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Alaska State Legislature

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P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4907

Senate Committee on Resources

TO: Senate Resource Committee Members May 6, 1986

FROM: Senate Resource Committee Staff

ME

RE: Committee Substitute for House Bill No. 286 (Resources)
"An Act relating to survey requirements for state land intended for disposal and to the description of the land; and providing for an effective date."

This bill would put the state on a cadastral (rectangular) survey system for disposal of state lands by removing the discretion of DNR to waive cadastral surveys. It would allow entrymen to receive title to property by aliquot parts descriptions.

In this packet is a fiscal note and analysis from DNR, a fiscal analysis from the surveyors, a letter of endorsement from Curt McVee, and a series of questions and answers prepared by the surveyors.

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date : 5/1/86

REQUEST

Bill/Resolution No. : CSHB 286 (R1s)
 Title : Survey and disposal of state lands

 Sponsor : Koponen
 Requestor : Koponen
 Date of Request : 5/1/86

FISCAL DETAIL

Agency Affected : Natural Resources
 BRU : Information Management

 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL			1,597.0	---	---	---
REVENUE						

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

If the bill is amended to show a July 1, 1987 effective date, the projected FY 87 costs will not occur. At this time only the FY 88 cadastral funding capital costs can be anticipated on the current land offerings schedule. Operating costs will not increase.

Prepared by : Ned Farquhar Phone : 465-2400
 Division : Commissioner's Office Date : 5/1/86
 Approved by Commissioner : *Mimi P. Amundson* Date : 5/1/86
 Agency : Natural Resources

Distribution (by Agency preparing fiscal note):

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

MEMORANDUM

DEPARTMENT OF NATURAL RESOURCES

State of Alaska

DIVISION OF TECHNICAL SERVICES

TO: Bob Arnold
Deputy Commissioner

DATE: March 6, 1986

FILE NO: 7-120-1
7524H

TELEPHONE NO: 762-2400

FROM: Joseph C. Burch
Deputy Director

SUBJECT: Your 3/6/86 Request to
Review Survey Costs

<u>FY 87 HOMESTEAD DISPOSALS</u>	ESTIMATED SURVEY COSTS	
	<u>CADASTRAL</u>	<u>CONTROL</u>
Kupreanof	*	*
Gold King 1	\$ 48,000	\$ 5,000
Slate Creek 1	106,000	15,000
Kantishna 1	278,400	25,000
Zitziana 1	216,000	20,000
Steppe	253,000	15,000 **
	<u>\$ 901,400</u>	<u>\$ 80,000</u>
 <u>FY 88 HOMESTEAD DISPOSALS</u>		
Marmot Island	\$ 48,000	\$ 0
Caswell Lake Ag	62,000	0
Nunsatuk	139,000	15,000
Tonsina Ag/Non Ag	***	***
South Fork	403,000	30,000
Wood River ****	72,000	10,000
Happy River	269,000	25,000
Snake River	278,000	20,000
Crazy Mountain	346,000	35,000
Tatalina Ag	\$ 130,000	\$ 15,000
	<u>\$1,747,000</u>	<u>\$150,000</u>

* Kupreanof is currently under contract for \$32,200.

** Steppe shows gross acreages of 11,500 and net acres of 11,500. This appears to be a subdivision or aliquot part-type disposal plan.

*** Tonsina Ag/Non Ag has the existing Willow Creek Subdivision.

**** Wood River has Native allotments. A control survey may only create further problems.

Some of these project areas are already surveyed into the rectangular system.

The above cost projections assume adequate size project areas which are not too dispersed.

JCB:ak

FROM SURVEYORS

Extensions of State of Alaska file No. 9101 memo dated March 5, 1986, from Gary Gustafson to Phil Waring. Copy received from Bob Arnold, DNR.

Extensions developed by Alaska Section, ACSM, on March 13, 1986, and based on an average price of \$5,000 for the survey of a 5 acre remote tract tied to control monumentation, and \$10,000 for the survey of a 40 acre remote tract tied to control monumentation. They are the costs to the entryman for obtaining the survey required for title.

	-- Acres --		----- Cost -----		ENTRYMAN COSTS	
	<u>Gross</u>	<u>Net</u>	<u>Cadastral</u>	<u>Control</u>	<u>5 Acre</u>	<u>40 Acre</u>
FY 87						
Kupreanof	1,998	520	39,960	7,800	520,000	130,000
Gold King 1	1,500	100	10,000	1,500	100,000	20,000
Slate Creek 1	5,000	1,000	100,000	15,000	1,000,000	250,000
Kantishna 1	15,000	3,000	300,000	45,000	3,000,000	750,000
Zitzianna 1	12,500	2,500	250,000	37,500	2,500,000	625,000
Steppe	<u>11,500</u>	<u>11,500</u>	<u>230,000</u>	<u>172,500</u>	<u>11,500,000</u>	<u>4,600,000</u>
Totals	47,498	18,620	\$929,960	\$279,300	\$18,620,000	\$6,375,000

1: These are re-offers of remotes that may not require any additional surveys depending upon evaluation of existing monumentation and the possibility of approval of waiver requests.



3127 Commercial Drive
Anchorage, AK 99501
907-278-1571

February 24, 1986

Representative Niilo Koponen
Alaska State Legislature
Pouch V, MS 3100
Juneau, Alaska 99811

Dear Representative Koponen:

It has recently come to my attention that you have sponsored HB 286 proposing land survey requirements for State land intended for disposal. This is very important legislation which should be passed since a base of accurate surveys and land descriptions is the foundation for land title and records protecting individual rights and interests and preventing costly litigation. This is indeed legislation protecting the rights of generations to come, as well as preventing costly errors to be borne by the State as well as private individuals.

My background was with the U.S. Department of the Interior, Bureau of Land Management for 34 years. The last 17 in Alaska with 13 of those as State Director for BLM.

We tried some expedient solutions as well as administering some Congress devised to circumvent the survey requirement. These included the interim conveyance to native corporations, tentative approval process for the State selected lands, homestead entries, native allotments and other settlement activities under federal law all accomplished prior to survey. All of these created problems.

Since retiring in 1984, I have been working with a joint venture, aerial photography, mapping, surveying and engineering firm involved in projects in rural Alaska as well as consulting on land conveyance issues to communities and ANCSA corporations. I have also been working on an extension course for the U of A on land survey and land status record systems.

Representative Niilo Koponen

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February 24, 1986

A very orderly sequence transferring ownership from government (State or Federal) can follow these steps:

1. Identification of land capability - inventory and identify land suitable for transfer into private ownership.
2. Evaluate potential for private ownership and costs - infrastructure, survey, impact on all resource values.
3. Following a decision to dispose of land, conduct a survey extending the rectangular grid system.
4. Proceed with disposal program and issue patents or deeds based on surveyed descriptions.

This process is recognized by government, the legal, financial, realty and right of way acquisition professions. It provides for the maintenance of accurate records and for the general public to identify and relate a land description to a location either on the ground or on a map.

Survey prior to disposal also resolves the issue of boundaries between water bodies and uplands. It prevents remnant slivers of land between various tracts being passed by and retained in government ownership. These remnant parcels are unmanageable and generally constitute a liability or cost to the managing agency. Accurate description can be used by management to prevent private interest from bypassing these parcels.

We are concerned about the cost of survey and the burden on State government. First, I believe with advance planning and careful selection of lands suitable for disposal that these surveys could be accomplished at reasonable costs. The current practice when surveys are waived results in the settler paying for the costs of a metes and bounds survey and unless a group of people consolidate all survey needs in an area, each individual is paying mobilization and transportation costs for a professional surveyor. It is much cheaper to send a crew into an area and extend the cadastral grid. Average costs for surveys of native allotments using metes and bounds, even when consolidated in project areas, is now about \$7000 for each tract.

Representative Niilo Koponen
Page 3
February 24, 1986

There seems to be a marvelous opportunity for State government, the surveying profession and private individuals to combine forces and solve the problem, extend the cadastral grid system, continue the land disposal program, issue accurate deeds and reduce the costs to government.

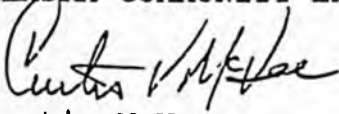
One possible solution is to require individuals obtaining land under any one of the various land disposal programs to reimburse the State for the survey costs with these funds going into a revolving account to fund future surveys. Individuals could generally obtain their surveys cheaper through the process than by contracting independently for a metes and bounds survey of one tract.

Expedient solutions should be very carefully analyzed as the extension of the cadastral survey grid has proven over time to be the most foolproof way of identifying and describing lands. Somewhere around 100,000 parcels of land in Alaska are now or will be over the next few years transferred into private ownership by State and Federal government. These parcels will be divided and redivided over time. The first document issued conveying the land out of government ownership is the basis for all future titles and land records.

Special surveys using metes and bounds descriptions should be reserved for very special circumstances such as subdivisions within communities and municipalities. Let us recognize that one of the costs of transferring land title is survey costs and then build this into the program rather than accept an expedient solution which we have to pay dearly for later in terms of survey costs, land records, land management costs and litigation.

House Bill 286 is a step forward and will benefit the citizens of the State of Alaska.

Sincerely,
ALASKA COMMUNITY ENGINEERING SERVICES


Curtis McVee
President



Alaska Section
AMERICAN CONGRESS ON SURVEYING AND MAPPING

P. O. BOX 376
ANCHORAGE, ALASKA 99510

February 18, 1986

Responses to questions relating to HB 286 from Rep. Hermann's Office,
as received from Rep. Koponen's Office.

Responses prepared by: Warren P. Latvala R.L.S.
Chairman, Legislative Affairs Committee
Alaska Section, American Congress on
Surveying and Mapping

1. Question - How is land surveyed now, and how does that affect disposals?

Answer - Land is surveyed by BLM prior to transfer to the State, Village or Regional Corporations, or individuals. In Alaska, BLM establishes monuments at two mile intervals on the township boundaries when entire townships are transferred, or on section line boundaries when only a portion of a township is transferred. Title to the lands is described using the rectangular system (section, township and range). BLM previously approved claims filed using metes and bounds descriptions. Land disposals to the state and native corporations are currently being delayed pending survey of these inholdings that do not conform to the rectangular system, and tie these new surveys and previously performed metes and bounds surveys to corners of the rectangular system.

State land disposals are surveyed in one of the following three manners:

1. Completion of the rectangular system survey, establishing section and quarter section corners. Title is then described using the rectangular system, including aliquot parts of sections.
2. Subdivisions of portions of sections, identical to subdivisions performed by private developers. Title is then based on a lot & block identification, and the subdivision location by the rectangular system.

3. Control surveys to establish control monuments which serve as "tie points" for metes and bounds surveys. Entrymen then pay the cost of a metes and bounds survey which is tied to the control monument.

Title is passed based on a metes and bounds description and a tie to a control monument at a known geographic position.

All land must be surveyed prior to disposal to provide a description of which title is based.

2. Question - How does a boundary dispute between owners of two parcels get resolved today?

Answer - Settlement of a dispute depends on the method by which the original survey(s) were performed. If both parcels are part of the rectangular system, neither owner has senior rights, and the same survey controls all property ownership. The rectangular survey performed before settlement controls both the exterior and interior boundaries. Any missing monumentation can easily be re-established by any surveyor, according to long established methods, thereby re-establishing the boundary in question. If one or both of the titles is based on a metes and bounds survey, the survey performed first has senior rights. That survey must first be re-established. Since metes and bounds surveys are based on ties to control monuments they are dependent on the tie (which may be up to two miles) to determine position. The same procedure applies to the second parcel. If any of the original survey corners have been lost or destroyed, the dispute will most likely be settled in court, with each owner represented by his or her own lawyer and surveyor. This weakness of the metes and bounds description was the primary reason the rectangular system was adopted in the United States over 200 years ago.

3. Question - What are the factors involved in this resolution? (Reference to question 2,)

Answer- The type of survey used to provide title description for each parcel.

If the rectangular system was used the Manual of Surveying Instructions provides precise directions for the re-establishment of any lost or obliterated corners. Those directions require evaluation of all evidence of monuments and boundaries, and provide explicit instructions as to the procedures to be followed when no evidence remains for a corner. They are designed to re-establish any lost or obliterated corners in their original positions.

If one or both of the parcels has title based on a metes and bounds survey, physical evidence is still paramount in re-establishing any lost or obliterated corners, but boundary disputes usually arise due to the absence of, or conflicting opinions regarding physical evidence. When metes and bounds surveys are the basis of title, the dates each parcel was filed upon, the date of survey of each parcel, and the technical methods employed by each surveyor may all become factors in the resolution of the dispute.

4. Question - How does it affect Native Allotments and why?

Answer - HB 286 does not affect Native Allotments as those claims, whether surveyed or not, were approved as valid claims by BLM prior to transfer of title or interim conveyance of the remaining lands to the state.

Reason - those claims predated the state's claim, their senior rights cannot be abridged even by subsequent changes in law. That is the primary reason for the tentative approval and interim conveyance of lands selected by the state and native corporations. Patent cannot be issued until those inholdings are surveyed. When title to lands selected is passed to the state and native corporations, that title will specifically exclude those inholdings thereby affirming their (the inholdings, i.e. native allotments) senior rights.

5. Question - What are the potential advantages of HB 286 for private and municipal land owners?

Answer - The problems inherent with metes and bounds surveys will not be expanded beyond their present scope, specifically:

A. The rectangular system provides a unique and easily locatable description for each parcel. Thus, title insurance and real estate loans are readily available. Metes and bounds descriptions are ambiguous, conflicts and overlaps are not readily apparent. Thus title insurance and real estate loans are more difficult to obtain. Individuals currently holding patent to tracts with metes and bounds descriptions have already encountered this situation.

B. The potential for conflicts between adjacent owners will be substantially reduced as the same survey is the basis for both their titles. When such conflicts do arise, they are simpler and cheaper to resolve when the rectangular system is the basis of title as opposed to titles based on separate metes and bounds surveys.

C. Entrymen will no longer have to pay the cost of a survey to obtain title. If HB 286 passes into law, the state will provide survey of the exterior boundaries of a section prior to allowing settlement, and title will pass based on an aliquot part of the rectangular system. Since the section and quarter-section corners will be in place, the applicant can easily identify which part of the section he wants, file on that part, and obtain title. He will not be required to have any additional survey performed.

D. Use of the rectangular system will allow the state to reserve easements for access to all parts of a section, thereby insuring access to each, along the boundaries between tracts. Where access along boundaries is impractical, the state can reserve a "floating" easement across the appropriate tracts to insure legal and practical access to all of the tracts.

E. When lands scheduled for disposal are in close proximity to organized towns or municipalities, the planning entities of those local governments can work with the state to insure that their needs regarding easements for utilities and roads, land for schools and other infrastructure needs are provided for prior to opening for settlement. That is the basic idea of survey before settlement, and is appropriate even if only a portion of the land within a section is offered for disposal, even if not all of that land is claimed on the first or subsequent offerings.

6. Question - What does a survey cost now for a parcel in a State disposal? (Include State costs too.)

Answer - The 1984 field season (FY85) is the most recent year for which figures are available to the author. In that year the state's budget for land disposal surveys was \$3,500,000. Of that amount, \$3,032,700 (86.65%) was spent on contracts for rectangular, subdivision, and control survey contracts. The remaining \$467,300 (13.35%) was in house cost for DTS to administer and monitor the contracts, for travel, to provide expendable materials (survey monuments), and for equipment for internal use by DTS. A total of nine contracts for rectangular surveys were awarded, with gross acreages of 1,160 acres to 17,920 acres. Contract costs ranged from \$10.34 per acre to \$26.21 per acre. The gross acreage of the combined surveys was 69,724 acres, and the total cost of the 9 contracts was \$1,447,500. The average cost was therefore \$20.76 per acre. Adding the overhead percentage of 13.35% to this figure results in a total cost of \$23.53 per acre for land surveyed under the rectangular system.

When the rectangular system is waived, control monumentation is provided by the state and each entryman contracts for his own survey. The total cost

is therefore harder to identify. Control monuments established by the state for this purpose generally cost from \$8,000. to \$10,000. apiece, and serve as control for about four sections of land (2,560 acres). This outlay however does not provide adequate survey for even a metes and bounds description title. Before any title is passed, each entryman bears the cost of a metes and bounds survey for title description. These surveys cost from \$2,500. to \$5,000. for a five acre tract. Using \$3,000 as a conservative average, if as many as twenty (20) five acre tracts are claimed in the four sections served by the control monument, the total survey cost for the 100 acres patented is 20 times the \$3,000, plus the \$8,000 for the control monument for a total of \$68,000, or \$680 per acre.

The cost of surveying the entire 2,560 acres for patent under the rectangular system would only be \$23.53 times 2,560, or \$60,236.80.

7. Question - Is there any benefit in two entrymen having one surveyor when their remote parcels are adjoining?

Answer - Yes, travel expenses account for large portion of the costs of performing remote surveys. If those costs can be spread over two or more surveys the cost per survey goes down considerably. The \$3,000 cost for a five acre tract used in the reply to question 6 would probably require 3 or more small tracts in close proximity. Additional savings are realized in that only one tie to a control monument is required as the surveys would be interconnected, and all three tracts would be shown on a single plat. These reasons, along with the uniqueness of an aliquot parts description of the rectangular system, are why rectangular system surveys cost so much less per acre.

8. Question - Will HB 286 provide easements across private property that now block access to other land?

Answer - No, parcels now patented or claims approved by BLM prior to selection of the remaining lands by the state have rights pre-dating the state's rights. The legislation proposed in HB286 does not affect those rights (refer to answer to question 4).

9. Question - How does HB 286 relate to the title 38 rewrite?

Answer - HB 286 affects only the portion of Title 38 dealing with the waiver currently included in that title. The author hopes that any subsequent rewrite of title 38 would be prepared with the assistance of the professional societies of surveyors in Alaska (the Alaska Society of Professional Land

Surveyors and the Alaska Section, American Congress on Surveying and Mapping), and that the waiver allowing metes and bounds surveys would not be included in the final product.

10. Question - As currently written, there is no provision for the entryman to pick up a part of the additional cost that the State entails in performing a cadastral survey. (A false statement? Explain.)

Answer - This statement is patently false. The state's avowed policy for disposal of public land for private use is to "receive fair market value" for the land. The market value of surveyed land is obviously higher than the value of the same land unsurveyed, since title or patent cannot be transferred until a survey is performed to provide description. The public is aware of this, and as such will pay more for surveyed land from a private developer than for similar but unsurveyed land from the state. They know the state is going to require a survey (at the individual's expense) before they can receive title, and consider the survey costs as part of the cost for the land. A survey performed at state expense increases the value of the land, and should be considered in determining the fair market value.

11. Question - Will people who have currently staked a parcel bear any additional cost if this Bill becomes law.

Answer - No. If the state makes this bill retroactive to cover land currently staked but unsurveyed, the entrymen should pay more to the state for the land, but will be relieved of the requirement of paying for individual surveys. As indicated in the response to question 6, these total survey costs will generally be less if there is an average of five or more parcels per section staked in the lands included in the disposal offering. If the state does not make this bill retroactive there would be no change in the costs to be incurred by individuals who currently have parcels staked.

12. Question - How many of the lots that have been disposed of in the history of the State Disposal Program have been surveyed?

Answer - To the author's knowledge all of them have been surveyed, as a metes and bounds survey, as an aliquot part of a surveyed section, or as a lot within a subdivision of a surveyed section.

13. Question - Does the last person to have his parcel surveyed in a particular area under the existing law save money because other boundaries have already been surveyed.

Answer - Only to the extent that the boundary lines have already been cleared. His surveyor must go to the site, add markings to the corner monuments to reflect their applicability to the last parcel, and prepare a plat of that parcel. Unless that surveyor personally surveyed each of the common boundaries previously, he will also run a traverse around the parcel through each of the corner monuments before certifying the correctness of the bearings and distances of common lines shown on previously filed plats.

14. Question - Are surveyors going to make or lose money on this bill?

Answer - Probably neither. They will lose money if the bill passes and the state continues funding for land disposal surveys at the present level, as there will be no follow-up metes and bounds surveys for private individuals. There will be some call for the survey of aliquot parts by individuals who intend to make substantial investments in improvements near a boundary of their parcel, but the demand for that type of survey will not generate near the dollar amount currently being spent on metes and bounds surveys.

The author suspects that if this bill does pass, the state will realize that surveys for disposal not only pay their own way, but can earn revenue. If that occurs, state funding for surveys will probably increase, and surveyors will at least break even.

WPL/ms

Offered: 5/5/86
For Today's Calendar

Original sponsors: Koponen, M.M. Miller,
Sund, et al

1 IN THE HOUSE BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 286 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to survey requirements for state
7 land intended for disposal and to the description of
8 the land; and providing for an effective date."

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

10 * Section 1. AS 38.04.045(b) is amended to read:

11 (b) Before the conveyance of surface rights to state land, an
12 official cadastral survey shall be accomplished, unless a comparable,
13 acceptable survey exists that has been conducted by the federal Bureau
14 of Land Management. The rectangular survey section corner positions
15 shall be monumented and shown on a cadastral survey plat approved by
16 the state. [HOWEVER, FOR THOSE AREAS WHERE THE STATE MAY WISH TO
17 CONVEY SURFACE ESTATE OUTSIDE OF AN OFFICIAL CADASTRAL SURVEY GRID,
18 THE DIRECTOR MAY WAIVE MONUMENTATION OF ALL INDIVIDUAL SECTION CORNER
19 POSITIONS AND SUBSTITUTE AN OFFICIAL CONTROL SURVEY WITH CONTROL
20 POINTS BEING MONUMENTED AND SHOWN ON CONTROL SURVEY PLATS APPROVED BY
21 THE STATE. NO PORTION OF LAND TO BE CONVEYED MAY BE LOCATED MORE THAN
22 TWO MILES FROM SUCH A SURVEY CONTROL MONUMENT EXCEPT THAT THE COMMIS-
23 SIONER MAY WAIVE THIS REQUIREMENT ON A DETERMINATION THAT TOPOGRAPHIC
24 FEATURES, DIFFUSE SETTLEMENT, OR THE PUBLIC INTEREST DO NOT JUSTIFY
25 THE REQUIREMENT.] The lots and tracts in state subdivisions shall be
26 monumented and the cadastral survey and plats for the subdivision
27 shall be approved by the state. Where land is located within a munic-
28 ipality with planning, platting, and zoning powers, plats for state
29 subdivisions shall comply with local ordinances and regulations in the

1 same manner and to the same extent as plats for subdivisions by other
2 landowners. State subdivisions shall be filed in the district re-
3 corder's office. The requirements of this section do not apply to
4 land made available through a cabin permit system, material sales, or
5 short-term leases; however, for short-term leases the lessee must
6 comply with local subdivision ordinances unless waived by the munic-
7 ipality under procedures specified by ordinance.

8 * Sec. 2. AS 38.09.010(b) is amended to read:

9 (b) The commissioner shall complete a cadastral survey of home-
10 stead entry state land under AS 38.04.045 before disposing of state
11 land for homestead entry. A homestead entry parcel shall be estab-
12 lished in aliquot parts of a surveyed section or as lots or tracts
13 that are fractions of aliquot parts of a surveyed section. The com-
14 missioner shall ensure practical access to each homestead entry parcel
15 [BUT THE COMMISSIONER MAY WAIVE THE CADASTRAL SURVEY ON A DETERMINA-
16 TION THAT TOPOGRAPHIC FEATURES, DIFFUSE SETTLEMENT, OR THE PUBLIC
17 INTEREST DO NOT JUSTIFY OR REQUIRE THE CADASTRAL SURVEY].

18 * Sec. 3. AS 38.09.020(a) is amended to read:

19 (a) A homestead entry permit entitles an applicant to enter land
20 within an area designated under AS 38.09.010 and to [SURVEY,] occupy
21 [,] and improve the land in order to qualify for a patent under this
22 chapter.

23 * Sec. 4. AS 38.09.040(a) is amended to read:

24 (a) A homestead entry permit may be revoked by the commissioner
25 for any substantial breach of the permit conditions or the require-
26 ments of this chapter, including

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

29 (2) failure of the permit holder to submit an aliquot parts

1 description of the homestead entry [A PLAT OF SURVEY] to the commis-
2 sioner within two years after the issuance of the permit or under (b)
3 of this section;

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

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

12 (5) fail re to clear and either put into production or
13 prepare for cultivation 25 percent of the land classified for agricul-
14 tural use within five years after the issuance of the permit.

15 * Sec. 5. AS 38.09.050(a) is amended to read:

16 (a) The commissioner shall issue a patent to homestead entry
17 land if the permit holder

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

21 (2) submits an aliquot parts description [COMPLETES AN
22 APPROVED SURVEY] of the land within two years after the issuance of
23 the permit or under AS 38.09.040(b);

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

26 (4) brushes the boundaries of the land within 90 days after
27 the issuance of the permit;

28 (5) clears and either puts into production or prepares for
29 cultivation either 25 percent of the land classified for agricultural

- 1 use or 50 percent of the land having class II or III soils, whichever
2 is less, within five years after issuance of the permit.
3 * Sec. 6. AS 38.09.040(b) is repealed.
4 * Sec. 7. This Act takes effect July 1, 1987. ✓



Resource Development Council

for Alaska, Inc.

HB 286 Surveying

807 "G" Street, Suite 200, Anchorage, Alaska 99501-3440
Box 100516, Anchorage, Alaska 99510-0516 - 907/276-0700

EXECUTIVE DIRECTOR
Paula P. Easley

March 13, 1986

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Dale P. Tubbs

Representative Al Adams
House Finance Committee
Pouch V
Juneau, AK 99811

Dear Representative Adams:

The Resource Development Council endorses CSHB 286. This legislation will improve the land disposal process and save the state money and heartache in the future.

This legislation will improve the information base the state compiles on its lands and will only increase the value of the disposed land. Entry men will pay the additional costs that the state incurs, saving each land owner individual surveying costs required to gain title.

Alaska is starting with less surveying than other public land states and that has hampered land conveyances and similar concerns. For the state to compound this situation by transferring title without appropriate surveys is irresponsible.

This is something we can do today which will make our future less troubled.

Thank you for your consideration.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL
for Alaska, Inc.

Paula P. Easley
Executive Director

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STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-485-2400

March 12, 1986

The Honorable Al Adams
Chair, Finance Committee
Alaska State House
P.O. Box V
Juneau, AK 99811

Dear Representative Adams:

I am writing with regard to HB 286, relating to land surveying and state land disposals. Your staff and other members of the House have been interested in the fiscal impact of the bill.

The department originally provided a zero fiscal note on HB 286 on the basis of letting the new survey standards dictate the level of land disposals. Upon further consideration we have prepared an amended fiscal note which shows how the state's costs to maintain the existing land disposal schedule would be affected by enactment of the bill. The new fiscal note is attached.

The large majority of state lands are not surveyed, and even though the desirability of cadastral survey is widely recognized, the cost can be very high. In some areas which will not develop in the near future, it does not make fiscal sense to conduct cadastral survey prior to land offerings, particularly low-density offerings such as homesteads.

The cost of survey is an important limiting factor in the state's land offering program. Because the department must receive appropriations for land disposal survey before we offer land, there is a direct relationship between the amount of money that we receive for land disposal surveys and the amount of land that we are able to offer for private ownership. To raise the statutory standards for land disposal surveys would reduce the state's land offerings, unless there is substantial new funding for survey.

The department has used the existing cadastral survey waiver authority judiciously in recent years to allow land offerings in desirable areas where the cost of cadastral survey would

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effectively prohibit land offerings. With recent developments -- including the decline in oil revenues, the enactment by the Legislature of a new homesteading program, and the statutory requirement that the state meet local subdivision standards -- it is impractical to suggest that the existing cadastral survey waiver authority be revoked. As shown in the attached fiscal note, the department's FY 87 and FY 88 survey costs for homesteads, which are an increasingly important part of the land offerings program, could increase by a factor of ten or twelve if cadastral survey were required.

Although homesteads do not necessarily provide a revenue stream to the state (because of the sweat equity provision), the cadastral survey requirement would increase the cost of homestead offerings and reduce opportunities for homestead settlement as envisioned by the Legislature when it passed the Homestead Act just three years ago. Because there is a buy-out provision in the Homestead Act (AS 38.09.090(a)), the state also would forego some revenue from homestead purchases. This amount is not predictable and has not been represented on the revised fiscal note.

The costs of homesite offerings would also be raised. The homesite program (AS 38.08) is intended to provide Alaskans the opportunity to live on relatively small parcels for minimal cost, including the cost of survey. Raising the cost of survey, without commensurate benefit to the citizens of the state, might defeat the purpose of the statute by foreclosing the program to some interested Alaskans who want to live on the land and improve it, but who cannot afford the cost of a homesite adjusted to include cadastral survey. As with the homestead program, the state might forego some revenue from the buy-out of homesites permitted under AS 38.08.060(e).

If the Legislature enacts legislation (HB 21) to grant veterans the survey for homesites, there would also be an increased survey costs liability for the state if HB 286 passes. As a result, the high cost of providing survey for veterans' homesites could prevent some homesite offerings.

The department has made important improvements in the land offerings program in recent years, improving the quality of land offered to Alaskans and stabilizing the disposal schedule. Restricting the department's ability to offer land would lead to new demands by the public for low-cost lands.

BUT, MAYBE STILL HAVE TO PAY FOR SURVEY!

COST IS WAY HIGHER

The Honorable Al Adams

-3-

March 12, 1986

I have several other areas of concern with the bill, but am restricting these comments to the potential fiscal impact. Please let me know if there is additional information I might provide.

Sincerely,

Bob Arnold

f Esther C. Wunnicke
Commissioner

Attachment

cc: Representative Koponen

(4)

ATTACHMENT

The cadastral and control survey costs for anticipated FY 87 and FY 88 homestead offerings are provided below. If HB 286 is enacted, the minimum cost of these homesteads will be the cost of cadastral survey. Although the department has not yet decided to use control monumentation in all cases, the cost of control monumentation (which is allowable under present statute) represents the likely minimum cost of these homesteads.

If the department proceeds with subdivisions, including homeites, there may be some effect on the costs of other disposals.

HOMESTEAD PROJECT	ACREAGE		SURVEY COST	
	Gross	Net	Cadastral	Control
(FY 87)				
Kupreanof	1,998	520	*	
Gold King	1,500	100	48,000	5,000
Slate Creek	5,000	1,000	106,000	15,000
Kantishna	15,000	3,000	278,400	25,000
Zitziana	12,500	2,500	216,000	20,000
Steppe	11,500		253,000	15,000
	<hr/>			
TOTAL FY 87	46,498	18,620	\$901,400	\$80,000

239,000

NOTE: * Kupreanof is under contract for \$32,500.

(FY 88)				
Marmot Island	1,915	800	48,000	0
Caswell Lake Ag	2,690	1,820	62,000	0
Nunsatuk	6,160	1,200	139,000	15,000
Tonsina Ag/Non Ag	2,890	1,750	0	0
South Fork	21,192	4,000	403,000	30,000
Wood River	2,368	1,000	72,000	10,000
Happy River	16,634	2,000	269,000	25,000
Snake River	15,313	750	278,000	20,000
Crazy Mountain	16,640	4,000	346,000	35,000
Tatalina Ag	4,000	2,500	130,000	15,000
	<hr/>			
TOTAL FY 88	84,522	19,820	\$1,747,000	\$150,000

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date: 3/11/86

REQUEST

Bill/Resolution No.: HR 286
 Title: Relating to survey and disposal of state lands
 Sponsor: Koponen
 Requestor: House Finance
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Natural Resources
 BRU: Information Management
 Components: _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

CAPITAL		821.4	1,597.0	-	-	-
----------------	--	-------	---------	---	---	---

REVENUE						
----------------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

To maintain the scheduled homestead program for FY 87-88 with cadastral survey, capital funding will have to increase. No operating budget impacts are anticipated.

Prepared by: Ned Farquhar
 Division: Commissioner's Office

Phone: 465-2400
 Date: _____

Approved by Commissioner: [Signature]
 Agency: Natural Resources

Date: 3/12/86

Distribution (by Agency preparing fiscal note) :

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

Extensions of State of Alaska file No. 9101 memo dated March 5, 1986, from Gary Gustafson to Phil Waring. Copy received from Bob Arnold, DNR.

Extensions developed by Alaska Section, ACSM, on March 13, 1986, and based on an average price of \$5,000 for the survey of a 5 acre remote tract tied to control monumentation, and \$10,000 for the survey of a 40 acre remote tract tied to control monumentation. They are the costs to the entryman for obtaining the survey required for title.

FY 87	-- Acres --		----- Cost -----			
	<u>Gross</u>	<u>Net</u>	<u>Cadastral</u>	<u>Control</u>	<u>5 Acre</u>	<u>40 Acre</u>
Kupreanof	1,998	520	39,960	7,800	520,000	130,000
Gold King 1	1,500	100	10,000	1,500	100,000	20,000
Slate Creek 1	5,000	1,000	100,000	15,000	1,000,000	250,000
Kantishna 1	15,000	3,000	300,000	45,000	3,000,000	750,000
Zitziana 1	12,500	2,500	250,000	37,500	2,500,000	625,000
Steppe	<u>11,500</u>	<u>11,500</u>	<u>230,000</u>	<u>172,500</u>	<u>11,500,000</u>	<u>4,600,000</u>
Totals	47,498	18,620	\$929,960	\$279,300	\$18,620,000	\$6,375,000

1: These are re-offers of remotes that may not require any additional surveys depending upon evaluation of existing monumentation and the possibility of approval of waiver requests.

3-12-81
SHE

Previous
Remold Offerings

Location	Year	Authorized		Actual		
		Mo's	Filings	Files	Amount	
Gold King	1982	460	28	28	420	91%
Kantizine	1980	5600	140	41	1230	22%
"	1983	unlimited	16	22	660	(0%)
Slate Creek	1980	2000	50	13	390	19.5%
" " "	1982	2880	72	21	1230	43%
Eitzine	1982	2720	63	12	360	13%

~~27%~~
27%
OVERALL



HB 286
APR 18 1985

Alaska Section
AMERICAN CONGRESS ON SURVEYING AND MAPPING

P. O. BOX 376
ANCHORAGE, ALASKA 99510

April 15, 1985

Honorable William Sheffield
Governor, State of Alaska
State Capitol
Pouch A
Juneau, Alaska 99811

Dear Governor Sheffield:

During the rewrite of Title 38 legislation last year, the provisions allowing waiver of cadastral surveys were considerably expanded over the belated objection of this professional group and other professional societies representing surveyors and mappers in Alaska. Our members had already, in the course of their surveying and mapping activities, encountered a host of problems resulting from the more stringent waiver procedures that were already in effect and were shocked that it was liberalized, especially in light of the larger parcels that will be disposed of under the current homestead program.

This year, the American Congress on Surveying and Mapping and its 207 Alaska members, in consort with our fellow professional societies, the Alaska Society of Professional Land Surveyors and the American Society on Photogrammetry, have spearheaded an effort to modify Title 38 so as to eliminate the waiver of cadastral survey provision or limit its usage to unique circumstances. This legislation (House Bill 286) is slowly working its way through the legislature. In the meantime, the primary constraint limiting use of the waiver procedure has been the fact that the waiver authority has been vested in Division of Technical Services within the Department of Natural Resources. This Division, the survey authority of the State with a number of registered professional surveyors on its staff, recognizes the

Honorable William Sheffield
Page 2
April 15, 1985

far reaching property boundary and legal consequences of the proliferate usage of the waiver and has tended to limit its usage to unique situations, as the legislature intended. This has served as a check and balance against the possible indiscriminate usage of the waiver by the Division of Lands and Water Management whose prime concerns seem to be the designation of acreage for disposal with less regard to the quality of title, usefulness or cost to the eventual recipients of lands and their descendants.

Now, by the attached memorandum dated 27 March 1985, even this check and balance has been eliminated. The Director, Division of Lands and Water Management, the sponsor of the expanded waiver provision in the first place, now is in position to determine its applicability and authorize its usage. It also gives the Director of the Division of Lands and Water Management the authority to waive aliquot part descriptions for homesteads, another serious error unless used only for exceptional circumstances. These are precisely the events our groups predicted would happen when the seemingly innocuous waiver procedure was sold by DLWM to the legislature last year. The waiver will become the accepted norm instead of the exception. Examples of its misuse are presently in process.

It appears 200 years of experience gained by the United States Government and the other land grant states is being thrown out the window in the name of expediency. Alaska already is suffering from like expediency that occurred during transfer of its lands from the Federal Government. To expedite transfer, normally accepted survey requirements by the U.S. Government were waived. Quantity and not quality of title was emphasized. This has caused untold expense and difficulties for the State of Alaska and will continue to do so for decades. Now the State of Alaska is doing exactly the same thing to its individual citizens. Recipients of the disposed land will soon come to realize they are being sold a bill of goods and their inexpensive State land is going to cost them dearly in future survey and legal fees if disposal continues under the waiver practice.

Honorable William Sheffield
Page 3
April 15, 1985

I urge you to look into this matter immediately, support our professional societies and their members in the legislative effort to more strictly control the waiver process and, in the meantime, to direct that the waiver authority remain with the Division of Technical Services, the State's survey authority, so as to maintain some check and balances on the system.

Respectfully submitted,
AMERICAN CONGRESS ON SURVEYING
AND MAPPING, ALASKA SECTION

C. A. Herschbach

C.A. Herschbach, R.L.S., M.I.S.
Chairman

cc: Commissioner Esther C. Wunnicke
Department of Natural Resources

Senator Arliss Sturgelewski, Chairman
Senate Resource Committee

Representative Richard Shultz, Co-Chairman
House Resource Committee

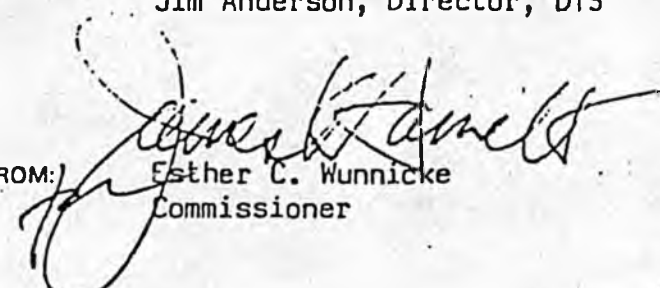
DEPARTMENT OF NATURAL RESOURCES - Office of the Commissioner

TO: Tom Hawkins, Director, DLWM
Jim Anderson, Director, DTS

DATE: March 27, 1985

FILE NO:

TELEPHONE NO: 465-2500

FROM: 
Esther C. Wunnicke
Commissioner

SUBJECT: Delegation of Authority

Pursuant to AS 38.09, I delegate the following authority to the director, Division of Land and Water Management; effective immediately:

AS 38.09.010 (a). The authority to designate state land and make it available for homestead entry.

AS 38.09.010 (b). The authority to waive the cadastral survey on a determination that topographic feature, diffuse settlement, or the public interest do not justify or require the cadastral survey.—

AS 38.09.010 (c)... The authority to provide notice of the designation and offering of land for homestead entry.

AS 38.09.010 (e)... The authority to prescribe a homestead entry procedure for each area designated under (a) of this section.

AS 38.09.010 (f). The authority to establish the maximum size of a homestead entry.

AS 38.09.020 (b). The authority to accept from an applicant the filing of the description entered upon, and to determine whether the description shall be by aliquot parts or otherwise.

AS 38.09.030 (a)(1). The authority to determine that proof of age and residency submitted by the applicant are acceptable.

AS 38.09.040 (a). The authority to revoke a homestead entry permit.

RECEIVED

MAR 10 1985

DIV. OF TECHNICAL
SERVICES

Delegation of Authority
Tom Hawkins, Director, DLWM
March 27, 1985

-2-

AS 38.09.040 (a)(3). The authority to extend the time required for completion of the applicant's dwelling.

AS 38.09.040 (b). The authority to extend the time required for completion of the plat of survey.

AS 38.09.050 (a). The authority to issue a patent to homestead entry land.

AS 38.09.050 (c). The authority to reserve or exclude from a patent easements or rights-of-way for roads, trails, trap lines, public access ways, utility corridors and transportation facilities.

AS 38.09.070. The authority to issue a homestead entry permit to the first applicant to comply with AS 38.09.020 (b).

AS 38.09.090 (a). The authority to determine fair market value.

Pursuant to AS 38.09.010 (b), I delegate to the director, Division of Technical Services, the authority to complete a cadastral survey of homestead entry state land, effective immediately.