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February 28, 1985

The Honorable Peter Goll
Alaska State House
Pouch V
Juneau, AK 99811

Dear Representative Goll:

Re HB 42 (disposal of state land within a community)

I have reviewed HB 42, which will be heard in your committee this week, and have strong reservations about the bill. In addition to my other comments and questions below, the bill brings to mind this major question: Should "public interest" as used in the Alaska Constitution, Article VIII, Sec. 1 be narrowly defined by the Legislature to mean "local interest"?

Before entering into questions and criticisms of the bill, I wish to point out that the Department of Natural Resources has in recent years adopted new land disposal procedures to encourage and accommodate full local participation in the selection and design of state land disposals. Last year I strongly supported statutory changes that require the department to hold meetings in communities affected by state land disposals (AS 38.04.005(e)), and I see these meetings as providing important guidance to the department in meeting statewide land disposal needs and in considering local interests.

Opportunities for community participation are available within the department's Land Availability Determination System (LADS). Under the LADS process a public meeting must be held early in the process to receive community comments. This is followed by two public notices pursuant to AS 38.05.945. Finally, AS 38.05.050 requires that the auction, lottery, or homesite disposal be held in the community nearest the land to be disposed.

February 28, 1985

In addition, I would point out that under our regulations and statutes regarding land disposals, we do provide notice of proposed land disposals to communities located within six miles (AS 38.04.060(a); AS 38.05.945; 11 AAC 67.030(c)). We regard these as minimal requirements and have made sincere efforts to see community involvement in our land disposal program.

For communities within municipalities there are additional safeguards. The state must comply with local subdivision ordinances, under statutory changes that I supported last year (see AS 38.04.045(b) and AS 29.33.150). AS 38.04.900(b) gives a municipality standing to appeal a decision of the commissioner with respect to classification, disposal, or management of state land outside its corporate boundaries to protect its interests.

The bill appears to react mostly to past concerns with the department's land disposal program. I understand these concerns, because past land disposals -- accomplished under a statutory land offerings quota with inadequate planning and administration -- did work a hardship on entrypersons and communities across the state. But it has been a major emphasis during my tenure as commissioner to improve our land disposal procedures and prevent the occurrence of such hardships in future years. At the same time, however, I recognize that an insufficient land offerings program could cause the resurgence of a land rush environment with quotas for land offerings and recurrent hardships. I am sure that other state policymakers share my concern that the state meet land disposal demands in Alaska so that public pressure for quotas and fire-sale disposals does not develop.

Along this same line, the department is just now completing both the Tanana Basin Area Plan and the Susitna Area Plan in which well over one hundred public meetings have helped to define our land disposal program for the next twenty years. These plans, along with others complete or nearly complete, have provided substantial opportunity for public involvement in decisions about where state land will be offered for sale in the future.

* { I also see a variety of technical problems with the language in the bill. What is a community? Who speaks for the community? By what process would a community nominate land? What number (or percentage) of local persons can represent local concern? How is the exterior boundary of the community defined? How would this local concern be balanced with statewide interests in authorizing a major economic development project such as a pipeline right-of-way lease?

February 28, 1965

The bill's total prohibition on disposals not nominated by the community would be difficult to interpret. Although there is no definition of "land disposal" in statute, the applicable regulation for disposals (11 AAC 67.002) includes land sales, leases, agricultural interests, materials sales, mineral leaseholds, and even some permits (remote cabins). Thus local opposition to a major economic development project such as a pipeline right-of-way lease could halt the project.

I recognize the concern that led to this bill and want to contribute constructively to discussion and consideration of this concern. Please contact me if there is anything further I may provide.

Sincerely,

Esther C. Wunnicke
Commissioner

cc: Representative Grussendorf
Representative Shultz

Original sponsors: Shultz and
Grussendorf

1
2 IN THE HOUSE

BY THE RESOURCES COMMITTEE

3 CS FOR HOUSE BILL NO. 42 (Resources)

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

7 For an Act entitled: "An Act relating to the disposal of state land within
8 a community; and providing for an effective date."

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

10 * Section 1. AS 38.95 is amended by adding a new section to read:

11 ARTICLE 1A. DISPOSAL OF STATE LAND WITHIN A COMMUNITY.

12 Sec. 38.95.020. DISPOSAL OF STATE LAND WITHIN A COMMUNITY. (a)

13 Except as provided in (b) of this section, the Department of Natural
14 Resources may not offer to dispose of state land within a community
15 for settlement except with the approval of the community. This
16 section applies to each disposal of state land within a community,
17 whether or not the disposal is for the use of the community but does
18 not apply to the leasing of tide or submerged land by an upland owner
19 under AS 38.05.070 - 38.05.105, to transfers from the Department of
20 Natural Resources to another state agency for the execution of a state
21 program, or to the disposal of state land by the Department of Natural
22 Resources for a utility or pipeline corridor when the disposal is
23 determined by the commissioner to be in the best interests of the
24 state.

25 (b) The Department of Natural Resources may dispose of the state
26 land without the approval of the community if the department provides
27 the type of roads and services customary in the community to and on
28 the land proposed for disposal. The department shall amortize the
29 costs of the roads and services required under this subsection from
the revenue received from the sale of the land.

1 (c) For the purposes of this section,

2 (1) except for a municipality, the boundary of a community
3 is described by a radius five miles in length from a central point in
4 the community determined by the community;

5 (a) a community is

6 (A) a municipality of the state; or

7 (B) a community outside of a municipality that is
8 eligible for revenue sharing under AS 29.89.050.

9 * Sec. 2. This Act takes effect July 1, 1985.
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SUMMARY OF CHANGES

RESOURCES COMMITTEE SUBSTITUTE

HB 42

The Resources Committee Substitute differs from the the Community and Regional Affairs version in three basic areas.

First, there is new language that allows the Dept. of Natural Resources to override a communities objection to the disposal of state land within its' borders. The state can do this by amoritizing the costs of providing basic services to the land disposed as a condition of the sale.

Second, boundaries of a community are established as an area within a circle having a five mile radius extending outward from a central point within the community. This central point is established by the community itself.

Third, disposals of state land for pipeline and utility corridors are exempt from the requirements in this legislation when found by the commissioner to be in the best interest of the state.

These changes address several of the concerns expressed by the Department, and compliment the intent of the legislation which is to provide a means for the unorganized community to directly participate in the growth an development of their land base.

League of Women Voters of Alaska

9151 Skywood Lane
Juneau, Alaska 99801
February 26, 1985

The Honorable Peter Goll, Chairman
House Community and Regional
Affairs Committee
Alaska Legislature
Pouch V
Juneau, Alaska 99811

Re: HB 42: Disposal of State Land Within a Community

Dear Representative Goll:

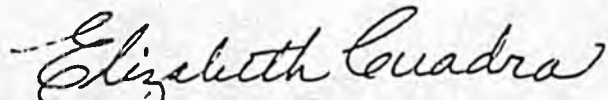
The League of Women Voters of Alaska supports the concept of giving local communities a good deal of say in the matter of whether and how State land disposals occur within their areas. For example, we have in the past supported legislation that would require State land disposals within municipalities to comply with all subdivision and other pertinent ordinances of those municipalities.

We think that HB 42, however, requires additional work and development before we can give it our unconditional support.

For example (speaking for a moment as an attorney), the word "community" needs a clear legal definition. Secondly, we think that it may be "overkill" to prohibit absolutely State land disposals unless the adjoining community has nominated the land in question for disposal. Instead, we think a mechanism should be established whereby DNR, as a part of its routine land disposal process, takes on the local community almost as a full partner in the designing of how and when the land disposal should occur, and what kinds of provisions should be attached to the land disposal in order to prevent undue adverse impacts and unacceptable future financial obligations on the part of the existing local community.

We shall follow with interest the evolution of the text of HB 42, as these problems are addressed by the sponsors and, hopefully, the committees which consider the bill.

Sincerely,



Elizabeth Cuadra, Board Member
(Natural Resources Portfolio)

DEC:sd

cc: Committee Members (Wallis, Koponen, Gruenberg, Phillips,
Furnace, and Marrou)
Sponsors ~~Smith~~ and Grussendorf)
Commissioner Esther Wunnicke (DNR)

Introduced: 1/14/85
Referred: Community & Regional Affairs
and Resources

1 IN THE HOUSE

BY SHULTZ AND GRUSSENDORF

2

HOUSE BILL NO. 42

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

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11 Sec. 38.95.020. DISPOSAL OF STATE LAND WITHIN A COMMUNITY. The
12 Department of Natural Resources may not offer to dispose of state land
13 within a community except on the nomination of the land by the commun-
14 ity. This section applies to each disposal of state land within a
15 community, whether or not the disposal is for the use of the community
16 but does not apply to transfers from the Department of Natural Re-
17 sources to another agency of the state for the execution of a state
18 program.

19 * Sec. 2. This Act takes effect July 1, 1985.

ANALYSIS
HOUSE BILL NO.42

1. Provides for a land disposal policy
2. Amends current land disposal policy by adding protective policy for communities and cities directly effected by disposal.
3. Provides for an effective date.

BACKGROUND FOR HB NO. 42

This bill is the result of requests by many constituents in District 17 and residents of other areas of the State of Alaska.

Due to land disposals by DNR, small communities have been unable to carry out their own plans for development. By having the authority to make the decision as to where and when a land disposal will be held, the residents of the community will have full influence as to where their community will grow and the type of growth that will benefit it the most. This bill will give the members of the community the right to decide their own destiny. By directing the disposal, the members of the community will be able to prevent remote land ownership and speculative purchasing of land. Speculative purchasing of land leaves land in a dormant state for as long as the speculator wishes. The present land disposal policy has a negative economic impact on the State because of requests for construction and maintenance of roads, additional school bus routes, electrical distribution lines and increased social services. None of these services are in place at the time of the disposal. By referring to the above it is evident the present disposal policy has a negative economic impact to the communities involved as well.

This bill also will protect an incorporated city from having an undesirable industry locate immediately outside it's city limits. Under our present land disposal program there is little protection for the City if the State so desires to locate an industry that would be incompatible with the city's development plans. Under present policy a city has little say in controlling the acquisition of State land outside of it's city limits by private individuals. This is an unhealthy situation for any city that has future plans for development.

The present land disposal program in and around small communities has been

detrimental for the above reasons and this bill will help correct this.