY FOR FIRST-ORDER, SECOND-ORDER, AND THIRD-ORDER WORK,] whose geodetic positions have been rigidly adjusted on the North American datum of 1927 and whose coordinates have been computed on the system defined in this chapter. [ANY SUCH STATION MAY BE USED FOR ESTABLISHING A SURVEY CONNECTION WITH THE ALASKA COORDINATE SYSTEM.]

* Sec. 46. AS 38.20.070 is amended by adding a new subsection to read:

(b) The position of the Alaska Coordinate System of 1983 shall be as marked on the ground by triangulation or traverse stations established in conformity with the standards adopted by the National Geodetic Survey, National Ocean Service whose geodetic positions have been rigidly adjusted on the North American datum of 1983 and whose plane coordinates have been computed on the system defined in this

chapter.

* Sec. 47. AS 38.20.080 is amended to read:

Sec. 38.20.080. LIMITATION. Coordinates [NO COORDINATES] based on the Alaska Coordinate System, purporting to define the position of a point on a land boundary, may not [SHALL] be presented to be recorded in any public land records or deed records unless the point is within two miles of a horizontal control [TRIANGULATION OR TRAVERSE] station established in conformity with National Geodetic Survey, National Ocean Service standards and specifications for first-order, second-order, or third-order work [THE STANDARDS PRESCRIBED IN AS 38.-20.070]. The two-mile limitation may be modified by a state agency to meet local conditions.

* Sec. 48. AS 38.20.090 is amended to read:

Sec. 38.20.090. USE OF SYSTEM NAME. The use of the term "Alaska Coordinate System of 1927" on a map, report of survey, or other document is limited to coordinates based on the Alaska Coordinate System of 1927 as defined in this chapter.

* Sec. 49. AS 38.20.090 is amended by adding a new subsection to read:

(b) The use of the term "Alaska Coordinate System of 1983" on a map, report of survey, or other document is limited to coordinates based on the Alaska Coordinate System of 1983 as defined in this chapter.

* Sec. 50. AS 38.20.100 is amended to read:

Sec. 38.20.100. USE OF PUBLIC LAND SURVEY DESCRIPTIONS. When coordinates based on the Alaska Coordinate System of 1927 or the Alaska Coordinate System of 1983 are used to describe a tract of land which in the same document is also described by reference to a subdivision, line, or corner of the United States public land surveys, the description by coordinates shall be construed as supplemental to

the basic description of the subdivisions, line, or corner contained in the official plats and field notes filed of record, and in the event of a conflict the description by reference to the subdivision, line, or corner of the United States public land surveys prevails over the description by coordinates.

* Sec. 51. AS 38.20.110 is amended to read:

Sec. 38.20.110. USE OF SYSTEM NOT REQUIRED. Nothing in this chapter requires a purchaser or mortgagee to rely on a description, any part of which depends exclusively upon the Alaska Coordinate System of 1927 or the Alaska Coordinate System of 1983.

* Sec. 52. AS 38.35.140(b) is amended to read:

(b) The lessee shall reimburse the state for all reasonable costs incurred in processing an application filed under AS 38.35.050 and in monitoring the construction, operation, maintenance, and removal of the pipeline on the right-of-way.

* Sec. 53. AS 38.50.020(b) is amended to read:

(b) An appraisal required by this section is presumed accurate and valid for a period of one year [SIX MONTHS] from the time the appraisal is completed. After that time, or if the director has reason to believe that the value of the appraised property has changed significantly during the original one year [SIX-MONTH] period, a reappraisal of the property is required.

* Sec. 54. AS 38.50.040 is amended to read:

Sec. 38.50.040. LAND SUBJECT TO EXCHANGE. Except as otherwise provided in this chapter, the director is authorized to convey for purposes of exchange any state land or interest in land regardless of the authority under which the land or interest was obtained by the state. [THE CONVEYANCE OF UNIVERSITY LAND SHALL BE APPROVED IN THE MANNER PRESCRIBED IN AS 38.05.030.]

* Sec. 55. AS 38.50.110(a) is amended to read:

(a) Not more than 60 days nor less than 30 days before a public hearing is scheduled under AS 38.50.120 the director shall circulate a notice containing the information specified in (b) of this section except as provided in (c) of this section. The director shall

(1) publish or post the notice as provided in AS 38.05.345, except as otherwise specified in this section; the [. THE] director shall publish the notice in a newspaper of general circulation in the vicinity of the land which the state will receive and in the three most populated cities of the state;

(2) mail the notice to any person who has filed a request for notice of proposed exchanges;

(3) mail the notice to each member of the legislature;

(4) mail the notice to each municipality the boundaries of which encompass or are located within six linear miles of land involved in the proposed exchange;

(5) circulate the notice to the Office of the Governor and to all state departments;

[(6) Repealed]

(6) [(7)] mail the notice to any corporation organized under the Alaska Native Claims Settlement Act, which corporation owns or has selected land located within a radius of 15 linear miles from land or property involved in the proposed exchange; and

(7) [(8)] mail the notice to any other party, including an organization of land users, that the director [HE] considers appropriate.

* Sec. 56. AS 38.50.110 is amended by adding a new subsection to read:

(c) The director shall provide the information required under (b) of this section under AS 38.05.345(b) - (c) for exchanges of

(1) less than 640 acres of STATE land; or

(2) STATE land having an appraised or estimated fair market value of less than $100,000.

* Sec. 57. AS 38.50.120(a) is amended to read:

(a) The commissioner [DIRECTOR] may hold as many public hearings as is considered appropriate. For an exchange of state land having more than 640 acres or state land having an appraised or estimated fair market value of more than $100,000 or more there [THERE] shall be at least one public hearing.

* Sec. 58. AS 38.50.140 is amended to read:

Sec. 38.50.140. LEGISLATIVE REVIEW. Within 10 days of the convening of a regular legislative session, the governor shall transmit to the president of the senate and the speaker of the house of representatives any proposal for a land exchange required to be submitted to the legislature under AS 38.50.020(a) that [FOR OTHER THAN EQUAL APPRAISED FAIR MARKET VALUE WHICH] is scheduled to occur before the next legislative session. If [, IN HIS VIEW,] exigent circumstances seriously affecting state interests so require, the governor may submit the proposed exchange to the legislature at some other time. A finding of exigent circumstances shall be carefully documented in the letter of transmittal. The director is authorized to conclude a proposed exchange agreement unless either house of the legislature by simple resolution disapproves of the exchange within 60 legislative days of transmittal by the governor. A decision by the legislature to disapprove a proposed exchange shall be accompanied by a recommendation to the governor with respect to future actions which the director should take concerning the exchange.

* Sec. 59. AS 38.95.080(a) is amended to read:

(a) The commissioner may [DIRECTOR OF THE DIVISION OF LANDS

SHALL] issue a nontransferable permit for the construction of a trapping cabin on state land to a person who meets the following qualifications:

(1) the person must have an established trapline with proof of regular use;

(2) the person must have a trapline of sufficient length to justify the need for cabin construction.

* Sec. 60. AS 29.33.150(b) is amended to read:

(b) The regulations adopted under (a) of this section apply to subdivision plats of undeveloped state land for disposal under AS 38.05 or AS 38.08 filed with the platting board. [THE PLATTING BOARD MAY NOT DISAPPROVE THE SUBDIVISION PLAT ON THE BASIS OF REGULATIONS WHICH REQUIRE CAPITAL IMPROVEMENTS ON OR TO STATE LAND INCLUDED IN THE SUBDIVISION PLAT.] Regulations adopted after the platting board is notified by the commissioner of natural resources of a proposed sale of subdivided state land under AS 38.05 or AS 38.08 do not apply to the state land in the proposed sale. This section does not apply to any subdivision plat submitted to the platting board prior to the effective date of this Act.

* Sec. 61. AS 29 18.206(e) is amended to read:

(e) The notice and review provisions of AS [38.05.305 AND] 38.05.345 are applicable to the designation of other general grant land as school, university or mental health land in replacement of land selected under this section. The provisions of AS 38.50.010 - 38.50.170 and 38.05.032 do not apply to such designations under this section. [THE PROVISIONS OF AS 38.05.030(a), 38.05.030(e), AND 38.05.035(a)(13) WHICH REQUIRE THE APPROVAL OF THE RESPECTIVE TRUST BOARD BEFORE DISPOSAL OF LANDS BY THE DIRECTOR DO NOT APPLY TO SELECTIONS OF SCHOOL, UNIVERSITY OR MENTAL HEALTH LAND BY A MUNICIPALITY UNDER THIS SECTION.]

* Sec. 62. AS 29.33.150(c) is amended to read:

(c) The platting board must approve and sign the subdivision plat within 60 days of its receipt from the commissioner of natural resources unless the platting board

(1) determines that the plat does not comply with subdivision regulations, unless the plat was submitted to the platting board prior to the effective date of this Act. [OTHER THAN THOSE REQUIRING CAPITAL IMPROVEMENTS TO STATE LAND]; and

(2) notifies the commissioner of each determination of noncompliance within the 60-day period established in this subsection.

* Sec. 63. AS 29.33.150(e); AS 38.04.025, 38.04.040, 38.04.045(a); AS 38.05.030(a), 38.05.035(a)(14), 38.05.069(b), [38.05.345(e),] 38.05.350, 38.05.362 and 38.05.365(20) are repealed.

* Sec. 64. This Act takes effect July 1, 1984.

QUITCLAIM

ELIASON

(1)

SB 344 RELATING TO DEFECTS IN THE TITLE OF THE STATE TO LAND

SEE ATTACHED

PROPOSED BY SENATOR ELIASON: Would provide a mechanism for correcting defects in the state's title to lands and in so doing to settle certain cliams, including Native allotment claims, against the state. Currently, the only way to return lands with Native claims on them to the federal government is through the courts.

DNR: Support adoption.

STAFF COMMENT: A class action suit brought by Natives whose allotment applications were rejected by the federal government because the land they applied for had previously been conveyed to the state resulted in a court order stipulating procedures for expedited settlement of these claims. The procedures provide for the state to quitclaim its interest in the lands to the federal government. This amendment would give the state the necessary authority.

By exempting the amendment from the provisions of AS 38.05.125, the state statutory requirement to reserve the mineral estate is waived, and the state will recoup selection rights (as provided in Section 6 of the Statehood Act) for those acres returned to the federal government.

Introduced: 1/11/84
Referred: Resources and Judiciary

IN THE SENATE BY ELIASON

SENATE BILL NO. 344

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to defects in the title of the state to land; and providing for an effective date."

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

* Section 1. LEGISLATIVE PURPOSE AND FINDINGS. (a) The purpose of this Act is to provide a mechanism to correct defects in the title of the state to land and in doing so, to settle certain claims, including Native allotment claims, against the state.

(b) The legislature finds that the correction of title defects is a matter of statewide significance, is in the public interest, and will foreclose possible protracted and divisive litigation.

* Sec. 2. AS 38.05.035(b) is amended by adding a new paragraph to read:

(9) quitclaim land or an interest in land to the federal government on a determination that the land or the interest in land was wrongfully or erroneously conveyed by the federal government to the state.

* Sec. 3. AS 38.05.125 is amended by adding a new subsection to read:

(b) The provisions of (a) of this section do not apply to a quitclaim of land or an interest in land made under AS 38.05.035-(b)(9).

* Sec. 4. This Act takes effect immediately in accordance with AS 01.-10.070(c).

VETERANS DISCOUNT

V. FISCHER, FAHRENKAMP (2)

SB 324 (attached) would allow eligible veterans a 25% discount on the purchase price of state land.

DNR: The Department has recently discontinued its general land discount program in response to court action. Implementation of the proposed veterans' discount program would cost $7,900/year. There are no other discounts provided in the land offerings program at this time.

If this amendment is adopted, the Department will recommend repeal of the current veterans' preference program. AS 38.05.067 requires that before any auction of residential lands, the land shall first be offered at a restricted sale at which only veterans may buy. To date, 17 parcels in Ketchikan and 8 parcels in Fairbanks have been offered under this program.

STAFF COMMENT: page 1, line 13 of the bill as written would provide a 25% discount on state land classified for a use other than commercial or industrial. Under current classifications (adopted September 1983), there are no such categories.

Recommend amending to read: "state land classified for agricultural or settlement use"

Introduced: 1/9/84
Referred: Resources and Finance

BY V. FISCHER, FAHRENKAMP, KERTTULA, MOSS, ELIASON, JOSEPHSON AND HALFORD

IN THE SENATE

SENATE BILL NO. 324

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing a veterans' discount on state land disposals."

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

* Section 1. AS 38.05 is amended by adding a new section to read:

Sec. 38.05.940. VETERANS' LAND DISCOUNT. (a) An eligible veteran is entitled to a discount of 25 percent on the purchase price of state land sold under this title and classified under AS 38.05.005 - 38.05.270 for a use other than commercial or industrial use.

(b) To be eligible for a discount under this section, a veteran shall submit proof, as required by regulation, that the veteran

(1) is 55 years of age or older on the date of sale;

(2) has been a state resident for a period of not less than one year immediately preceding the date of sale;

(3) has performed not less than 90 days of active service in the armed forces of the United States; and

(4) has received an honorable discharge or a general discharge under honorable conditions.

(c) A veteran is entitled to only one discount under this section during the veteran's lifetime.

(d) A discount under this section may be applied only to the acquisition of surface rights to state land. A discount under this section may not be applied to survey costs, road development costs, utility assessments, or other costs that the commissioner determines are reimbursable to the state.

-2-

SB 324

(e) A discount under this section may be used toward the purchase of land offered at a restricted sale under AS 38.05.067

AREA PLANS

ENVIRONMENTAL LOBBY (3)

AS 38.04.065

(d) Official regional or area plans and subsequent amendments adopted by the commissioner after public and local government participation shall be signed and dated by the commissioner. After adoption of an official regional or area plan, land classifications shall be made in accordance with these official plans. In areas where regional or area plans are underway and are scheduled to be completed within one year, actions such as land disposal which will significantly affect the area shall be postponed pending plan approval.

PROPOSED BY ENVIRONMENTAL LOBBY to protect the integrity of the planning process.

DNR supports the concept of planning prior to disposals. However, a statutory moratorium on disposals in planning areas could significantly disrupt the state's land offerings program. The concern with planning is adequately taken care of in DNR's current process, in which the Department carefully reviews all disposals within a planning area with the public.

STAFF COMMENT: The Tanana Valley and Susitna Valley plans are both in their final year of development. This amendment would mean no disposals, including homesteads, in these areas this spring. Area plans are well recognized as necessary planning tools. The emphasis should be on funding the planning process.

REPEAL AS 38.04.020(f) DEMAND ASSESSMENT

[(f) The request of the commissioner under (e) of this section shall be based on an annual written assessment by the commissioner of the market for state land in the different regions of the state. If the state land is in or adjacent to municipalities or unincorporated communities, the assessment shall be developed in consultation with the municipalities or unincorporated communities. The assessment must include a survey of the supply of privately owned land offered for sale, municipal land for which a disposal plan has been completed, and federal land available for sale, lease, or permit for specific activities. The assessment of the market for state land shall be based on an analysis of the amount of private, municipal, and federal land available for disposal on terms equivalent to those used in comparable state land disposal programs and shall consider the length of time land remains on the market before it is sold. The assessment must include findings regarding the amount and general location of state land, in addition to land offered by private landowners or available from a municipal government or the federal government, that is necessary to meet the statewide demand for at least five fiscal years immediately after the year in which the assessment is made. The assessment must also state the general location of land proposed for disposal in the next fiscal year and recommendations for the manner of disposal under which the land will be offered to the public.]

PROPOSED BY DNR: The need for a land demand assessment arose in past years when the disposal program was subject to sudden changes and was affected by acreage quotas. DNR has striven to stabilize land offerings, relying on the market response as an indicator of demand. The demand assessment is of little value to the Department in predicting the market response, and the requirement should be dropped owing to its administrative and fiscal costs. DNR uses its area planning program to identify available lands and maintains a disposal land bank to meet current demands for lands. Together these programs provide for demand assessment in the context of current conditions.

If not repealed, amend to read simply: "The request of the commissioner under (e) of this section shall include an analysis and determination that there is a market demand for the land proposed for disposal."

ENVIRONMENTAL LOBBY HAS PROPOSED: "If the amount of land disposed of yearly differs from the amount of the demand as determined by the assessment, the commissioner shall provide the legislature with a written justification for the amount of land proposed for disposal."

STAFF COMMENT: Assessing demand is difficult. Many people feel that the assessments to date have been flawed in one way or another, yet do feel that some relationship between demand and offerings is important. The process should be examined for possible change next session.

TERM OF LEASE

SEALASKA

(5)

AS 38.05.070(c)

A lease may be issued for a period up to 55 years, if it appears to be in the best interests of the state and if the commissioner approves. The term of the lease shall not be less than the projected useful life of any improvements proposed and approved under the qualification process of AS 38.05.075 and .076, unless the commissioner finds that the public interest otherwise requires.

SEALASKA proposed a maximum term of 99 years.

DNR supports the above language.

STAFF COMMENT: The amendment is a compromise.

TERM AND VALUE OF NEGOTIATED LEASE PROFESSIONAL HUNTERS (6)

AS 38.05.070(b):

The director, with the approval of the commissioner, shall determine the land to be leased and the limitations, conditions and terms of the lease. If the appraised value of the transaction is ~~$250~~ $5000 a year or less the director may negotiate a lease without advertisement for a period not to exceed ~~5~~ 10 years, and on the limitations, conditions and terms which the director considers are in the best interests of the state.

DNR has stated that the increase in value accurately reflects the increase in land values since the statute was enacted in 1962.

The Alaska Professional Hunters Association had requested an increased term of 20 years. DNR has stated that any commitment of a resource for that long a period of time should be offered competitively.

STAFF COMMENT The 10 year period is a maximum, so is discretionary. The increased term will benefit many land users. The amendment is a compromise.

NOTE: The lease is renewable one time.

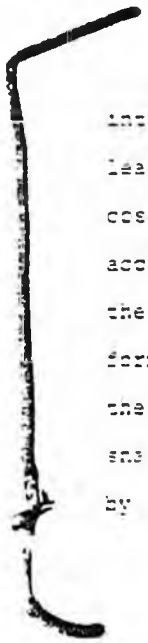
CREDIT SURVEY COSTS SEALASKA

(7)

AMEND SURFACE LEASING PROCEDURE:

AS 38.05.075 is repealed and reenacted to

Sec. 38.05.075. SURFACE LEASING PROCEDURE. (a) Except as provided in AS 38.05.076 and AS 38.05.087 and (b) - (e) of this section, leasing shall be made at auction to the highest qualified bidder as determined by the director. An aggrieved qualified bidder may appeal to the commissioner by a letter postmarked within five days after the director's determination. Lease auctions shall be conducted by the director or his representative, and the successful qualified bidder shall deposit at the auction the first year's rental or that percentage of it which the director requires, in accordance with his bid. The director shall require qualified bidders to deposit a sum equal to any survey or appraisal costs reasonably incurred by another qualified bidder acting in accordance with the department's regulations. If a bidder making a deposit of survey or appraisal costs is determined to be the highest qualified bidder under this subsection, his deposit shall be paid to the unsuccessful bidder who incurred those costs. Any survey or appraisal costs either reasonably incurred by a qualified bidder in accordance with the department's regulations, or deposited under this subsection, must be credited against the first and then subsequent years' rentals. The director or his representative shall immediately issue a receipt to the successful



qualified bidder containing a description of the land or interest leased, the total price bid, the terms of the lease, and the amount of any credit for survey or appraisal costs. If the receipt is not acknowledged by the bidder in accordance with this subsection, the director may re-offer the land in accordance with this section. The lease, in a form approved by the attorney general, shall be signed by the successful bidder within 30 days after the auction, and shall thereafter be signed by the director, after approval by the commissioner.

PROPOSED BY SEALASKA: Lease applicants often conduct the survey and appraisal activities themselves. The amendment would require applicants to deposit a sum equal to any survey or appraisal costs incurred by another qualified bidder. If a bidder who has paid survey and appraisal costs does not become the highest bidder, the latter will pay the former those costs.

DNR: Supports the survey credit.

STAFF COMMENT: Survey and appraisal are required prior to leasing. The State does not always have the manpower and funding readily available, and in the interest of time lease applicants will often conduct the survey and appraisal at their own expense.

(8)

AS. 38.05.076 Prequalification of Bidders

(a) The department [illegible], in conformity with AS 38.05.945, require pre-qualification of bidders for a lease to be issued under AS 38.05.070. The pre-qualification procedure for all bidders must be completed within 15 days of receipt of the first lease application, unless the director determines that additional review time is necessary.

Within that period, the department must:

(1) take any necessary classification action under AS 38.05.300;

(2) complete the finding and consent procedures required by AS 38.05.035(a)(14); and

(3) take any other action required by law for the disposal of the lease to the bidder other than survey, appraisal and auction.

(b) If, as a result of pre-qualification, the director determines that there is only one qualified bidder for the lease, he may issue a lease to that bidder at the appraised value as determined by AS 38.05.840 without competitive bidding, and shall allow entry under reasonable terms and conditions pending survey and appraisal. Subject to AS 38.05.035(a)(14), disposal shall occur as soon as practicable following completion of survey and appraisal.

(c) Notice of any auction shall be made personally or by registered mail to all pre-qualified bidders.

(d) A person aggrieved by a decision of the director made in the course of the pre-qualification process may appeal to the commissioner within five days of the director's pre-qualification decision. A decision of the commissioner under this subsection or AS 38.05.035 e (14) may be appealed to the superior court under AS 44.62.560. The pendency of an appeal does not stay any further action of the department with respect to the disposal unless the commissioner or the court otherwise orders.

Sec. 5. AS 38.05.945(a) is amended to read:

Sec. 38.05.945. NOTICE. (a) This section establishes the requirements for notice given by the department for the following actions:

(1) classification or reclassification of state land under AS 38.05.300 and the closing of land to mineral leasing or entry under AS 38.05.185;

(2) zoning of land under applicable law;

(3) a decision under AS 38.05.035(a)(14) regarding the sale, lease, or disposal of an interest in state land or resources; and

(4) subject to AS 38.05.075(f), a competitive disposal of an interest in state land or resources after final decision under AS 38.05.035(a)(14).

PROPOSED BY SEALASKA: Existing law does not require potential competitive bidders to identify themselves before the auction for a lease takes place. Often the initial applicant will have endured the time and expense of interagency and public review, yet lose his project to a virtual last minute bidder who has incurred neither cost nor public scrutiny. Under this amendment, if there are no other prequalified bidders, DNR would allow the initial applicant to enter onto the land.

DNR: Supports giving the Commissioner the discretion to require prequalification.

STAFF COMMENT: The amendment is a compromise.

AS 38.05.075 LEASING PROCEDURES. ADD A NEW SECTION:

(c) A littoral or riparian owner or lessee may acquire, without competitive bidding, a lease for tide and submerged land directly adjacent to his upland parcel if:

(1) lease of the tide or submerged land is sought for the purpose of facilitating water transportation of goods, services or resources to or from the adjacent upland, or for another water-dependent purpose; and,

(2) the proposed use of the tide or submerged land is compatible with the classification of the land and with any applicable land use plan adopted in accordance with AS 38.04.065; and,

(3) issuance of the lease will not interfere with prior existing property rights in the leased land.

The lease under this subsection may be issued on an exclusive or non-exclusive basis, in the director's discretion.

PROPOSED BY SEALASKA, as water access through tide or submerged lands is vital to economic development of their adjacent uplands.

DNR: The Department supports the creation of a mechanism to permit (not require) the Commissioner to negotiate tidelands leases with upland owners without competitive bidding.

STAFF COMMENT: Leases for tide and submerged lands are currently available through the competitive bidding process. Under current statute, any lease for a term of less than 5 years and valued at less than $250 annually may be negotiated. (Other amendment is proposing 10 years and $5000 annually.)

REMNANTS OF LAND DNR

(10)

Sec. 16 AS 38.05.035(b) (7)

The director may

(7) convey to an adjoining landowner any remnant of land that the director considers unmanageable or a parcel of land created by a highway right-of-way alignment or realignment, or a parcel created by the vacation of a state-owned right-of-way

DNR has requested this authority as such remnants may be unusable and expensive to maintain in state ownership. Lacking such authority the Department once auctioned 3/100ths of an acre in Ketchikan.

STAFF COMMENT: Increases the Department's authority. Would allow for more efficient management of State land.

CITIZENS ADVISORY BOARDS

ENVIRONMENTAL LOBBY

(11)

Amend AS 38.05.050 regarding disposal of land for private ownership:

(b) The commissioner shall appoint a minimum of three citizens advisory boards to provide advice on the disposal of state lands, including the location and amounts of such disposals. Regional boards shall be established, or existing bodies shall be utilized, in areas where planned disposals are expected to be controversial, or where otherwise appropriate.

PROPOSED BY ENVIRONMENTAL LOBBY to provide advice to DNR prior to formal public hearings.

DNR: There are numerous opportunities for public involvement in the land offerings process, and creation of advisory boards would be expensive and burdensome with little projected benefit. DNR works closely with local governments in land planning and disposals. This process should continue; further advisory boards are unnecessary.

Sec. 29.18.210. Public purpose and exparsion needs. (a) Consistent with the best interests of the state, if a municipality does not contain and cannot reasonably acquire sufficient nonfederal land within its boundaries to meet its legitimate needs for public or private settlement or development, it shall be the policy of the state to select federal land reasonably necessary to meet the needs of the municipality and to make the land selected available to the municipality under AS 38.05.315 or (b) of this section.

(b) Where state land is the most logical location for demonstrated municipal expansion for nonpublic settlement and development purposes, and when an exchange of land under AS 29.18.209 is not possible or is not in the public interest, it is the policy of the state to sell or lease the land at public auction. The state may contract with a municipality to act as its agent in an auction of state land under applicable statutes. When a municipality acts as the agent of the state in an auction, the municipality may retain from the proceeds of the auction the expenses, including capital expenses, which the director determines to be necessary and reasonable.

(c) Nothing in AS 29.18.011 — 29.18.610 limits or impairs the authority of the director to transfer land to municipalities, without limit or consideration, for public purposes in accordance with AS 38.05.315. If there is a remaining entitlement of the municipality, land transferred under AS 38.05.315 shall be credited toward fulfillment of the entitlement. (§ 2 ch 180 SLA 1978)

PROPOSED BY DNR: The Attorney General's office has questioned whether DNR has the authority to conduct joint disposals where capital improvements are involved.

STAFF COMMENT: Current statute allows the state to contract with a municipality to act as its agent in an auction of state land, and to allow the municipality to retain expenses from auction proceeds. "Expenses" is not defined, and the A.G. has opined that it does not include capital expenses. Both the Fairbanks North Star Borough and the Municipality of Anchorage have expressed interest in conducting a joint disposal with DNR, whereby the municipality would construct the roads on state lands to be auctioned, and recoup their costs through purchase payments. This amendment would authorize this process.

* Sec. 19. AS 38.05.065 is amended by adding a new subsection to read:

(d) If the director believes that a breach of a contract for a sale of land has occurred, the director shall afford the purchaser and any other person with an interest approved by the director under AS 38.05.340 notice of the breach, reasonable opportunity to cure the breach and, if there are relevant facts in dispute between the state and the purchaser, an oral hearing at the request of the purchaser. If the director determines, based on the administrative record and any evidence presented, that there has been a breach of the contract, the director shall issue a decision foreclosing the interest of the purchaser and any other person with an interest under the contract. The duty to make payments required by the contract continues until the date of the director's foreclosure decision. A default caused by failure to make payments required by the contract may be cured at any time before the director's foreclosure decision by payment of the sum in default, plus a fee of $50 or of five percent (5%) of the sum of money owed, whichever is larger, unless under the same sales contract a notice of default has been sent to the person two times previously for failure to make payment. After foreclosure, the department may pursue appropriate judicial relief for the purchaser's breach of contract, including, but not limited to, ejectment, suit for damages, including past due payments, or other legal remedies in accordance with applicable state law. An administrative decision of foreclosure under this section terminates all the purchaser's legal and equitable interests in the property, and all prior payments are forfeited to the state.

STAFF COMMENT:
Sec. 19 of SB 375 establishes an appeal process for contract violations, followed by the prerogative of the commissioner to foreclose the interest of the purchaser if a determination is made that there has been a breach of the contract. The above language has been provided by DNR to specify that the appeal process will provide for an oral hearing, and to clarify that a default caused by failure to make payments may be cured before the foreclosure decision by payment of the sum in default and a $50 penalty.

Alaska State Legislature

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

POUCH V
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Senate

Committee on Resources

MINUTES

September 21, 1983
1:40 p.m.

Wood Center, U. of A.
Fairbanks

MEMBERS PRESENT

Senator Fahrenkamp, Chair
Senator Vic Fischer
Senator Sturgulewski

CALENDAR

Hearing on State Land Management and Disposal

Bob Arnold, Deputy Director, Department of Natural Resources, stated that DNR, in an effort to reduce negative impacts and perceptions of land offerings, has formed a study group to review the current land disposal program. The study group has reached the following tentative conclusions: year-round residential lands and agricultural homestead lands should be road accessible; recreation lands should be of high quality; specific areas should be classified for remote parcels; the pricing policy should follow fair market value. Further, the Department recognizes the need to comply with local subdivision ordinances and comprehensive plans.

David Hedderly-Smith, Deputy Director, Division of Minerals and Energy Management, DNR, stated that the Commissioner has formed a mining advisory committee to recommend changes to the current statute.

John Clark, Director, Habitat Protection Division, Department of Fish and Game, urged clarification of the provision requiring access to navigable and public waters.

Lisa Jaeger, Tanana Chiefs Conference, expressed that more attention must be given to disposals taking place in rural areas. Language mandating that the Department provide current statistics on the land disposal program should be added to the statute.

Pat Kalen, Society of Professional Land Surveyors, discussed funding for surveying of lands, problems with identification

of water bodies under current statute, and the marginal quality of land that is generally available over the counter.

Jeff Cook, Alaska Association of Realtors, expressed concern that disposals meet local subdivision requirements, and urged that state disposals be coordinated with borough and private disposals.

Darrell Sickler, Alaska Miners Association, advocated continuance of a location system, rather than a lease system, as the most equitable approach to minerals development.

The meeting was adjourned at 3:00 p.m.

Alaska State Legislature

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

Committee on Resources

MINUTES

October 5, 1983
7:00 p.m.

Legislative Information Office
Anchorage

MEMBERS PRESENT

Senator Fahrenkamp, Chair
Senator Paul Fischer
Senator Vic Fischer
Senator Sturgulewski

CALENDAR

Hearing on state land management and disposal, teleconferenced to Mat-Su

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Commissioner Wunnicke, Department of Natural Resources, identified several policy changes the Department hopes to make. Dependent on the level of funds available for planning, surveying, and grants to local governments, DNR favors compliance with local planning and subdivision regulations, plans to offer those areas identified through its Area planning processes, and intends to dispose of land at fair market value unless sweat equity provisions apply. The Commissioner stressed that lands disposed of for year-round residential use should be on road-accessible quality lands, and that remote lands should not be geared for generating needs for future government services.

In response to questions from Senators Fahrenkamp and Vic Fischer, Commissioner Wunnicke said she would support putting applicable new policies into statute.

Tom Hawkins, Director, Division of Land and Water Management, DNR, stated that land disposals help expand the survey net and help develop resource information. In total, 350,000 acres of state land have been transferred to private ownership; 240,000 of these since 1978, with $1 million having accrued to the general fund as a result of the disposal program. There are currently 3500 subdivision parcels available over-the-counter and 52 remote staking areas open.

Hawkins expressed support for the public input process that LADS allows, and outlined DNR's upcoming land disposals. DNR will be offering 15 remote parcel areas this fall; there will be a spring lottery which will include homestead areas. (Homestead regulations will be available for review in late October.)

Ted Smith expressed concerns over the state's current method of land disposal. The initial permit system does not allow the permittee to borrow funds to build a dwelling; further, residency and dwelling requirements are hard to enforce. Smith favors a fair market value sale with 5-10% down, and an assignable, assumable contract which would allow for financing. He also suggested an improvement schedule which would allow earning of credits against the purchase price. Smith urged state compliance with local planning and subdivision regulations, conformity of statutes to court decisions, and greater retention of lands in a general public use category.

Cal Kerr supported selling timber land for development, and urged review of the primary manufacturing requirement.

Howard Grey, Alaska Miner's Association, expressed concern that DNR regulations do not always follow legislative intent, and that the 640 acre closure limit is being thwarted with multiple classifications. He will be submitting technical amendments to Title 38.

George Lustig stated that he does not support farm plans as a requirement for agricultural disposals.

Ray Mann, Municipality of Anchorage, stressed that disposals must be consistent with local regulations. He suggested that income from fair market value sales be used for deficiency payments to Anchorage, as the municipality's entitlement has not been met with land or in lieu cash payments. Further, the grant program does not apply to Anchorage, as there is so little land available to dispose of.

Michael Grijalva urged good mining practices, reclamation and sediment control.

Ray Morgan expressed a concern that the agriculture provisions, the purchase option and the filing fees defeat the purpose of the homestead program.

Diane Muri, Alaska Center for the Environment, urged placer mining reclamation, grading to contours, and replacement of topsoil.

Don Argetsinger, NANA Regional Corporation, expressed support for state planning, especially in rural, mixed land ownership areas like Northwest Alaska. He stressed that more money is needed for planning.

Tom Pittman, Mat-Su Borough, stated that DNR's land disposal policies should be put into statute. He expressed the need for conformity with local planning and subdivision regulations; legal, feasible access in state disposals; state funding for road building and maintenance in disposal areas; utilization of good soil conservation practices in agricultural clearing done under the homestead program.

Mary Core, Alaska Center for the Environment, emphasized the need for a computerized system to retrieve information on DNR's disposal program.

Katherine Ernst, Tokosha Citizens' Council, spoke against disposal quotas and subdivisions in remote areas. She urged that disposals follow regional planning and allow for maximum local input.

Bob Loeffler, Alaska Center for the Environment, addressed the inflated demand for state land. A better assessment of demand and the availability of private lands is needed, as current levels of disposal are too high.

Jim Scheffel suggested that an annual disposal level be set at 5-10,000 acres of high quality land. He supports longer anti-subdivision requirements, and small parcels in remote areas that have high recreational value.

John Strasenburgh wants carrying capacity determined and followed to ensure low density settlement. He urged stronger subdivision restrictions, more planning prior to disposals, and a reduction of total acreage disposed of.

Dave McCargo, American Wilderness Alliance, expressed support for a non-competitive leasing program for hard-rock minerals, with production carrying a gross royalties tax of 10-20%.

Paul Lowe stressed the need for an accurate assessment of demand for disposals, and the desire to maximize return on state resources.

Chuck Hawley, HRG, Inc., does not want ill-considered disposals where mineral values may be present. He will submit technical changes to Title 38.

The meeting was adjourned.

Sandra

Alaska State Legislature

SENATE RESOURCES COMMITTEE

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

October 31, 1983

COMMENTS AND SUGGESTED CHANGES--TITLE 38

Chapter 04--Policy for Use and Classification of State Land Surface

(1) 38.04.005 More specific goals and policies need to be spelled out for managing and disposing of state land which take into better account the whole range of resource values and uses.

(2) .04.010 This section articulates the policy of making year-round residential use near existing services and seasonal, recreational use disposals where future services will not be needed. Many emphasized the need for either applying this goal more strictly in the disposal program or strengthening the statutes to include such language in the specific disposal authorizations. See also 38.04.020 and 38.09.

(3) .04.020(e) Despite the statute requirement that a budget for disposals be submitted to the Legislature, it was argued that insufficient monies are appropriated to ensure a stable, continuous program over several years. Also, some costs such as possible local services incurred by disposals are not accounted for nor the costs of enforcement of sale provisions. See also 38.08 and 38.09. Although the statute requires estimating costs of complying with local platting and subdivisi ordinances, AS 29.33 exempts the state from having to provide capital improvements, such as roads, as part of its compliance with local platti requirements in the disposal of state land. See also 29.33.

(4) .04.020(e)(4) allows DNR to submit a schedule for obtaining cost estimates of municipal regulation conformance in disposals if not available. This "loophole" should be deleted and estimates annually required.

(5) .04.020(f) The statute requires an annual assessment of the demand for state land taking into account supplies of private and local lands. Some felt this is either not being done administratively or that the statute shoul be strengthened to require accurate market demand/supply/need for dispos.

(6) .04.020(g)(2) requires certain percentages of subdivision land be made available for homesites by particular disposal methods. One of these methods, by length of residency has been ruled unconstitutional. The arbitrary percentages to be disposed as homesites should be repealed as well as disposal methods to better reflect specific market demand and public policy.

(7) .04.020(h) limits subdivision parcels to five acres unless local zoning ordinances, topography, sewer and water requirements dictate larger parcel. Remove limitation to enable larger parcels to reflect public desires, other resources in specific areas.

(8) .04.020 Include new provision precluding subdivision disposals in "remote" areas or make such disposals take into account carrying capacities of local resources.

(9) .04.020 The DNR administrative procedure currently calls for public hearings prior to land disposals. Public hearings should be required in the statutes.

(10) .04.020 Although some disposal programs generally refer to making land available throughout the state, specific quotas or percentages of land by region should be required to ensure land disposal in all areas without disposing of a preponderance of land in a few regions as is the case currently.

(11) .04.021 provides for grants to municipalities for the disposal of municipal entitlement lands. Much more money should be appropriated for this program and the statutory restrictions on the ratio of money from the state vis a vis municipal disposal money should be repealed (5 to 1 or 7 to 1). Grants should not be limited for entitlement land disposals, but any local lands. Some statutory provision should be made to encourage the joint participation of state and locals in the disposal of both state and municipal lands.

(12) .04.025 requires DNR to assess the supply and demand for land in making lands available for private use. This section is redundant to a large degree to the assessment required in .04.020(f) and should be repealed or integrated and made more specific.

(13) .04.035(4) prescribes a lease system for cabins in remote areas where survey and conveyance is impractical. Cabin lease system should be more broadly used instead of disposals when dealing with "trespass" cabins, recreational uses, resource conflicts and other factors. See also .05.079.

(14) .04.040 authorizes the sale of University lands. With the passage of SB 41 last session removing University lands from "state" or public lands, this and other references to University lands should be repealed.

(15) .04.045(a) permits the disposition of land in parcel sizes reflecting individual use needs or market supplies. This conflicts in part to the subdivision 5-acre limitation in .020(h) and should be either consolidated or made consistent with this section.

(16) .04.045(b) requires surveying and platting prior to land disposal. Specifies land not to be conveyed unless within two miles of control monument. Requires state disposal plats to comply with local ordinances similar to private lands. This should be adhered to administratively and the exception for the state in complying with capital improvement requirements by locals in Title 29 should be repealed. See 29.33. See also .09, homestead survey requirements.

(17) There is debate on the definition of "cadastral survey". Some want definition to include survey monumentation every section and quarter section, others prefer broader definition to expedite disposals in remote areas.

(18) .04.050 provides for the reservation of easements and rights-of-way when lands are surveyed for disposal for access to each parcel of land. Surface access is to be developed where "necessary and appropriate" with costs to be borne by land recipients. Statutory changes recommended specifying that legal and feasible access be provided to and within subdivisions (not necessarily section-line easements, for example) and that access meeting local ordinances for subdivisions be required of the state. See also 29.33.

(19) .04.055 mandates the reservation of public use easements and rights-of-way in the disposition of private lands. This provision is very similar to the provisions of 38.05.127. More public easements and rights-of-way should be reserved administratively under this authority and state land reservations in fee simple should also be made to ensure access to public lands and waters. See also .05.127

(20) .04.065 requires the development of regional or area plans to guide land classifications. Although land classifications must follow such plans, until they are completed (only a few are currently completed) localized "land planning reports" are the only plans currently required prior to disposals under current administrative regulations. Area or regional plans should be completed and required prior to land disposals to ensure that all resources are considered in a particular area or region.

(21) This section also requires local government and public involvement in the planning process. The statutes should specifically mandate the holding of public hearings as part of the plan development and prior to any classification or disposal. See also .04.020 and .05.301 and .05.345.

(22) .04.070 sets out several classifications for retaining land in public ownership. One or more of these such as "public reserve lands" should be further defined statutorially and lands included to more permanently retain them for a variety of public uses in contrast to more specific management system such as state parks or state forests.

(23) .04.910 is the definition section for .04. The definitions for "official cadastral survey" and "official control survey" should be reviewed in light of federal and state policies and most current applications. See also 04.045(b).

CHAPTER 05--ALASKA LAND ACT

(24) .05.030(c) provides for the notification to DNR by other state agencies of any land acquisition, lease or exchange. Notification should include disposals also

(25) .05.035(a) requires DNR to make a "best interest" finding prior to sales, leases, or other land disposals, except for revocable permits, shore fishery sites leases, and certain negotiated contracts. All disposals, including permits and leases, should require "best interest" written findings. Such a finding should be further clarified in the statutes and include social and economic impacts and benefits of disposals.

(26) .05.035(b) authorizes the granting of preference rights to land and property to persons adversely affected by state or federal errors or omissions. Limit rights to preferences to three years from date of error or state action in order to avoid long-standing claims with difficult record reconstruction.

(27) (b)(5) authorizes direct negotiation with users or improvers of state land prior to statehood to convey title when in "best interest" of state. Provision of dubious legality and should be repealed.

(28) .05.045 authorizes the sale of all state land except tide, submerged, shorelands, timber and grazing lands. Timber lands should be allowed to be sold to enhance timber harvesting and reduce administrative costs.

(29) .05.050 mandates that land disposals, including homesites under .04.020(g)(2)(C),

be held in the "municipality" closest to the land and in which regular sessions of a state court are held. Some feel that this requirement is unfair to residents from other areas of the state while others favor retention of the requirement as a form of resident preference. One suggestion is to permit teleconference participation at auctions or lotteries.

(30) The reference to .04.020(g) should be deleted as part of the suggested repeal of that section.

(31) Change "municipality" to "community" to take into account unincorporated locations.

(32) .05.057 requires the consultation by DNR with the local assessor in the determination of purchase prices prior to disposal. This requirement should be eliminated as unnecessary.

(33) .05.058 established a discount program for the purchase of land based on the number of years of residency. Discounts up to 50% of the purchase price were available. This provision was ruled unconstitutional and was repealed in the last legislative session. Some felt the resulting policy of disposing of land at fair market value will result in a more accurate picture of demand for state land, will enhance private land developments, and effect a better return for state resources. Others have recommended a replacement discount program not based on residency to continue to provide lower cost alternatives to state land acquisition. One suggestion is to give a "rebate" or a discount off a fair market value purchase price if certain specified improvements are completed. The value of the improvements up to a certain percentage of the purchase price could be permitted. Another suggestion is to establish a forgiveness system towards the purchase price in which payments are removed from the end of the payment schedule for each year of payments paid on a year-to-year basis. This concept is included in SB 230 currently pending before the Legislature.

(34) .05.065(a) sets the interest rate to be paid on land disposal contracts to real estate mortgage loans made by the federal land bank for the farm credit district for Alaska. These rates have currently been more than 12%. A more appropriate guideline should be established which would more closely reflect rates for prevailing state programs such as housing, ag and fishery loans.

(35) .05.065(c) provides a general action for contract violations. An appeal process should be enacted followed by the prerogative of the commissioner to foreclose and sell interest to a third party as if it were a deed of trust.

(36) .05.067 provides for special sales of land for veterans. This provision is currently not being utilized by the DNR, nor has it been used to any extent in the past. It should be repealed.

(37) .05.069(a)and (b) provide for a 60-day first option to adjacent landowners for ag land sales or leases and a method based on a "greatest need" or veterans preference to determine which of several adjacent landowners should be granted an option. To facilitate efficient administration and simplify the selection procedure ag land options for adjacent landowners should be exercised at the time of disposal and a single recipient selected by simple drawing of lots.

(38) .05.070(b) authorizes the DNR to negotiate a land lease without advertisement if it involves less than $250/year. This limitation should be raised to $5000/year to expedite processing leases.

(39) .05.070(c) authorizes DNR to grant land leases for up to 55 years if in best interest of the state. Limit should be raised to 99 years to be compatible with federal leases and to facilitate financing of development.

(40) .05.077-.078 establishes the remote parcel leasing and conveyance program. The legislature repealed this program effective July 1, 1984 and substituted many of the provisions with the homestead program (see 38.09). The remote parcel program should be reenacted or extended another year or so to permit smoother transition to homestead program, ensure maximum land availability for remote recreational use and to permit stakers a 5 to 10 year lease prior to purchase of land.

(41) .05.079 authorizes a remote cabin permit program. Although cabin permits are to be issued only for lands classified for this purpose, current classifications are too permissive in where remote cabins may be located. Others have felt that this program is underutilized and more remote cabins should be offered and encouraged in lieu of land disposals in more remote areas. The permit system should be replaced with a lease system to ensure that a "best interest" finding was required (see .05.083(a)). Also a public use cabin should either replace or supplement the remote cabin permit program to further reduce the need for land disposals.

(42) .05.110 provides for the assessment of timber on state lands and recommendations for the sale of timber and other materials. This assessment and recommendations should take into account the availability and current markets for nearby private timber supplies.

(43) .05.125 mandates the reservation of the mineral estate (subsurface) from all lands conveyed by the state. In the references to various disposal programs covered by this provision should be added 38.09 establishing the homestead program.

(44) .05.127 requires the determination of "public waters" or "navigable waters" prior to the disposal of state land and the reservation of easements or rights-of-way to ensure public access to and along such waters. Regulations implementing this section have not been issued. Current applications of easement reservations for entitlement lands conveyed to municipalities have been too broad resulting in many unnecessary and burdensome easements in land titles. Statutes need further clarification on what "public waters" are and perhaps special provisions for municipal lands when it can be demonstrated that reasonable public access will be ensured. (The statute does provide for vacating of easements on municipal application "if consistent with the public interest".)

(45) Oil and gas and mineral leases should be excepted from the application of the provision. As such leases only permit limited surface uses and do not bar public access, commonly are held for years without ever going to development or production stage, and involve time-consuming administrative work to identify public waters and easements, it is recommended that such easements and rights-of-way not be identified until a development or production plan is submitted for approval.

(46) In addition to easements and rights-of-way, fee simple state land should be reserved in cases (see .04.055).

(47) .05.140-.181 Authorizes leasing for coal, phosphates, oil shale, sodium, sulphur and other minerals on state lands. The terms for such leases vary somewhat including acreages and length of leases. These terms should be reviewed and made consistent if appropriate.

(48) .05.150(c) authorizes a two-year coal prospecting permit with one two-year extension if diligence is demonstrated. Because of the lengthy prospecting time necessary for coal exploration, permits should be granted for longer terms (e.g. 3-5 years with one or more extensions).

(49) .05.150 In the determination by the DNR to lease coal lands, nearby coal reserves on private lands should be taken into account.

(50) .05.185-.275 governs the procedures for locating and administering mining claims on state land. Procedures are also contained in Title 27. Rather than a location, or claim-staking, system of establishing rights to mineral and possibly surface estates, all minerals should be leased under programs similar to those for oil and gas. Rather than the current Mining License Tax levied on net profits on a sliding scale up to 7% , a royalty system similar to oil and gas should be enacted (10-12% of gross profits). Such a system would discourage marginally economic operations , protect other resource values , and generate a fairer return on state-owned resources. (The current tax took in $153,000 in 1982--90% of the money from coal, sand and gravel and other non-locatable mineral production.)

(51) .05.185 authorizes the leasing of minerals when DNR finds that potential use conflicts on state land would exist or that the land was mineral in character at the time of state selection. Such lease determininations must be consistent with the land classification procedures. Regulations for implementing a location leasehold system for conflict or mineralized state land areas are currently proposed. Lands available only for location leasehold mineral acquisition should be expanded to include most, if not all, state lands. This could be accomplished either through a broad administrative determination of "use conflicts" or through additional statutory language directing additional considerations in the classification of leasehold lands.

(52) .05.190(a)(1) grants exploratory and mining rights to those at least 19 years of age. The current age of majority for most activities in Alaska is 18 years old, and this statute should be correspondingly changed.

(53) .05.195 requires that mining claims be staked in the four cardinal directions (north, south, east, west). Amend provision to not apply to fractional claims or when the commissioner determines that such staking is impractical.

(54) .05.200 or .210 Amend the requirements for amending claim locations or filing annual assessment work to allow affidavits of annual labor to be corrected by amendment thus providing a legal mechanism for correcting errors.

(55) .05.205 directs the DNR to publish a notice of a mineral lease no later than two weeks before sending lease application. This publishing requirement should be deleted so that mining leases are treated like other noncompetitive mineral leases whereby the notice is published only when the finding mandated by 38.05.035(a)(14) is ready and no subsequent notice is required. See also .05. 345(e).

(56) .05.240 provides for basic mineral survey finds for annual labor to be filed and kept confidential by DNR. Delete the provision as it can result in the "leaking" of proprietary information, the information is often of mixed quality, the date submitted serves no particular public benefit, and the requirement poses an administrative burden for claimants and DNR.

(57) .05.245(a) requires the filing of a certificate of mining location in both the recording district and also the DNR. Delete the requirement to file the certificate of location with the DNR as the District Recorders' Office is currently within the DNR.

(58) .05.245(c) limits the number of prospecting sites that a person may locate in one calendar year in one recording district to six. It also prohibits the relocating of an expired prospecting site within two years. Change the number of prospecting site locations from six sites "located" in one year in one district to eight sites "held" at any one time in each township. This increase in the number of sites permitted will encourage the use of prospecting sites where a discovery has not been made yet and address a current loophole whereby employees of large comoanies locate sites and quitclaim deed them to company. Also change the waiting period for restaking sites from two years to one.

(59) .05.250(a) provides for the issuance of prospecting permits for tide and submerged lands. Amend to clarify that the rental year for an offshore prospecting permit ends on the anniversary date of the permit, not at the end of the calendar year. This change would allow the rental year for permits and offshore leases to be computed in the same way.

(60) .05.250(b) Provides for the obtaining of a noncompetitive lease to holders of prospecting permits. Amend to delete the first sentence of the provision which states that the "right to possess and extract the mineral may be acquired by noncompetitive lease." This sentence is redundant of the next sentence in the provision and may mislead people to believe that they can get a noncompetitive lease without first obtaining a prospecting permit.

(61) .05.265 prescribes the basis for "abandonment" of a mining claim, location, or permit. Amend to define the "essential facts" that must be included in annual labor affidavits. Amend so the former owner of an abandoned

(62) mining location cannot acquire any direct or indirect beneficial interest in the location site during the one-year waiting period. Change the waiting period for prospecting site locations from two to one year consistent with .05.245(c). Amend to provide that abandonment of a mining

(63) lease or location constitutes abandonment of the interest in tailings mined and left on state land, unless the lessee or locator has purchased the materials in the tailings and has received authorization to store tailings on state land.

(64) +see #95 .05.275 Amend to eliminate the requirement of filing a certificate of location with the DNR as in 38.05.245(a). The district recorders office is in DNR.

(65) .05.300 provides for the classification of state lands and bars the closure of state lands, except by the state legislature, to multiple purpose use if the area involved contains more than 640 acres. This prohibition should be strengthened to prohibit the DNR to administratively close more than

(66) 640 total acres by multiple 640-acre closures. See also .04.065. The authority to close lands to mineral entry should be broadened to enable the closure of lands conveyed to municipalities under the entitlement grants

(67) .05.301 requires an assessment of impacts of any land sale, lease or disposal on population and traditional land uses in the unorganized borough and necessary mitigation plans. Citizen review boards or perhaps the Coastal Resource Service Area Boards should be utilized in the review of all proposed land disposals in rural areas (or any areas). In addition to required input the Boards might be given veto authority over proposed land sales or disposals. See also .04.020.

(68) .05.310 requires an appraisal within 120 days of the sale or lease of state lands. Because of the delays often encountered in leasing and selling lands, costly reappraisals are often required by law. The 120-day limitation should be extended to one year.

(69) .05.345 establishes the notice requirements for classification, sale, lease and disposal of state lands. (b) requires at least one of several different kinds of notice be given (e.g. newspaper publication, electronic media, posting, notification of affected parties). More than one such method of notification should be required.

(70) (e) provides an exception for mineral leases issued under 38.05.205. This should be deleted to conform with change recommended for .05.205.

(71) Amend to include provision for public hearing upon request subsequent to notification. See also .04.020 and .04.065.

(72) .05.350 is a policy statement for the state to encourage settlement and develop resources consistent with public interest. This policy is incorporated in the policies contained in .04.005-.015 , is statutorially out of place and should be repealed.

(73) .05.362 mandates the classification of at least 650,000 acres of agricultural land or no less than 50% of the lands having Class II or III soils by September 22, 1979. This requirement was met and the provision should be repealed.

(74) .05.365 is the definitions section for chapter .05. Number 23, "public waters" should be reviewed for clarity particularly as it applies to the reservation of easements and rights-of-way for municipal grant lands under .05.127.

(75) .07.030 provides for the clearing of ag lands owned or leased by private parties. A revolving loan fund should be established for clearing projects wherein monies could be continuously available to clear both state and privately owned or leased ag lands.

(76) .08. Establishes the homesite disposal program under which title is obtained through "sweat equity" requirements of residency, dwelling construction and survey. One suggestion is to eliminate the permit system during the proving up period, provide an assumable and assignable contract at fair market value and a schedule of rebates or discounts based on improvements or actions taken on the land. This "carrot" approach would result in better ability to finance improvements and reduce administrative compliance actions.

(77) Another recommendation is to make the requirements conform to the "sweat equity" features of the recently-passed homestead bill--residency from 35 months in 7 years to 25 months in 5 years; dwelling construction from five to three years.

(78) If all requirements except the ones for residency have been met at the end of the permit term, amend the statute to permit the purchase of the parcel at fair market value. This would provide an expedient and equitable way of dealing with forfeiture of parcels with property improvements on them.

See also .04.020(g)(2).

(79) .09.010(b) requires that lands available for homestead entry may not be located more than one mile from a survey control monument. .04.045(b) prohibits the disposal of state land further than two miles from a monument. This provision should either be eliminated in .09.010 or be made subject to an administrative determination that staking could be permitted up to two miles of a monument when geographic conditions warrant and excess survey costs to stakers will not be incurred. This change would permit a full conversion of lands identified for remote parcel disposal (where monuments are generally located every four miles) to homestead disposal. (The remote parcel program is repealed effective July 1, 1984). This would eliminate the need for additional costly surveying in these areas.

(80) .09.010(e) prescribes the procedures for staking of homestead entries. Staking procedures in remote areas should include a requirement that sufficient spacing between parcels occur to minimize the demand for future services and reduce conflicts with other resources and occupants. See .04.010.

(81) .09.020 prescribes the obtaining of entry permits under which "prove-up" activities are to occur. Eliminate the permit system, provide an assumable and assignable contract at fair market value and a schedule of rebates or discounts based on the value of improvements or actions taken on the land. This approach would result in easier financing for improvements and less administrative compliance expense. See. also .08, homesite program.

(82) .09.050(d) and (e) Prohibits the subdivision of lands obtained through sweat equity for five years and through purchase for ten years and the sale or lease of lands for five years regardless of method of acquisition. These prohibitions should be extended for longer time periods to prevent speculation and to ensure that the goals of the program are being met.

(83) .09.080(b) subjects homestead disposals to local platting, recording and subdivision requirements under 29.33 and 40.15. 29.33 exempts state compliance from having to provide any capital improvements on land disposals. Disposals should be made subject to all local platting and subdivision ordinances, or be forced to negotiate with municipalities on the provision of access and other improvements. See also .104.020(e) and .04.045(b) and 29.33.

(84) .09.090 authorizes the purchase of a homestead entry within two years subject only to the brushing and survey requirements. Purchase at fair market value should also be permitted at the end of the permit term if all but the residency requirements have been met. See .08.

(85) .35.050(a) governs the application process for the construction of an oil and gas pipeline and/or transporation system across state lands. A minimum application fee (perhaps $1000) should be provided in statute to cover the administrative costs of processing a right-of-way application.

(86) .35.140(b) provides that the lessee of a pipeline right-of-way shall reimburse the state for costs in monitoring the construction of the pipeline. Amend to provide for reimbursement for processing application, and for monitoring operation and maintenance of the pipeline.

.50.020(a) provides for the exchange of state land for other lands to be based on equal appraised values, or if not, to be submitted to the legislature for review and possible veto. One recommendation was to require that all proposed exchanges involving state lands be submitted for legislative review. Other recommendations were that the equal-appraised-value requirement is too strict and burdensome and discourages trades, especially small-tract exchanges even when public benefits are clear. The statute should be amended to permit the exchange of land smaller than a certain size (perhaps 640 acres or smaller) administratively regardless of equal appraised values.

.50.020(b) assumes an appraisal to be valid for six months and after such time a new appraisal for a proposed land exchange is required. Amend the statute to lengthen the "validity" of an appraisal to one year to permit the execution of trades which involve considerable administrative work and public review without incurring the costs of additional appraisa

.50.110-.130 dictates substantial requirements for the notice and data needed for a proposed land exchange. Amend the statute to streamline the notice and information requirements for land tracts under a certain size (perhaps 640 acres) to facilitate beneficial exchanges without large administrative costs. Make the notice requirements conform to those for land sales and leases in 38.05.345.

.50.120 requires that at least one public hearing be held on a proposed land exchar Amend to include a minimum tract size before a public hearing is required to minimize administrative costs for small exchanges.

.95.030 mandates the granting of a trapping cabin permit to qualified applicants. Amend language to grant DNR discretion to not issue a permit in consideration of existing land uses and resource values in the specific location.

Amend to apply the provisions to cabins and camps used for hunting, fishing or other guiding activities.

ADDENDUM

.20 This chapter describes the Alaska Coordinate System to be used in land surveying and descriptions. Changes in the federal datum used as a base for this system should be reflected in the state statutes.

.05.275 provides for mineral locations on submerged and tidelands. Amend to limit the staking system of locations to state uplands and to tidelands (between mean high and mean low tides) if part of the claim is on uplands. Staking on submerged lands (below mean low tide) would be disallowed and submerged lands would be available to mineral exploration and production by the state's offshore mineral leasing system.

TITLE 38--GENERAL COMMENTS

(96) ---Section 907 of the Alaska National Interest Lands Conservation Act (ANILCA) establishes a land bank program under which Native and other private lands can receive tax and other protections in exchange for non-alienation and non-development of the private lands and management in conformity with adjacent federal and state lands. The State is authorized to participate in the program if it adopts laws of general applicability to section 907. To promote cooperative land management among major landowners in the state, it was recommended to adopt enabling provisions for a land bank program.

(97) ---DNR regulations currently limit participation by most Division of Land and Water Management employees in land staking and over-the-counter programs. Such possible conflict-of-interest situations in land disposals should be identified and restricted by statute.

(98) ---Presently only the homestead program and the project ag leasing program have restrictions on the sale or subdivision of land after the conveyance of title. To further prevent speculation on state land several provisions were recommended: Increase anti-sale, anti-subdivide restrictions on homesteads and apply similar restrictions to all state land disposals; Strictly retain fair market value sales and/or require substantial residency and improvements of land; Broaden the coverage of the one homesite or homestead per lifetime proviso to all state land disposals.

(99) ---SB 41 which settled the University of Alaska/State land lawsuit by awarding the University exclusive ownership and management over certain state lands passed the Legislature last session. The removal of University lands from "public lands" necessitates that the references and treatment of University lands be changed in the statutes throughout Title 38.

COMMENTS ON RELATED SUBJECTS IN OTHER TITLES

Title 29--Municipal Code

29.18.201-.208 (100) Under the municipal land grant entitlements the Municipality of Anchorage received 44,893 acres of state land, but to date has only received patent or tentatively approved title to 21,000 acres with virtually no additional state land for selection available. The statute contains a formula based on population and lands conveyed to compensate in cash municipalities who are unable to fulfill their entitlement. Under this formula Anchorage would be entitled to $35 million except that another provision limits the total any municipality can receive to $9 million. Anchorage has received $4 million to date of this compensation. Recommendations included: 1) payment of the balance of the $9 million; 2) removal of the cap and payment of the otherwise entitlement compensation under the formula; 3) Development of an alternative manner of conveying in-lieu lands to Anchorage from outside the municipal limits or proceeds from the sale or use of such lands.

(101) Muncipal lands conveyed under this section have often remained open to mineral entry and created third-party interests prior to being studied, classified and utilized by the municipalities. Such lands should be closed upon conveyance to municipalities. See 38.05.300.

(102) Conveyance of municipal grant lands has sometimes proceeded slowly and

patent to all municipal lands has not yet been conveyed due to the necessity to survey the lands prior to patent. If the municipality approves the conveyance of lands without a survey or with only partial survey, it should be permitted. Also, the municipalities have had to pay for surveys to expedite conveyance and more state assistance is required. See also 38.04.045(b)

29.33.150 requires the state to submit land disposal plats to local governments having appropriate authorities for approval, but "the platting board may not disapprove the subdivision plat on the basis of regulations which require capital improvements (e.g. roads) on or to state land included in the subdivision plat. Regulations adopted after the platting board is notified by the commissioner of natural resources of a proposed sale of subdivided state land under 38.05.005-38.05.370 or 38.08.010-.120 do not apply to the state land in the proposed sale." Repeal the exception for capital improvement requirements to enable local governments to minimize the future demand for access and services to state subdivisions and to ensure future residents satisfactory access and services. Removal of the exception would also put the state on the same footing with private land developers and ensure local control on community growth and lifestyle.

(103)

In an effort to reduce costs to the state of such a change in the statute and to ensure that disposals are not blocked by overly burdensome ordinances, capital improvement requirements could be limited to disposals on or near existing highways and roads; could be limited to some accepted standards, such as primitive road or local road, etc.; or funding could be through revolving fund incorporating receipts from land sales and possibly tied into the municipal grant program for local disposals. See 38.04.020(e), 38.04.021, 38.04.045(b), 38.04.050.

(104)

TITLE 27--MINING

---Title 27 also deals with many of the same mining procedures and rights (picked up from federal law) as are contained in Title 38. These apply to mining rights on fed

(105) ---The reclamation statute dealing with coal mining formerly contained in Title 41 is now contained in Title 27. The reclamation requirements pertaining to coal should be applied in law to all mining operations.

(106) ---27.05.020 prohibits certain conflicts-of-interest. Recent interpretive problems point out the need for revision to clarify meaning and intent.

(107) ---27.05.080-.090 require four public assay offices with assayists in each office statewide. DGGS actually only maintains one assay lab on the UAF campus. The statute should be changed to reflect the realities of the situation. It might be preferable to enact an assay system based on private assaying with rebates to miners for private assaying.

(108) ---27.05.180-.210 authorizes the purchase of specific mineral prospecting equipment to be loaned out to private persons for exploration work. DNR no longer, if ever, conducted such an equipment lending program. The 1955 statute should be repealed.

(109) ---27.10 embraces the 1872 mining law as it governs mining on federal lands. Changes made in the 1976 Federal Land Policy and Management Act (FLPMA) are not incorporated in these statutes and should be.

(110) ---27.15.010 is the only provision in Title 27 dealing specifically with mining on state-owned lands. It requires "grubstaking" contracts be in writing. Should be repeal

ADMINISTRATIVE AND BUDGETARY CONSIDERATIONS AND RECOMMENDATIONS

1) Concern was expressed over the amount of land which is currently being disposed. While most recommended that less land be disposed of, some felt more land should be sold or made available for private use. There is currently no statutory level of acreage disposal and annual offerings have ranged from almost nothing in 1975 to 100,000 acres in 1980 to approximately 60,000 acres for 1983.

2) Concern was expressed that land should be made available throughout the state, not just primarily in the Mat-Su Borough or the Tanana Basin. Also it was recommended that high-quality, accessible land be offered to a great extent.

3) While the need for remote recreational and residential lands was recognized, many expressed concern that spacing requirements be enforced to minimize population densities and corresponding impacts on the resources of the areas and to head off future demands for governmental services such as schools, roads and utilities.

4) It was recommended that much more planning preceed disposals. In most cases area or regional plans should be completed prior to land classifications and disposals to ensure protection of other resource values in the larger area.

5) If parcels are not sold or staked in a particular offering they should be retained in over-the-counter offerings.

6) There was considerable concern over the quality and application of market studies in the determination of the amount and locations of land to be disposed of. Although the statutes require a market analysis based on the demands for state land relative to the supplies of other public and private lands, such studies have been criticized as being inadequate, superficial or based on limited information. It is recommended that the DNR conduct a more accurate market study prior to disposals, especially in light of removal of the residency discount program.

7) Many felt that the state should fully comply with local platting and subdivision regulations, even if improvements such as roads were required. State subdivisions in the past were felt to create undue burdens on local governments and hardships on land "winners". Also, such subdivisions were blamed for undue competition with private land subdividers who must meet local ordinances.

8) It was felt that the state needs a well-planned, long-range program with consistent land disposal programs. Program changes and frequent amendments by the Legislature contribute to public confusion, false short-term demand, and high administrative costs.

9) Some felt that the DNR classifies too much land as available only to mineral lease-hold location system while others felt most, if not all, land should be so classified. Current law permits classification for leaseholds when resource conflicts are present or the land was mineral in character at the time of state selection (38.05.135).

10) It was recommended that DNR consider supplies of timber, coal and sand and gravel on nearby private lands prior to sale of these materials and resources on state lands so as to not directly compete with private developments.

11) It was recommended that the remote cabin program authorized in 38.05.079 be utilized to a greater extent, possibly subject to certain classified areas, in lieu of disposal programs.

12) It was felt that the DNR should charge greater fees for the processing of permits and leases to help defray administrative costs.

13) It was recommended that the current work plans for ag lands not be required but that developments could be better effected through some program of monetary incentives. Others felt that improvement requirements reduced the speculative aspects.

14) It was recommended that DNR utilize its authority in 38.05.070(c) to cancel unused grazing leases.

15) The DNR and perhaps the Legislature should develop a trespass policy and procedure for state lands emphasizing priorities for administrative action due to time and manpower constraints.

16) Lands conveyed to municipalities under the entitlement program should be closed to mineral entry.

17) Additional monies are needed for the municipal land disposal fund program to assist the local governments in disposal of entitlement lands and remove pressures for similar state land disposals.

18) Money is needed for a state computerized system for handling land records and land disposal information. A full accounting of costs and revenues from sale and lease programs needs to be undertaken and retrievable information made available.

19) A more abundant and predictable source of money for land surveys is needed if a long-range, consistent program of land disposal is to be obtained. Surveys are needed several years in advance of disposals and also serve additional land planning and use needs.

20) More money is needed for completion of area or regional plans required in Title 38. The current schedule subject to annual appropriation levels will not allow completion of plans for most of the state before the end of the decade.

21) More money is needed for on-the-ground management of state lands, particularly in the area of enforcement and compliance.

22) Title 38 should be published in a larger format booklet for the public similar to the Title 29 publication produced by the Department of Community and Regional Affairs.

Sandra

Alaska State Legislature

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Senate

Committee on Resources

December 27, 1983

PROPOSED ACTIONS ON COMMENTS AND
SUGGESTED CHANGES--TITLE 38

Comment No.*	Findings/Recommendations
1	Almost by definition the many different resources and potential uses of state lands will result in conflicts. Policies reflecting state goals for these different resources and uses similarly will be in conflict in specific cases. While only broad policies appear appropriate in statute, consideration of various resources in the disposal of land is recommended in statute. (See section 1 of proposed Title 38 Lands Bill)
2	This problem is largely administrative in nature as the existing statutes contain sufficient policy direction. However, additional language is recommended to take into account various resources in the spacing of disposal tracts. (Sec. 3)
3	Changes are recommended in the demand study to include demand for future services. Also, it is recommended that the exception for capital improvements in complying with local subdivision ordinances be repealed. (sec. 5 and sec. 46)
4	Recommended. (sec. 4)
5	Statutes governing market demand assessment are straightforward and comprehensive. Better administrative implementation and use is recommended. (see sec. 5)
6	Recommended (sec. 6)
7	Recommended (sec. 7)
8	Recommended (sec. 3)
9	Current public hearing procedures appear adequate. Public hearings are costly, sometimes poorly attended and sometimes inappropriate. Recommend additional, but not

* Comment Numbers correspond to numbers on compilation of comments by various reviewers dated October 31, 1983

mandatory language in statutes on public hearings. (sec. 2)

10 Mandated quotas have been found to result in significant resource and administrative problems and are not responsive to changing political climates and the demand for private land. No change recommended.

11 Additional monies are recommended for the municipal grant program and closer cooperation and assistance with municipalities to encourage local and joint disposals is urged. The establishment of a new revolving loan fund for land disposals, including municipal disposals, is recommended. (sec. 8). Changes to the grant program need to be explored further and are not recommended at this time.

12 Recommended. (sec. 48)

13 Recommended. (sec. 9). Also recommend that the Administration implement remote cabin permit or lease program.

14 Recommended. (sec. 48)

15 Recommended (sec. 7 and sec. 48)

16 A change to eliminate an inconsistency in the statute relative to the two-mile survey control points is recommended (sec. 10). This provision will govern the recommended survey requirement for the homestead program (sec. 35). It is recommended that the state comply with all local subdivision regulations (sec. 46).

17 The definition of "cadastral" is highly technical and subject to various interpretations having considerable budgetary implications. More study is required and no change is recommended at this time.

18 Recommended (sec. 11 and sec. 46)

19 Recommended (sec. 12 and sec. 26)

20 Because the planning process takes considerable time (1-3 years per area plan) and there is so much state land, prohibiting actions such as disposals pending completion of plans appears impractical. However, it is recommended that monies be made available to complete plans and that the Administration put forth greater effort to expedite completion of area plans.

21 Public hearings have been held as part of all planning efforts to date. Mandated public hearings are not recommended but additional policy language recommended (sec. 2).

22 Because the permanent retention of land requires legislative action and because several state land designations currently exist, no new categories of land without consideration of specific lands and resources involved are recommended at this time.

23 Not recommended at this time. See comment no. 17.

24 Recommended (sec. 13).

25 Removal of the exceptions to "best interest" findings is recommended except for revocable permits less than one year where no significant impacts would occur. The one-year period is arbitrary and should be studied further, however. (sec. 15). Best interest findings should administratively reflect social and economic impacts and benefits.

26 Recommended (sec. 16)

27 No significant problems associated with this provision were identified. No changes recommended.

28 Timber leasing program is still believed to be the best method of managing timber resources as it retains future options on land management after timber has been harvested. No changes are recommended.

29 Although locally held lotteries present obstacles for non-local people to participate, lotteries continue to receive substantial applications from non-local persons At the same time, it is felt locally held lotteries provide a preference for local people which increases utility of state land and reduces speculation. No change recommended.

30 Recommended (sec. 17).

31 Recommended (sec. 17).

32 Because of the importance in determining fair market value for land sales, it is felt consultation with local assessors is not unreasonable. Unless excessive time or costs are involved, no change is recommended.

33 The problems resulting from the discount program are believed to outweigh the benefits of reduced-cost sales of state land. Additionally, the "sweat equity" provisions of the current homesite and homestead programs provide

opportunities for persons to obtain land without paying a fair-market-value price. Interest and participation in land sales has generally continued since repeal of the discount program, and it is anticipated that appraised values may stabilize in the future as demand is more accurately reflected without the discount.

The suggestion for a rebate-type system based on improvements bears further study. But as a direct alternative to the homesite and homestead programs, it would necessitate yet another programatic change, possibly disrupting on-going disposal programs. The rebate based on year-to-year residence is just a legal alternative to the residency discount program. No change or new discount program is recommended at this time.

34 Although land interest rates have been generally higher than state loan programs, they have been based on AAA bond sales which have consistently been below "market" or standard bank loan rates. Because it is difficult to assess how much state land sales should be "subsidized" because other state loan program interest rates vary considerably, no change is recommended at this time.

35 Recommended (sec. 19).

36 Although not utilized significantly, the repeal of the veterans preference sales is not recommended at this time. With the residence discount program repeal was also the repeal of the veterans price discount leaving only this special sale preference remaining for veterans.

37 Recommended (sec. 20 and sec. 48).

38 Although $250/year may be too conservative a figure, $5000/year is believed to grant too much authority. More study and discussion is needed. No change recommended at this time.

39 No justification for this change was identified. No change.

40 Although conversion of the remote parcel program to the homestead program will involve substantial administrative effort, it is believed that the transition can be made by July 1, 1984, and that some homestead parcels can be offered in the spring of 1984. The change recommended in the survey requirements for homestead entries (sec. 35) should permit full conversion of remote parcel areas to homestead entry areas.

41 The remote cabin permit program should be implemented by the DNR and specific areas classified for such use. One impediment to implementation may be the requirement that permits must be for at least a 25-year period. As this

time length might have the same practical effect of disposal, it should be reviewed and discussed further and possibly amended in statute. The exclusion for revocable permits in "best interest" findings is recommended for substantial amendment (sec. 9).

42 Recommended (sec. 21)

43 Recommended (technical amendment to SB 222 or SB 133).

44 The definitions of "public waters" and "navigable waters" are debatable and raise complex legal and technical issues. Rather than legislative changes, it is recommended that the Administration clarify its policies specifically for municipal land conveyances to minimize easements where public uses will be continued and/or local governments have the ability to reserve public easements.

45 Recommended (sec. 27)

46 Recommended (sec. 26 and sec. 12)

47 The terms for leasing different minerals track federal procedures and reflect certain differences in the nature of the particular mineral. No particular need for altering the provisions was identified and no changes are recommended.

48 Recommended (sec. 1 of proposed mining bill).

49 Although this change could be made, the uncertainties of subsurface resources do not lend themselves to usable quantification at the time of leasing. Because adjacent resources would normally be administratively considered and because public comment on leasing would be solicited, no change is recommended at this time.

50 A major revision of the 1872 Mining Law (on which the state location system is based) has been debated and studied for years in the Congress and in Alaska by the former Joint Federal-State Land Use Planning Commission. The problems identified for altering the present system are substantial and no workable alternative has yet been developed. However, current state law does provide for leasing when resource conflicts exist or the lands were mineral in character at the time of selection.

Mineral taxation policy must be viewed in the context of the minerals involved. Hard-rock minerals involve substantially different location, development and economic conditions and returns than oil and gas resources. Low revenues from the state's Mining License Tax were found to reflect the current scale of mining operations and possible enforcement problems as much as the tax rate per se. Although the current mineral tax policies could be reviewed in light of current exploration, development

and production, no changes in tax policy or in leasing provisions are recommended at this time.

51 Implementation of a leasing program is proceeding under an additional two-year extension passed by the Legislature last session. Litigation has recently been initiated calling for compliance with sec. 6(i) of the Statehood Act (reflected in 38.05.185) dealing with mineral leasing. While use of a leasing program is supported where significant resource conflicts or where highly mineralized areas exist, most lands are recommended to remain open under the traditional claim-staking and production system. In light of current law, administrative action and pending litigation, no changes are recommended.

52 Recommended (sec. 2 of mining bill).

53 Recommended (sec. 3 of mining bill).

54 Recommended (sec. 4 of mining bill).

55 Recommended (sec. 28 and sec. 48 of Title 38 Lands Bill)

56 Recommended (sec. 6 of mining bill).

57 Recommended (sec. 5 of mining bill).

58 Recommended (sec. 7 of mining bill).

59 Recommended (sec. 8 of mining bill).

60 Recommended (sec. 9 of mining bill).

61 The definition of "essential facts" should be clarified in DNR regulations. No change recommended.

62 Recommended (sec. 10 of mining bill).

63 The issue of ownership of tailings is complex and warrants further study. No changes recommended at this time.

64 Recommended (sec. 11 of mining bill).

65 On at least one occasion in the past, DNR administratively closed large areas (the pipeline corridor) to mineral location and other uses by closing many individual 640-acre adjacent parcels. This practice has not occurred in recent years. AS 38.05.300 bars closings of 640 acres or more to "multiple purpose use" There has continued to be debate over what uses or how many uses constitute "multiple use". For example, the DNR maintains that closing lands just to mineral location is permitted under AS 38.05.185, does not constitute a "multiple purpose use" closure, and would not be limited to the 640 acres under 38.05.300.

The statutes are ambiguous and possibly conflicting on this issue. However, much more study and discussion are needed to determine overall policy goals prior to any legislative changes.

66 Recommended (sec. 30). This change might require additional clarification relative to the comments for no. 65 above.

67 Although some commenters favored additional local review boards, others criticized the proposal as costly and unnecessary in light of current public hearings and review procedures. Others specifically felt the CRSA Boards were inappropriate bodies and that they are not present in Interior Alaska. Most disagreed with providing any such board with veto authority over disposals. It is recommended that DNR involve existing boards such as CRSAs in the review of disposals, but that no statutory requirements be added at this time.

68 Recommended (sec. 31).

69 Recommended (sec. 32). In addition, actions to be noticed are recommended to be made more inclusive similar to "best interest" findings. (sec. 33 and sec. 15).

70 Recommended (sec. 48).

71 Public hearings are held in most significant disposal actions under current administrative policy. Because many types of actions are to be covered under the notice section, and because public hearings can be very costly and not always useful or appropriate, it is recommended that mandated hearings not be required in statute. A policy for public input, including public hearings, is recommended to be strengthened (sec. 2).

72 Recommended (sec. 48).

73 Recommended (sec. 48).

74 Not recommended. See comment no. 44.

75 Loans for clearing ag lands can be made currently from the Agricultural Revolving Loan Fund. However, the clearing monies appropriated for the large project ag (Delta and Point McKenzie) are not scheduled to be returned to this Revolving Fund. Although it may be too late to place these funds into a revolving fund, the issue should be studied further and use of the existing Revolving Fund considered in making appropriations for future project ag clearing.

76 This approach has been used by the Kenai Peninsula Borough in an effort to stimulate development and provide discounts on the purchase price of land in lieu of the court-stricken residency discount program. See discussion

for comment no. 33. No statutory changes recommended at this time.

77 It was found that although the "prove-up" requirements differed, they did not involve significant differences in the equity of the programs. A change in the homesite requirements might result in more public confusion and administrative costs and is not found to be warranted.

78 Recommended (sec. 34).

79 Recommended (sec. 35). Language requiring a finding by the Commissioner based on survey costs and topography might also be considered.

80 The spacing considerations were strengthened in the policy section (sec. 3).

81 Not recommended. See comment no. 76.

82 The current anti-speculation provisions of the homestead program are believed to be an appropriate balance between public goals and private land ownership prerogatives

83 Recommended (sec. 46).

84 Recommended (sec. 36).

85 Application processing reimbursement is recommended, but a statutory fee is believed to be too rigid for all application cases. (sec. 38).

86 Recommended (sec. 38).

87 This approach is believed to be too restrictive, especially for minor trades, and would unduly delay some proposed land trades. The authority to trade lands should be no more restrictive than the ability to sell or dispose of lands. No change recommended.

88 Reccmmended. However, 640 acres is recognized as an arbitrary figure and some smaller size might be considered. (sec. 39 and 44).

89 Recommended (sec. 39).

90 Recommended (sec. 41 and sec. 42).

91 Recommended (sec. 43).

92 Recommended (sec. 45). Additional guidance in the exerci e of this authority might be included in the proposed change such as consideration of other users, private land and wildlife resources.

93 There is existing authority in statute to grant cabin

leases and permits for these uses. No change recommended.

94 The change is recommended although the technical language requires additional time to develop and review. This change will be contained in sec. 37.

95 Recommended (sec. 11 of mining bill).

96 This suggestion appears to have merit and is currently being reviewed and developed by the Department of Law and at least one major private landowner. This change should be considered for addition to the land bill when draft language is available.

97 Current statutes, administrative personnel policies and specific DNR policies address and prohibit various potential conflicts-of-interest. These are currently believed to be adequate for the disposal programs.

98 Additional stipulations are authorized for lottery sales in addition to the homestead program which could be used to curb speculation (AS 38.05.057(i)). Although no statutory changes are recommended, the DNR is urged to consider utilizing its authority for lottery sale restrictions when significant speculation is believed to be occurring and intended uses of state land are not taking place.

99 Recommended (sec. 48).

100 Legislation addressing the Anchorage entitlement problem is currently being developed as a separate bill. Due to the complexities and controversy over this issue, it should be considered independently of this legislative proposal.

101 Recommended (sec. 30).

102 This problem relates more to funding for surveys than statutory problems. However, the ability of municipalities to receive title to unsurveyed lands should be studied further and considered to expedite certain municipal conveyances.

103 Recommended (sec. 46 and 47).

104 Recommended (sec. 8)

105 Coal reclamation laws stem from specific federal law and are geared at extraction methods and conditions particular to coal. There currently exists authority for DNR to impose land use practices, including reclamation, for other mining activities as part of its permitting. Although certain reclamation practices should be considered for general application for most mining activities, new comprehensive legislation is not believed warranted at this time.

106 Specific legislative language to clarify the intent needs further study and development. DNR regulatory changes should also be pursued to clarify conflicts-of-interest. See also comment no. 97.

107 Recommended. (sec. 12, mining bill).

108 Recommended (sec. 13, mining bill).

109 More technical work needs to be done to identify needed legislative changes.

110 Recommended (sec. 13, mining bill).

ADDITIONAL RECOMMENDED CHANGES

38.05.055 Sales of land generally must be at fair market value. Under current auction sale procedures, the bidding is started at the appraised or fair market value. Without the residency discount this has resulted in lackluster bidding and theoretically, sales above "fair market value". The Fairbanks Borough currently permits bidding to begin at 85% of the appraised value. It is recommended that the state be permitted to sell land by auction at 90% of the appraised or fair market value. This would permit bidding to begin below appraised value and rise to a more "natural" level. (sec. 18).

38.04.020 It was suggested that the DNR be permitted to sell larger parcels to private developers who would, in turn, perform surveys, build roads and sell lots. This method would reduce state development upfront costs, ensure compliance with local ordinances, expedite land disposals and utilize the expertise of private developers. Possible methods might include putting out land for bids similar to the "request for proposal" contract process and selecting the proposal offering the state the most for the price. Another method might be to auction off a tract of land to the highest bidder who would have to meet certain stipulations in the development of the land reflecting current state laws and policies.

A separate draft bill has been developed and circulated for further review outlining the latter approach. If general agreement on approach and language can be worked out, this provision should be incorporated in the Title 38 Land bill.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
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Senate

Committee on Resources

May 11, 1984

Al Adams, Chairman
House Finance Committee
Pouch V
Juneau, AK 99811

Dear Al:

As prime sponsor of SB 375, An Act relating to land disposal and management, I have closely monitored its progress since it received Senate Resources Committee approval in late February. This bill, which is a product of the Committee's interim work on the State's land statutes, and received extensive public review before being acted upon by the Senate, was substantially amended by the House Resources Committee. While I applaud the House Committee members for their interest in this important piece of legislation, and support many provisions they adopted as improvements to the bill, I ask that you consider the following:

AS 38.04.010(b) (Section 4) addresses settlement beyond the range of public services, and provides criteria for determining density of residences. The Senate version of the bill, which asks that the Department consider the availability of timber, water and firewood resources in determining density, is intended to ensure that resources critical to remote living are present. An amendment in House Resources added "fisheries" as a criteria. Aside from the practical and financial problems with requiring that fisheries availability be considered, the availability of any food source, particularly one in isolation from the entire food chain, is uncertain and not critical to one's ability to live in a remote area.

AS 38.04.035(4) (Sec. 10) is intended to encourage use of the state's remote cabin program. Such use is currently limited to situations where survey and conveyance are impractical. I believe that the House language added on page 5, line 21, furthers this intent, but the sentence is now poorly structured. I suggest deleting "require additional conditions" on line 23.

AS 38.50.020(a) (Sec. 69) provides for the exchange of state land for other lands to be based on equal appraised values, or if not, to be submitted to the legislature for review. The House version of SB 375 would mandate legislative approval for each exchange, whether of equal or unequal value, above a specified threshold (500 acres or more than $1 million). While I agree that legislative oversight is important, and support the current statutory provision that requires notice to legislators of exchange actions, I feel that setting an arbitrary threshold and mandating legislative approval will merely complicate an already lengthy process involving sensitive negotiations. I maintain that the greatest need for legislative oversight is in exchanges for lands of unequal value, and would support restoring this language to its current statutory form.

Current statute authorizes the Commissioner to require a development plan for sales of state agricultural land. AS 38.05.020(b)(7) (Sec. 15) would allow the Commissioner to modify agricultural development requirements under specified conditions. My understanding is that this language is intended to address the recipients of agricultural land in Gustavus who because of their isolated location and lack of transportation to markets are unable to economically develop their farms. As drafted, however, this language could apply to any state agricultural project in its developmental stages. I would support amending this section (page 8, line 24) to read "..if the land is inaccessible by road and [or] transportation, marketing, and development costs render the required development.."

AS 38.05.059 (Sec. 23) has been amended to provide for issuance of a fee simple conditional title for agricultural land. I do not feel this approach is consistent with the state's current agriculture policy. I am aware that under the "agricultural rights" title currently issued by the State, private financing for home construction has been difficult to obtain (land purchase and development loans are available from the state), but I am not convinced that fee simple title is the solution. The bank's willingness to loan is affected also by the state's position as primary lienholder, and the credit worthiness of purchasers who have large clearing and development loans outstanding to the State. The Senate Resources Committee is looking at the financing problems in a separate bill, HB 458, and I feel this concept is complex enough to require consideration on its own merits. A hearing is scheduled on HB 458 for Monday, May 14th. I urge deletion of Section 23 from SB 375, and ask that the following conforming amendments also be made:

Page 11, line 6. Restore to current language.
Page 52, line 11. Delete repeal of 38.05.321(a).

AS 38.05.940 establishes a 25% discount on land purchases to qualified veterans. The House version (Sec. 88) makes the discount retroactive to March 31, 1983, the date of the court's ruling on the unconstitutionality of the State's general discount program. If this retroactive provision is enacted, the Department

of Natural Resources estimates a loss to the state of $2.1 million in principal payments and $3.1 million in interest payments over the next 20 years, plus a cost of $283,500 for contract conversions required by the amendment. While I agree that there are compelling reasons to grant a discount to our veterans, I am concerned that the costs the State would incur through this retroactive provision are substantial enough to justify that the discount be prospective only.

AS 38.95.080(a) directs the Commissioner to issue a trapping cabin permit to any applicant with an established trapline of sufficient length to justify cabin construction. The Senate version of SB 375 made this authority discretionary. I have no objection to the issuance of trapping cabin permits for serious trappers when needed, but the current statute (which is maintained in the House version) prohibits the Commissioner from denying a permit when resource or use conflicts may occur, or when the furbearer population is unable to sustain the intensive

trapping brought about through cabin use. I support giving the Commissioner an opportunity to review each permit application, and urge restoring this provision to a discretionary authority.

Section 82 adds a definition of "exchange" to Title 29, Municipal Government. This section should be deleted. In addition to being inappropriately located, current statute (AS 38.50) adequately specifies what constitutes an exchange. This is not an instance when a term is used so broadly or vaguely as to require definition.

Section 85 of the House version incorrectly references "Sec. 22". The reference should be to "Sec. 25".

SB 222, which also addresses Title 38, was prepared by the revisor of statutes. Generally, the bill reflects changes in drafting style ("commissioner" rather than "director", "department" rather than "division", "land" rather than "lands") and deletes obsolete references (to repealed statutes and to "university lands" per passage of 1983 legislation giving the university management authority over its lands). In addition, the Senate Finance Committee substitute authorizes DNR to contract for construction of firewood access roads, a function currently held by DOT. SB 222 has been reviewed by our legal division to ensure that the technical changes it proposes to Title 38 are consistent with the changes proposed in SB 375. Passage of both will facilitate work currently being done in preparation for the reprinting of the Title 38 pamphlet this summer.

I would like to call your attention to the attached information regarding conversion of leases that I provided to the House Resources Committee during their deliberations on SB 222. I cannot support any amendment which provides such benefits to anyone at the expense to the State.

I would appreciate your scheduling a hearing on both SB 375 and SB 222. I have attached information on the bills and will be happy to discuss them with you at your convenience.

Sincerely,

Bettye Fahrenkamp
Chairman

BF:ss

TESTIMONY OF ESTHER C. WUNNICKE,
COMMISSIONER OF THE DEPARTMENT OF NATURAL RESOURCES
ON HCS CSSB 375 (RES)
(LAND MANAGEMENT AND DISPOSAL)
BEFORE THE HOUSE COMMITTEE ON FINANCE
May 16, 1984

Mr. Chairman, members of the Committee, I am appearing today to address issues in HCS CSSB 375 (Res), which proposes a number of amendments to the Department's land management and disposal statutes. The Department was closely involved as the Senate Resources Committee developed the bill and has worked with the legislative committees that have reviewed it. I am pleased to have this opportunity to discuss the bill with you, and to present four proposed amendments. I understand that several other Department concerns have been addressed in the Committee Substitute for the bill, so I believe my testimony today supersedes the Department comments delivered to you and the Committee over the weekend.

Generally the Title 38 bill has my strong support. It incorporates some important changes to the state's land disposal process, by requiring compliance with borough and municipal ordinances regarding planning, platting, and capital improvements. It also includes a very important provision that will allow the commissioner of DNR to quitclaim lands back to the federal government that we should never have received, such as Native allotments and mining claims. We look favorably upon new leasing provisions that will foster more intensive use of state lands by permitting the Department to implement a prequalification process and to provide a preference for leasing state tidelands to upland owners. Some of the land exchange amendments will also reduce the expense and complexity of our land exchange process.

Several provisions within the bill concern me, however, and I now turn to these concerns.

Land Exchanges

The bill would require Legislative approval for all land exchanges and exchange agreements involving 500 acres or a million dollars worth of state land. I see this as an unnecessary, time-consuming, and expensive legislative approval that will handicap the Department in its land and resource management. I believe that the Legislature should indeed oversee our performance as the State's land manager, including land exchanges, but I do not believe that the Legislature should become a signator and approver -- as it would under this amendment -- of such land and resource management decisions.

The Legislature already has the tools at its disposal to exercise control over land exchanges. Recently, we notified each legislator, as is our usual practice, of the proposed land exchange with the Seldovia Native Association at Kachemak Bay State Park. The notification included full information on the lands proposed for exchange. If, based on this information and contact with the Department, the Legislature determines that the proposed exchange represents bad policy, I can

accept its judgment and put a stop to the exchange. On the other hand, I do not believe that two legislative approvals (for the exchange agreement and the exchange itself) should be required before the Department proceeds with the exchange.

Particularly in Alaska, where the land ownership pattern is complex and only beginning to settle down, land exchanges are an important land management tool. Native corporations, the State, private owners, and the federal government can consolidate their lands and improve the likelihood of sound land development or conservation by negotiating land exchanges. The exchange process already includes several public notice and hearing opportunities, and as a result is slow and costly. The addition of two required legislative approvals will make the process more cumbersome and even less attractive to land managers and owners, and will provide, in actuality, no greater powers to the Legislature in land management than it already has.

I have put my suggestions for improving the land exchange provisions in the bill as specified in our attached amendment 1. Our first proposal would be to eliminate the provisions for legislative oversight of any equal value exchanges or exchange agreements, so we would endorse the language in the Senate version of the bill. Our second proposal, if the first is not acceptable to you, is to change the threshold for exchanges requiring legislative approval to $5 million and to remove the requirement for approval of exchange agreements.

Preference Rights

The bill provides for a new preference right that would provide an applicant -- usually a sport hunting or fishing guide who has had a lodge on federal land that has come into state ownership -- with an assured right to state land. I am supportive of preference rights and do not object to providing for these guides and other permittees when their situations merit such action. However, I am concerned about the proposal that is before you. It would create a new class of about 100 preference right applicants who would have priority over 300 other preference right applicants who have already come to the Department for land.

The timing for creating a new class of claimants is not good. The Department's preference right project was eliminated by the Legislature last year, and we are able to handle preference right applications only on a time-available basis. If the Department is going to catch up on its backlog of applications and meet the new demand created by the preference for guides, the language before you should be amended (see our amendment 2).

Foreclosure on Contracts

At this time, the Department does not have a smooth foreclosure mechanism for regaining lands when purchasers fail to make payments. After a thorough review of the language in the House and Senate versions

of SB 375, and discussions with the Attorney General's office and Representative Bussell's staff, we have developed language (attached as amendment 3), that we think provides a fair, workable mechanism for foreclosing on delinquent purchasers and terminating their land contracts. I do not think that this language will prove controversial and hope that you will see fit to include the new language in your version of the bill.

Agricultural Rights

The bill before you includes several sections (Secs. 15, 23, and 27) that are also found in HB 458, which is Representative Bettisworth's bill on title to agricultural lands. We have supported Representative Bettisworth's effort to clear up problems related to agricultural rights obtained from the State, and we defer to the Legislature on whether the provisions should be made a part of the bill before this committee. Our only recommendation, concurred in by Representative Bettisworth, is that Section 23 be revised to reflect the Senate version, as the authorities existing within this section of law are potentially useful to the commissioner in conveying interests beyond the agricultural interests conveyed in state lands. This is our amendment 4.

Survey

The Department supports the survey language that is currently in the bill. My staff has met with the surveyors who are proposing language to require land disposal by aliquot parts where there has been a waiver of cadastral survey and control monumentation requirements. This would be eventually more expensive and burdensome to the entryman on State lands. When the survey requirement is waived because no survey exists or needs to exist, the disposal should be by the most logical method -- including aliquot parts where appropriate. But to require disposal by aliquot parts is to create potential ownership conflicts down the line, due to the uncertainty of the exact boundary. The description of disposal parcels in unsurveyed areas should be by metes and bounds based on physical characteristics of the parcel, to prevent these eventual conflicts.

Veterans' Land Discount

The bill provides for a land discount for veterans. Although the Department has no objection to such a discount, I strongly recommend against making it retroactive to last March for several reasons.

First, in the 14 months since the discount programs were ended last April on the basis of an Alaska Supreme Court decision finding Kenai Borough land discounts unconstitutional, about 1500 persons have purchased land from the State with full knowledge that the discounts were no longer available. There is no inequity for these purchasers who bought land knowing the conditions. To provide them a discount now, however, would be an inequity to others who did <u>not</u> buy land in our programs because it cost too much.

Second, there is expense in refunding money to purchasers who have purchased land from the State and now would qualify for a discount. We have computed that we would owe about $60,000 to purchasers who have bought land, paid in full, and deserve a refund. This cost is not reflected in the fiscal note because I understand that the retroactivity provision has been removed in your Committee Substitute.

Third, there is a past and future cost -- about $1.66 million for the past 14 months -- in providing a 25% discount to the estimated 40% of state land purchasers who are veterans. We will lose this income to the state, and another $2.5 million in income, by making the discount retroactive. The estimated annual displaced income of the future retroactivity clause is about $500,000 per year, as reflected on our fiscal note for HB 529, which passed out of your committee earlier this session.

Fiscal Implications

I have submitted a fiscal note for SB 375 that would provide adequate funding for the Department to carry out well the provisions of this statute. The major fiscal issues relate to leasing prequalifications and tidelands leasing, preference right processing, quitclaim review and processing, foreclosures on delinquencies, and management of the veterans' discount program. In every case, we expect the State to reap higher revenues or provide better service to its citizens in the future because of these changes.

The Department of Natural Resources of the State of Alaska is now the third largest land management agency in the United States, with a land base twice as large as it was just three years ago. I say this not to impress you, but to show how great is our need for funding to take care of Alaska's lands. I hope that you will consider our fiscal note on its merits, and I will be pleased to provide more detail if you request it.

In summary, SB 375 has my support, but needs a few amendments. With these proposed amendments, the bill reflects a fair and balanced set of land management actions that will be a credit to the 13th Legislature. I commend you for your work.

DNR AMENDMENT 1
LAND EXCHANGE PROVISIONS IN
HCS CSSB 375 (Res)

Four parts:

1) To eliminate requirement for legislative approval of land exchanges and exchange agreements:

Delete Sec. 69 of the bill, or delete all new language on p. 44, lines 20-24, and insert instead "of State land with an appraised fair market value of more than $5,000,000 or an exchange for other than equal appraised fair market value is not binding on the State until approved by the Legislature."

2) To reduce required public hearings:

Change three back to one at p. 46, line 23. End the sentence after "exchange," line 24.

3) To eliminate legislative approval for land exchange agreements:

Delete language added on lines 9-10, p. 47.

4) To remove definition of land exchanges as including only agreements and out-of-court settlements:

Delete lines 24-26, p. 49, and renumber following subsections.

DNR AMENDMENT 2
PREFERENCE RIGHTS IN
HCS CSSB 375 (Res)

Two parts:

1) To shorten deadline for some preference right applications:

Change "five" to "three" at p. 10, line 2.

2) To provide discretion in conveying lands by proposed preference right:

Change "shall" to "may" at p. 13, line 1.

DNR AMENDMENT 3
FORECLOSURES ON DELINQUENCIES IN
HCS CSSB 275 (Res)

Two parts:

1) To provide certain mechanisms for foreclosure:

Delete "the provisions of (d)-(f) of this section" at p. 16, line 9, and restore the language that was proposed for deletion at p. 16, lines 9-11.

2) To provide a workable mechanism for foreclosure and termination of contracts:

Replace wording in Sec. 25 with the following language:

(d) If a contract for a sale of state land has been breached, the director may issue a decision to foreclose and terminate the contract at any time 31 days after delivering by certified mail a written notice of the breach to the address of record of the purchaser. A breach caused by the failure to make payments required by the contract may be cured within 30 days after the notice of the breach has been received by the purchaser by payment of the sum in default together with the larger of a fee of $50 or five percent of the sum in default. If there are material facts in dispute between the state and the purchaser, the purchaser may submit a written request for a public hearing for the review of the facts within 30 days after the notice of the breach has been received.

(e) On a determination that there has been a breach of the contract based on the administrative record and the evidence presented at a hearing, the director shall issue a decision foreclosing the interest of the purchaser and terminating the contract. The obligation to make payments under the contract continues through the date of the decision to foreclose by the director.

(f) The director shall personally serve the decision to foreclose and terminate on the purchaser, or send it certified mail, return receipt requested to the address of record of the purchaser. If the breach is a failure to make payments required by the contract, the decision shall include a notice to the purchaser that if within thirty days the purchaser pays to the state the full amount of the unpaid contract price, including all accrued interest, and any fees assessed under subsection (d), then the department shall issue to the purchaser a deed to the land. If full payment is not made within thirty days, or the breach is for other than failure to make payment, then the decision to foreclose and terminate shall terminate all legal and equitable rights the purchaser has in the land.

(g) The purchaser may appeal the director's decision to the commissioner within thirty days. The final decision by the department is reviewable under AS 44.62.560 by the Superior Court.

DNR AMENDMENT 4
AGRICULTURAL CONVEYANCES IN
HCS CSSB 375 (Res)

To reserve powers for conveying certain agricultural lands:

Adopt Senate version of Sec. 27, attached.

DNR AMENDMENT #4
substitute language for Sec. 27
HCS CSSB 375 (Res)

(c) Under this section

(1) the director may convey or lease an interest in the land only for agricultural purposes, and all other interests in the land remain in the state;

(2) the sale or lease shall be at public auction;

(3) [(2)] the remaining interests may subsequently be conveyed or leased by the director only upon the request of the grantee or lessee or the [HIS] assigns of the grantee or lessee and the determination of the director, with the written concurrence of the commissioner, that the conveyance or lease is in the public interest;

(4) [(3)] the conveyance or lease of the remaining interests shall be at public auction;

(5) the original grantee or lessee or the [HIS] assigns of the grantee or lessee have a preference right to meet the high bid at the time of [WITHIN 30 DAYS AFTER THE DAY OF] the auction;

(6) if the preference right is exercised, the value of improvements owned by the holder of the preference right, included with the remaining interests sold, shall be deducted from the purchase price;

(7) [(4)] by requesting the conveyance or lease of the remaining interest, the original grantee or lessee or the [HIS] assigns of the grantee or lessee

(A) consents to the sale or lease, and

(B) if the preference right provided by (5) [(3)] of this subsection is not exercised, consents to sell at fair market value the improvements related to the remaining interest, as appraised by the director;

(8) [(5)] the remaining interests in the land may not be conveyed or leased for less than their appraised value together with improvements except for the deduction allowed by (6) [(3)] of this subsection.

Senator Vic Fischer

Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954

January 20, 1983

TO: Senator Bettye Fahrenkamp

FROM: Senator Vic Fischer

RE: Title 38 Lands Bill

Thank you for the opportunity to comment on the proposed legislation that has developed out of the Title 38 hearings. You and your staff are to be congratulated for the excellent work that has been done in translating problems and concerns into positive legislation.

This memo refers only to the lands bill; I will have comments on the mining bill shortly.

In general, I support the legislation as drafted. It reflects very well the testimony that was presented to the committee. There are a few places, however, where I have comments or suggestions.

#36 in your list of proposed changes has to do with the provision for veterans' preference. Your recommendation is to continue the program in 38.05.067, even though it is not used by DNR, because it is the only program that remains to benefit veterans. I would like to propose instead that that section of law be repealed and a new section added to provide for a veterans' discount. I am attaching a copy of SB 324, which provides for such a discount. I believe that such a discount is vastly more agreeable to all parties than the preference in .067.

Section 8 of the draft bill would add a new section, Funds for Land Disposal. While the intent is to provide funds for the costs of the state disposal programs and grants to municipalities, and the narrative mentions a revolving loan fund, this section would in fact only set up a new account in the general fund from which the legislature would appropriate. It seems to me that this would create a more cumbersome accounting system while doing nothing to guarantee any level of funding, and I suggest that it be deleted.

There are several sections of the bill that I strongly support and hope will be retained. These include sections 12 and 26 (providing for retention of land in state ownership for public access); section 30 (closing municipal lands to mineral location); and the sections eliminating percentages of land disposals in the various programs, providing for considerations of the land's carrying capacity and other resource values, and compliance with local ordinances.

Nancy: already have authority

There are a couple of issues that the bill does not address that I would like the committee to address in some form at some time. One is #75,

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relating to clearing loans. I agree that this needs further study and I would like to see eventual action that would provide equal treatment for those clearing agricultural lands, whether in an ag project or elsewhere. Another is #50, relating to a leasing system for mineral development. This is a complex and controversial issue, and I believe the committee would benefit from a briefing on its history and the pros and cons of the two systems.

Good idea

Relative to the separate bill that would allow development of state lands by private developers, I have mixed feelings. While it is one way to provide for adequate roads and services that the state seems unable to pay for, I am wary of the possibility of giving "windfalls" to individuals in this manner. I would like the committee to explore other ways of addressing this problem, including perhaps better cooperation with municipalities and/or better state funding. The goal, as I see it, is for those who benefit from the disposals to bear the costs.

Again, I congratulate you and your staff on a job well done.