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Alaska State Legislature

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POUCH V
JUNEAU, ALASKA. 99811
(907) 465-4907

Senate Committee on Resources

MEMORANDUM

May 9, 1985

TO: Senate Resources Committee Members

FROM: Senate Resources Committee Staff *MFL*

RE: CS for House Bill 170 (Finance)
"An Act relating to land surveys; and providing for an effective date."

This legislation deals with the ability of surveyors to enter on land for survey purposes and a requirement for surveyors to record survey and monument records.

In the house this bill passed the judiciary committee with 6 "Do Pass" recommendation and the Finance Committee with 9 "Do Pass" and 1 "No Rec" votes. The Bill passed the total house by a vote of 38 to 2.

Patrick Kalen, of Kalen and Associates, will be at the committee meeting to explain the bill and answer questions. The bill is supported by DNR and has a zero fiscal note. A letter from the Department of Interior, Bureau of Land Management, supporting the bill, is in this packet.

It is my understanding that Cook Inlet Regional Cooperation had concerns about the right to enter land for surveying, but that the majority of those concerns are addressed in the Finance CS.

Also included in this packet is a sectional of the original bill by legal services, information on the finance CS, a letter from CIRI, a letter from the Surveyors' association, a zero fiscal note, and a copy of the bill history.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB 170 (FIN)
 Title: An act relating to land surveys

FISCAL DETAIL

Agency Affected: Natural Resources
 Program Category Affected: NRREC

Sponsor: Koponen, Sund, Navarre BRU, Program or Subprogram(s) Affected: Information/Records Management
 Requestor: Jenling, Jenkins, Ringstad,
 Date of Request: & Pearce

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
PERSONAL SERVICES						
TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

It is assumed that approximately 500 documents at \$8.00 each would be recorded each year under this proposed Bill.

Prepared By: Joseph C. Burch Phone: 786-2400
 Division: Technical Services Date: 2/22/85

Approved by Commissioner: Thomas D. Zamper Date: 2/12/85
 Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

HB 170
CSHB 170 FIN

MEASURE HISTORY

PAGE 01 OF 02

AN ACT RELATING TO LAND SURVEYS; AND PROVIDING FOR AN EFFECTIVE DATE.

PRIME SPONSOR: KOPONEN
CO-SPONSORS: SUND, NAVARRE, UEHLING, JENKINS, RINGSTAD, PEARCE

CURRENT STATUS: TRANSMITTED TO (S)

DATE		PAGE	ACTION
02/04/85	(H)	252	READ THE FIRST TIME
02/15/85	(H)	359	L&C RPT 6DP
02/15/85	(H)	359	FISCAL NOTE W/L&C RPT SUP. NO10
02/15/85	(H)	359	FIN REFERRAL ADDED
03/08/85	(H)	539	JUD RPT W/CS 6DP
04/30/85	(H)	1181	FTN RPT W/CS, NEW TITLE 9DP 1NR
05/08/85	(H)		RLS TO CALENDAR 5/8/85
05/08/85	(H)		READ THE SECOND TIME
05/08/85	(H)		CSHB 170(FIN) ADOPTED UNAN CONSENT
05/08/85	(H)		AM NO 1 FAILED Y10 N28 A2

HB 170

MEASURE HISTORY

PAGE 02 OF 02

DATE		PAGE	ACTION
05/08/85	(H)		AM NO 2 FAILED Y16 N24
05/08/85	(H)		ADVANCED TO THIRD READING UNAN CONSENT
05/08/85	(H)		READ THE THIRD TIME
05/08/85	(H)		PASSED Y38 N2
05/08/85	(H)		EFFECTIVE DATE SAME AS PASSAGE
05/08/85	(H)		CLOCKSIN NOTICE OF RECONSIDERATION
05/08/85	(H)		RECONSIDERATION TAKEN UP UNAN CONSENT
05/08/85	(H)		PASSED ON RECONSIDERATION Y38 N2
05/08/85	(H)		EFFECTIVE DATE SAME AS PASSAGE
05/08/85	(H)		TRANSMITTED TO (S)



United States Department of the Interior

JAN 22 1985
IN REPLY REFER TO
9658 (920)

BUREAU OF LAND MANAGEMENT

Alaska State Office
701 C Street, Box 13
Anchorage, Alaska 99513

JAN 18 1985

Honorable Arliss Sturgulewski
Alaska State Senate
Pouch V
Room 508, State Capitol Building
Juneau, Alaska 99811

Dear Ms. Sturgulewski:

This letter references and supports the legislation being proposed by the Alaska Society of Professional Land Surveyors (ASPLS) concerning Right of Entry, Recordation, and Amendments to Title 38 of the Alaska Statutes.

The Bureau of Land Management (BLM) fully recognizes the need for the enactments of this legislation to further the orderly conduct of surveying and mapping activities in Alaska. Significant problems are already confronting the citizens and the Federal and State governments in the establishment, administration, and management of property boundaries and their associated records.

The justification which has been written in support of this proposed legislation provides a clear picture of the needs but could have been expanded to convey the impact of the programs affected in the State. The BLM alone has a legislated workload which will require over a half billion dollars of surveying and mapping activities to identify lands for patent to the State, Native corporations and private claimants. Without this legislation the enactment of this work will be fraught with great wastes of human efforts and dollars due to the lack of required records keeping, higher costs to perform surveys and an inevitable increase in boundary legislation.

Your solid support of the enactment of the ASPLS proposed legislation is requested for the benefit of all Alaskans and the efficient use of State and Federal tax dollars.

We would be pleased to respond to any questions or comments you might have regarding this subject.

Sincerely,

Francis D. Eickbush
Deputy State Director
for Cadastral Survey



Alaska Section
AMERICAN CONGRESS ON SURVEYING AND MAPPING

P. O. BOX 376
ANCHORAGE, ALASKA 99510

April 19, 1985

Representative Albert Adams
Chairman, House Finance Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Adams:

On behalf of the 207 members of the Alaska Section, American Congress on Surveying and Mapping, I urge prompt consideration by your committee of House Bill 170 pertaining to right of entry for surveyors and for the recordation of records of surveys and monument records. A do pass recommendation of the bill in the original form as submitted by Representative Koponen and other sponsors is urged by this professional group. This legislation is of benefit to not only the surveying and mapping professions, but the public at large and is becoming sorely needed as the scope of land use accelerates in Alaska.

We understand there has been considerable discussion by some members of your committee regarding the precise wording for the right to entry portions of the proposed legislation. It is extremely difficult to word this section in such a manner as to meet the unique circumstances that exist in the various geographical areas of Alaska, especially as they pertain to identification of ownership and occupancy of lands in the general area where a survey is to be conducted and meet any notice requirement without serious impact on one party or another. What would work well under notice requirements in remote areas are absurd in developed cities. We, therefore, feel a formal advance notice procedure will be found to be totally unworkable in some areas or under some conditions.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

revised
POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

MEMORANDUM

February 21, 1985

SUBJECT: Land surveys (HB 170)
TO: .. Representative Niilo Koponen
FROM: Richard A. Bradley
Legislative Counsel *B*

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 of the bill adds a new chapter to AS 34 (Property) relating to land surveys.

Sec. 10 states the purpose of the chapter: (1) to authorize right of entry on land for survey purposes (cf. sec. 20) and (2) establish a method for preserving evidence of land surveys (cf. secs. 30 - 70).

Sec. 20 establishes the right of a land surveyor and the employees of a surveyor to enter on land for the purposes of surveying it. When on the land, the land surveyor is responsible only for "actual damages". I believe that this rule is intended to alter the usual rule that damages to some extent are presumed to have occurred in a trespass; in this situation, damages would only be available on the showing of affirmative and actual (as opposed to legal) damages. And the section authorizes the attorney general to bring an action to "restrain and prevent an obstruction of entry" under (a) of the section.

In lieu of advance notice, we feel the restriction that surveyors may gain entry only for the surveying of legal property boundaries and not for other developmental type projects will be sufficient restriction to prevent misuse of the right to entry. We, therefore, strongly urge this proposed legislation in its original submitted form be passed out of your Committee with "do pass" recommendation.

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

C. A. Herschbach

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

CAH:kh

cc: John Ringstad
Jim Duncan
Ronald Larson
Mike Szymanski
Sam Cotten

Steve Frank
Johne Binkley
Pat Porchout
Steve Rieger
Rick Uehling

Sec. 30 relates to "records of survey."

Sec. 30(a) provides that a land surveyor shall file a record of survey within 90 days of the completion of a survey when the survey discloses (1) "material evidence or physical change" that is not reflected on a previous "plat of record;" (2) a "material discrepancy" with a previously filed "plat of record;" or (3) evidence that by "reasonable analysis" might alter existing recorded "positions of boundaries."

Sec. 30(b) provides that a land surveyor shall file a monument record when the land surveyor "reestablishes, uses as a control, or restores a monument to make it readily identifiable or reasonably durable" unless the monument and its accessories are as described in an existing monument record or a survey plat of record.

Sec. 30(c) provides that when activities on the land, as for example construction, will "disturb or destroy a monument or its accessories", the land surveyor shall

- (1) file a monument before the monument and its accessories are disturbed or destroyed;
- (2) restore or replace the monument and its accessories after the activities have ceased; and
- (3) file a new monument record after restoring or replacing the monument and its accessories.

Sec. 30(d) provides that a land surveyor may file a monument record at any time.

Sec. 30(e) provides that when a land surveyor is required to file a monument record by this section, the monument record shall be filed within 90 days of the "completion of the survey or of the establishment, reestablishment, or rehabilitation of a monument.

Sec. 30(f) requires a land surveyor to sign and seal a monument record.

Sec. 40 deals with situations when a record of survey is not required. The section provides that a record of survey is not required for survey made by the Bureau of Land Management; to some extent, the result suggested here would be

inevitable since the legislature does not have the power to impose burdens on a Federal agency.

The section also provides that a record of survey is not required when a plat of survey either has been filed or will be filed within 18 months of the field survey.

Sec. 50 directs the commissioner of natural resources to adopt regulations to implement the chapter. It also directs the commissioner to adopt a standard form for a record of survey.

Sec. 60 relates to the duties of the district recorder.

Sec. 60(a) directs the district recorder to provide a copy of a monument record or a copy of the record of survey to the municipal clerk for the municipality in which the record or survey is located.

Sec. 60(b) provides that the district recorder is to keep a proper index of monument records and records of survey by "survey name, tract designation, subdivision designation, or United States public land designation."

Sec. 70 defines terms for the chapter, including "accessory," "monument," and "united States public land survey monument."

If I may be of further assistance, please advise.

RAB:csh
c3/014

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

January 17, 1985

Representative Niilo Koponen
Alaska State House of Representatives
Pouch V
Room C110, State Capitol Bldg.
Juneau, Alaska 99811

Dear Representative Koponen:

The Anchorage Chapter of Alaska Society of Professional Land Surveyors at their annual dinner January 11, gave their unanimous approval to the legislation being proposed by the ASPLS Legislative committee concerning Right of Entry, Recordation, and Admendments to Title 38. We believe these bills to be of extreme importance to the efficient and orderly conduct of surveying and mapping in the State of Alaska. Many hours have gone into preparing this legislation by our State legislative committee and we respectfully request your review and support of this important legislation in the forthcomming session.

As president of the Anchorage Chapter and member of the legislative committee, I plan to be in Juneau the 23rd and 24th of January with other members of the Alaska Section American Congress of Surveying and Mapping and the Alaska Society of Prifessional Land Surveyors. At this time we would be pleased to meet with you and your staff and discuss any aspects of the proposed legislation.

Sincerely,

A handwritten signature in dark ink, appearing to read 'R. T. Kean'. The signature is written in a cursive style with a long horizontal flourish at the end.

Robert T. Kean, President
c/o Kean & Assoc.
6510 Homer Drive
Anchorage, AK 99502

JUSTIFICATION
AMENDMENTS TO AS 34 (ADDITION OF CHAPTER 65)

Section Authorizing Entry On Land For Survey Purposes

Thousands of survey monuments exist in the State of Alaska identifying section corners, township corners, various property boundaries and serving as geodetic control points in remote areas where no other survey control presently exists. Taxpayers' dollars were utilized to establish these monuments, as they were intended for purposes benefiting the public. Various Federal agencies, primarily the Bureau of Land Management, Coast and Geodetic Survey, Geological Survey, Corps of Engineers and Army Mapping Service and, more recently, various State of Alaska agencies established these monuments. Utilization of this existing monumentation is mandatory if the surveyors, mappers and photogrammetrists in the State are to conduct the surveys required by the public for property boundaries, subdivisions, construction projects and mineral, oil and gas exploration programs. Traditionally, access to this survey control has been available to these professionals as required to conduct these surveys. Access is primarily by foot, air or water and utilization of the station usually involves only the temporary setting up of a theodolite, distance measuring equipment, satellite survey system, photo control panel or in some cases, leaving a small, unmanned, battery-powered transmitter on a small tower or tripod to continuously broadcast signals for offshore or airborne positioning systems. No damage to the monument or its surrounding environment is entailed.

In addition, in the course of conducting surveys, surveyors must often physically traverse adjoining property boundaries or gain access to hilltops, mountain peaks or shorelines so as to gain line of sight or for other technical reasons. Again, the occupancy is limited in nature and normally involves no damage to the environment.

With increasing transfer of lands from the public domain into private ownership, access to these survey control monuments, property boundaries and key terrain features is becoming increasingly curtailed. Owners, applicants and alleged owners of the underlying property on which the monument is located or to which access must be gained, even in extremely remote areas of the State, are now requiring advance permission, and often the payment of considerable rental fees to briefly occupy the station or terrain feature. In some cases, there is outright refusal of access if the owners are not in agreement with the program for which a survey is being undertaken, regardless of the fact that the resultant program may be on State, Federal

or third party ownership. To further complicate the matter, often two or more persons or groups claim ownership to the same lands, leaving the surveyor in the position of not knowing from whom to obtain permission or alternatively, obtaining permission from the apparent owner only to be challenged by a second party claiming ownership. If survey monumentation in the remote areas of the State is extremely sparse, this allows the owner or alleged owner of the lands by placing a primary control monument to control developments over a vast area far outside their ownership. In some cases, a single monument may serve as primary control for thousands of square miles so use of alternate monuments is not feasible or even impossible.

This problem, nonexistent prior to five years or so ago, is annually becoming more critical. As much as surveyors, mappers and photogrammatrists wish to see the property rights of all individuals or groups to be properly protected, the time has come for some protection for all of the citizens of the State to utilize the survey monumentation which was established with their tax dollars, and to allow surveyors to determine citizen's property boundaries. Similar legislation has been found necessary in nearly all the other states of the union.

The Alaska Section, American Congress on Surveying and Mapping and the Alaska Society of Professional Land Surveyors and their members feel the time has now arrived that this legislation is mandatory if the rights of all individual citizens of this State are to be protected.

Section Requiring Record Of Survey And Monument Record

A present requirement exists in Alaska that subdivisional plats be recorded with the district recorder so as to be available for use by all citizens of interest. Hundreds of other land surveys are annually conducted, however, defining boundaries and rights-of-way, for which no such recording requirement exists and which presently do not become a part of any public record. Although some informal exchange of information currently takes place between the professional surveyors in the State, there is no official depository for records of this sort where a public or private surveyor can research records of previous surveys prior to undertaking a survey in the same area. This often results in repeated duplication of effort, boundary conflicts (between two surveyors utilizing totally different techniques to approach the same problem) and, at the very least, incursion of unnecessary costs by the surveyor's client if a private survey.

or the public at large if the survey is for public purposes. Similarly, as surveys are undertaken and key monumentation recovered, no current regulation or law requires the surveyor record any public document indicating the existence, lack of existence, condition of, or current status of key control monumentation in the project area. This is especially critical where monumentation will or likely will be destroyed during forthcoming construction following the initial survey. Replacement of these destroyed monuments is extremely costly unless adequate records exist prior to any disturbance, indicating the exact original position of the monument with ties to appropriate accessories.

These professional associations and their members believe it is the duty of all professional surveyors to file a record of survey and monument records for all appropriate surveys they undertake and that an appropriate procedure be established by the State to provide the mechanism for the recording of these documents.

The burden and cost of this recordation will primarily fall upon the surveyor and not the government entity. The sole cost to the State of Alaska or its subentities will be the cost of accepting and maintaining these records. It is estimated the total number of documents would not exceed 1000 per year. This very minor cost would be greatly offset by the value to State agencies, boroughs and municipalities that could make great use of the vast amount of information so recorded and made readily available with no cost of field acquisition whatsoever. Likewise, when individual citizens of the State require survey in the future, they will often achieve a cost saving because of the ready availability of these documents.

The majority of other states currently have statutes requiring recordation of monument and/or survey records. This is especially true in the western states where fewer surveys exist, with the resultant greater distance between monuments and longer time intervals between occasions when monuments may be inspected by professional surveyors.

CIRI

Don Marx

COOK INLET REGION, INC.

April 18, 1985

Representative Albert P. Adams
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Representative Adams:

Cook Inlet Region, Inc. (CIRI) is opposed to House Bill Number 170 in its present form. CIRI views the proposed legislation as a flagrant abuse of private property rights. This bill does nothing more than legalize trespass and places an additional management burden on our Corporation. Our primary concern is that the proposed legislation does not address CIRI's permitting rights.

Presently, CIRI requires a permit for all activities that occur on its lands. These permits do several things: (1) provide notification of proposed activities; (2) identify types and scale of activities; (3) provide stipulations to mitigate any adverse impacts of the proposed activities, and (4) indemnify CIRI from all liability associated with activities on CIRI lands.

Representative Pourchot has submitted amended language that satisfies our notification concerns. However, the bill still ignores CIRI's right to require permits for use of its land, and more importantly, does not afford CIRI any protection against liability suits. Until these concerns are addressed we strongly oppose this bill and recommend that it is not passed.

I am willing to discuss our concerns and provide whatever additional information you may need. Thank you.

Sincerely,

COOK INLET REGION, INC.

Don Marx

Don Marx, Director
Land Management and Administration

DM/slb:198:2

CC: Regional Corporations
AFN

Alaska State Legislature

REPRESENTATIVE
PAT POURCHOT

HOUSE FINANCE COMMITTEE
COMMITTEE ON OIL AND GAS




ANCHORAGE
P.O. BOX 104836
ANCHORAGE, AK 99510
(907) 338-2425

JUNEAU
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
(907) 465-3712

House of Representatives MEMORANDUM

DATE: April 29, 1985

TO: House Finance Committee

FROM: Representative Pat Pourchot 

RE: HB 170, Relating to Land Surveys

HB 170, relating to land surveys and sponsored by Representative Koponen, was originally considered by the Finance Committee on March 28. At that hearing several members of the committee expressed concerns that Section 1 of the bill effectively gave rights of "legal trespass" to a surveyor without having to give notice to the landowner. Since that time, I have worked with the sponsor, DNR staff, surveyors and other interested parties to come up with some acceptable notice requirements prior to a surveyor entering private land.

Surveyors presented a "worst case" scenario where notification of landowners would be particularly onerous, such as in an urban area, surveying a lot along a previously surveyed boundary where the surveyor might have to contact dozens of property owners whose land he or she would be technically crossing by walking along a rear or side boundary.

I believe we have come to an equitable compromise. The proposed CS requires reasonable notice to landowners or occupants prior to entry by the surveyor. We have also included an exception to notice requirements for surveys along previously surveyed boundaries within platted subdivisions approved or performed by the federal government (i.e. the Bureau of Land Management) or approved under Title 29 or Title 40 which relates to surveys within unorganized areas of the state.

I believe this compromise addresses the legitimate concerns of surveyors in urban and subdivision situations while protecting private property owners against trespass without prior notification.

I recommend the attached draft CS for adoption.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

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

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

SENATE RESOURCES COMMITTEE, 5/9/85, 3:00 pm



Alaska Section
AMERICAN CONGRESS ON SURVEYING AND MAPPING

P. O. BOX 376
ANCHORAGE, ALASKA 99510

FISCAL IMPACT ANALYSIS RESULTING FROM
PROPOSED AMENDMENTS TO AS 38

This paper presents an analysis by a joint Legislative Committee of the American Congress on Surveying and Mapping, Alaska Section, the American Society of Photogrammetry, Alaska Region and the Alaska Society of Professional Land Surveyors, of the cost impact to the State of Alaska if the proposed amendments to AS 38, as recommended by the professional groups, are passed. The analysis will show that the proposed amendments present little, if any, additional fiscal impact to the State while providing a broad range of short and long term benefits.

The fiscal impact data, as presented, was derived from an analysis of actual cost to the State during FY85 and includes direct survey costs relative to the disposal program and the cost incurred by the Division of Technical Services, Department of Natural Resources, to administer and technically monitor the survey projects. These costs are then extrapolated to determine acreage that can be surveyed under current proposed budgeting for FY86 and appropriate budget levels for surveying in future years.

During FY85, the State appropriated \$3.5 million for surveys to expedite the State land disposal programs. These monies were expended in the following manner:

Function	Amount	Percent of Total
State of Alaska personnel administering and technically monitoring the survey projects	\$ 423,000.00	12.09%
Travel (by State employees)	20,000.00	00.57%
Commodities (expendable supplies furnished by State of Alaska)	10,000.00	00.29%
Equipment (purchased by State of Alaska for internal use)	14,000.00	00.40%
Professional survey contracts (to accomplish the required field and platting procedures)	3,032,700.00	86.65%
Totals	\$3,500,000.00	100.00%

Of the above, approximately half was utilized to conduct rectangular cadastral surveys similar to those which would be required under the proposed legislation. The remainder was utilized to perform small lot subdivisional and control surveys. These small lot surveys are now being phased out in favor of the larger parcel homestead program and the control survey would be generally eliminated by the proposed legislative amendments. The majority of future appropriations, therefore, would be available to conduct the recommended rectangular cadastral surveys.

To determine the current cost of performing rectangular cadastral surveys similar to those that would be required under the Title 38 amendments, we utilized contracts awarded by the Division of Technical Services, Department of Natural Resources, State of Alaska, during FY85 as historical data. The projects analyzed consist of the following, all of which were awarded during the study year.

FY85 Rectangular Cadastral Surveys

Project	Contracting Firm	Contract Cost	Gross Acreage	Per Acre Cost
Kobe/Clear Sky	Stutzmann Engineering	\$206,500	9,210	\$22.42
Two Mile Lake	Laurence Irving	25,900	2,504	10.34
Willow Creek	Silvers Engineering	23,800	1,160	20.52
Cosna	Roen Design	289,700	17,920	16.17
Southwind/Windy	ABC	221,000	10,000	22.10
Homer	Branch/Sharp	65,000	2,480	26.21
Talkeetna Foothills	Max Stevens	139,900	5,760	24.25
Cannery Creek	Quadra Engineering	318,900	13,856	23.02
South Bank	Itech	157,000	6,834	22.97
		-----	-----	-----
		\$1,447,500	69,724	\$20.76 avg

From the above historical data, it becomes apparent the average per acre cost for rectangular cadastral surveys as performed during FY85 was \$20.76 per acre. To this must be added an overhead percentage of 13.35% to reflect personnel, equipment, commodities and travel costs of the Department of Technical Services resulting in a historical total cost per acre surveyed of \$23.53.

The Sheffield Administration has proposed funding for surveying activities during FY86 relative to the land disposal program in

the approximate same amount as FY85 (\$3.5 million). Based upon historical data, it is clear that if this funding was utilized 100% to perform cadastral rectangular surveys, a total of 148,746 acres could be surveyed. As the stated goal of the administration is to dispose of 35,000 acres during FY86, it is also clear that approximately 4.25 times the stated goal could be surveyed. In other words, only 23.53% of the land surveyed must be disposed to meet the target goal. If 23.53% of the acreage of the lands surveyed are not suitable for disposal, we feel there is a land selection and management problem as lands that obviously have little potential for disposal are being targeted for survey.

It should also be noted that the FY85 projects utilized to develop historical costs involved not only setting section corners, as would be required by the proposed legislation, but also quarter corners, effectively doubling the field monumentation. All of the projects also required brushing section lines, not required by the legislation, but a useful function serving the needs of both the potential entryman and land managers in the future. These lines greatly simplify the identification of land boundaries on the ground. The projects represent a good cross section as to location, difficulty and accessibility. Due to the quarter corner monumentation requirement, it can be fairly stated that the above projects represent a "worst case" cost scenario. In the future, rectangular cadastral projects can likely be done for less per acre cost.

If the rectangular cadastral survey program were adopted as an ongoing program, larger size projects could be awarded, allowing for economies of scale to reduce the per acre cost considerably. Moreover, if past experience is an example, once the surveying industry recognizes that the rectangular system will be adopted as State policy for the long term, it will invest in capabilities allowing it to perform such surveys more efficiently, hence lowering the cost even further.

Any proposed legislation should be viewed in terms of not only what is possible today, but what will be possible in the near future. Long term historical data shows that the cost per acre for cadastral surveys has decreased dramatically over the last ten year period, mainly due to the rapid advancement of new technologies, greater use of modern transportation and the

development of innovative techniques. Greater advances are expected in the next two to five year period. The Global Positioning System (GPS) technology will become widely available during this time frame, likely reducing the cost of rectangular cadastral surveys by a factor of 25% or more. Legislation should be in place to take advantage of this rapidly developing technological progress.

If State provided rectangular surveys to section corner level were mandated and the State enacted the accompanying provisions of the amendment allowing aliquot part described lands to be patented to the entryman without further survey, additional savings in other administrative monies would accrue to the State. An officially adopted procedural manual for surveying the section into aliquot part parcels already exists. Therefore, the need for providing individual survey instructions for each entryman's survey, as is currently done, would be eliminated. In addition, the need for technical monitoring and checking of these individual surveys could be eliminated. This would allow considerable savings in personnel costs to administer the disposal program. Similarly, the State record keeping system would be less costly due to simpler and less voluminous property legal descriptions.

The reduction in cost to individual applicants should also be considered. Adoption of the proposed legislation would allow patent to be issued to the individuals without further survey activities by the State or the applicant after the rectangular survey is completed. Not only could title be transferred to the applicant, but it would be good marketable title, recognized by banks, title insurance companies and totally acceptable for all related land transactions. Only if the applicant deems it necessary, at his own time, convenience and expense would further surveys be undertaken. Such surveys would be far less expensive than those presently required of the applicant to secure title from the State. Any such survey, totally funded and at the discretion of the entryman, would also have the side benefit of at least partially defining all other parcels within the section, whether in private ownership or remaining in State ownership. Thus, all such privately funded surveys would provide for multiple benefits and savings. In the present control survey and metes and bounds method often used, each survey stands alone and provides little mutual benefit or savings. The absence of a rectangular survey also adversely impacts the

title to remaining lands in a township, as the location of the metes and bounds survey (by section) is indeterminate until the sections are surveyed. This very condition is causing delays in transfer of title of federal lands due to the presence of metes and bounds U.S. surveys for native allotment, headquarters sites and homesteads within townships not subdivided into sections by rectangular methods.

It is not the intent of this committee to recommend or encourage the rectangular survey of all State lands. Obviously, the majority of lands in or coming into State ownership are of such character, remoteness or potential use as to totally eliminate the need for any surveys whatsoever except, perhaps, for surface mapping purposes. That small percentage of lands, however, that may be suitable for disposal should be carefully inventoried, prioritized as to suitability for disposal and an ongoing rectangular cadastral survey program should be required as a matter of State policy. A minimal funding level should be allocated annually allowing a reservoir of lands to be always available, surveyed to the section boundary level, to be utilized to meet disposal needs as may arise to satisfy the needs of Alaska residents in the future.

Based on the historical data presented and the probable cost per acre for rectangular surveys in the future it appears that the current level of funding is sufficient to support this program if the lands for disposal are selected with reasonable care. The State should no longer spend substantial sums to address short term needs in a manner which creates greater future problems. The rectangular surveys, once completed, would serve many functions and be suitable for nearly any type of disposal program. The proposed legislation would allow for a more orderly disposal of Alaska lands over the longer period at much less cost and greater benefit to the entryman while simultaneously meeting the technical requirements for adequate land management and identification.

Respectfully submitted,

Clarence A. Hirschbach

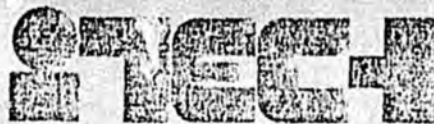
Alaska Section,
American Congress on Surveying
and Mapping

Ronald L. Colman

Alaska Region,
American society of Photogrammetry

Ray J. L...

Alaska Society of Professional
Land Surveyors



INTERNATIONAL TECHNOLOGY LIMITED

3127 Commercial Drive
Anchorage, Alaska 99501

January 31, 1985

Alaska Native Land Managers Association
528 N Street
Anchorage, Alaska 99501

Dear Dan:

While pursuing our goal to offer a complete package of mapping, surveying and engineering services through our joint venture firm "Alaska Community Engineering Services" to the smaller rural communities and to reduce duplication we have identified some common problems with every project we have done including airports, fuel storage, sewer and water project, road and trails planning, the 14(c) plans, townsites, gravel and a few others including some mapping work.

While every village is different two issues are common. These are land ownership and land records and the need for base maps which are accurate for engineering purposes. When these are not available and they are not in most cases, it becomes necessary to mobilize professional engineers and surveyors to gather basic survey and engineering data. This happens again and again for each new village project with limited project funds paying for transportation costs and time.

The village profiles prepared by Community & Regional are good. They are useful for general planning, which was their purpose, but many of these maps do not illustrate topographic data and they are not on a corrected or ortho photo base.

I believe the time is right in terms of where Alaska is historically with the distribution of land to individuals through either the 14(c), or townsite programs or other conveyances to implement a three phased mapping, records system.

Phase I - mapping phase -

The product would be computer data files from which cadastral and topographic maps could be produced at various scales and printed either as line maps or on ortho photos.

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Phase II - records & title phase -

Utilizing the cadastral data file as as base land records (titles - deeds) would be recorded to identify, track and update the ownership of parcels of land. (I understand DNR has computer capability to do this now).

Phase III - Resource Data Files -

This adds files on resource information of immediate interest to the welfare of the community (soils, gravel sources, ground water, etc.).

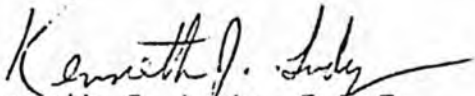
Enclosed is a paper which describes the concept in more detail.

Our proposal is to implement phase I on one or more communities and work out any technical or procedural problems, before expanding on a state wide program. I would see this as a joint effort between a private contractor, state agencies with some federal support to insure all needs are considered.

Curt McVee would be available to make a presentation on this proposal at either your February or March meeting.

Sincerely,

INTERNATIONAL TECHNOLOGY LIMITED



Kenneth J. Ludy, R.L.S.
V.P. Alaska Operations Manager

KJL/vg

1/7/85
C. McVee

COMMUNITY MAPPING SYSTEM
SUMMARY

With the survey of land ownership boundaries including lot lines, native allotments, rights of ways and other public use areas in Alaska rural communities and consequent transfer of title to individuals the need and demand for accurate records is essential.

This proposal would develop Phase I (mapping component) of a automated information system.

One or more communities would be selected and mapped following these steps:

1. Tie existing cadastral survey to geodetic control.
2. Target survey control markers.
3. Aerial photograph.
4. Digitize cadastral, topographic, and hydrographic data.
5. Produce orthophoto.
6. Plot, edit and reproduce maps

The end product of the mapping phase would be a combination of highly accurate, cadastral and topographic maps produced both as planimetric or orthophoto maps at various scales ranging from 1:500 to 1:5000. In addition, this data would be stored in digital form and could be retrieved in various mixes or alternative scales.

The attached paper describes the need and the proposal in greater detail.

COMMUNITY MAPPING SYSTEM

Rural communities in Alaska are going through a transformation affecting land ownership and improvements. This has happened very rapidly without the evolution of some in place data and records systems to retrieve information on the precise location of property boundaries and improvements. While the first priority was to convey, and survey the lands in the communities, establishing property lines and to construct much needed water supplies, sewage disposal facilities, electric and telephone distribution systems and local roads, it is also essential over the long term to have these improvements located and mapped accurately.

If the sequence of these activities was ideal, mapping would have been the first component. High quality base mapping depicting existing improvements, roads, other cultural features together with topographic data could save duplication as various projects were planned and designed. It could also prevent errors in cost estimates and even errors in design jeopardizing completion or performance of projects.

Over 125 communities have had townsite surveys identifying individual lots as well as public use areas. The remaining 100 villages will be surveyed as part of the 14(c) program. This program will also result in some additional surveys in the previously surveyed townsite villages.

These two programs -- townsite and 14(c) -- will result in all rural communities being subdivided with property lines delineated and land titles transferred to private individuals. These surveys have or will also delineate roads, streets, trails or easements for utility systems.

As land titles are issued there will be increased sensitivity to property lines. Among other things this attitudinal change will affect the acquisition and location of future easements needed for utility services. Purchase and sales of property can be facilitated if there are systems in place with the ability to trace the title of the lands and to accurately describe a tract of land. The existence of such systems will make it possible to obtain bank financing and title insurance, prerequisites to conducting sales and in many cases to constructing or improving the residential or commercial structures located on the land.

As communities grow and expand and utility services are extended, improved or maintained it will reduce the design and engineering cost of these alterations if the existing utilities are accurately located and mapped and if the village and area adjacent is mapped to reflect topography and natural features.

The trend in local governments is to replace the time consuming manual data keeping systems involving hand drafted maps and land records with modern computer technology which is much more versatile. In Alaska there is the advantage of retrieving the information necessary to implement an automated mapping system now, at a transitional stage in the development of our survey and land records. Other states necessarily have long years of historical survey and land title data to retrieve before initiating such systems. A few localities in other states are now maintaining large scale maps in digital form, most are using turn key mapping systems provided by one of several companies that have established themselves in this field.

The large scale maps and data files have the special function of providing official public inventory of all units of land in one locality and any attributes that are of public interest. In much

of rural Alaska the problem of governmental levels -- local vs. Borough vs. state -- duplicating each other is simplified and the implementation of a mapping, land information system would be simplified if done soon.

Mapping at a relatively large scale for each rural community and a buffer area does not include a large acreage, in many cases probably not more than 2 or 3 square miles per village. First it requires the display of cadastral parcels in a scale range of 1:500 to 1:5000. These in turn are tied to geodetic control to establish precise location. When this data is digitized it can then be retrieved and plotted on planimetric and topographic maps as well as rectified or ortho photo enlargements. Scales can be manipulated as well as data files to retrieve the kind of information needed for specific purposes.

An essential element in the mapping process is vertical control from which topographic files can be developed and the data digitized into the system.

Typically in Alaska, village improvement plans or funding is not coordinated. For example, water system design and construction is funded separate from the sewer system project and also separate from roads or electric or fuel distribution systems. This results in a design and survey crew mobilized from one of the larger cities where these professional services are available, travelling to the village to gather survey and engineering data to design the one project. These mobilization and logistical costs represent a substantial part of each project and could be minimized and duplication eliminated if basic cadastral and topographic data was conveniently retrievable.

Historically land and resource informational systems have failed when the basic cadastral, geodetic control phase was either ignored or inadequate.

The State of Alaska has been preparing a series of publications describing each community with narrative, illustrations and graphical information on one side of a folded sheet and mapping data on the opposite side. These publications are commonly called "community profiles". The "map" is an aerial photo enlargement with some cadastral information overlaid. Because an unrectified photo is used the relationship of the cadastral data to the photographic information is not accurate nor will the scale of the map be constant because of distortion always prevalent in unrectified photography.

This same cadastral data serves as a base for maintaining land ownership records and the land records system.

PROPOSAL

Initiate a pilot program to develop a computerized data storage and retrieval system for mapping data in rural Alaska communities. Phase I would develop the cadastral topographic mapping component with Phase II being the land ownership record component. Phase III could be the recording of land and resource information such as soil conditions, gravel sources, underground water data, geologic and biological data.

Software packages are available from several sources for the mapping component. The Province of Alberta Canada has embarked on a program to provide a map base for each community. The State of North Carolina has recognized that each county government should be equipped to maintain a standard system of large scale maps and records. There are at least five different systems for computerizing cadastral data available from private firms. In addition, the Bureau of Land Management and the State of Alaska Department of Natural Resources have data files for cadastral survey and hydrographic information which can become part of the total data base.

The proposal is to select a community actively working on or planning improvements in its utilities and roads -- one that has several planned projects for either installing or extending its utility systems or adding on new subdivisions. Candidates for selection are Fort Yukon, Galena, Nulato, Egegik and probably several others.

Cadastral data would be gathered and tied into geodetic control, photo points paneled, aerial photography taken, this data digized and a series of base maps prepared and printed. Initial mapping products would include:

1. Cadastral planimetric map
2. Cadastral/Topographic/planimetric map.
3. Topographic/planimetric map.
4. Orthophoto
5. Orthophoto/cadastral map
6. Orthophoto/Topographic map
7. Orthophoto/Topographic/cadastral map

The cadastral survey file would contain land description identifiers to allow for retrieval of data for a specific tract of land or to store data pertaining to land ownership and title.

Once developed these data files and maps can be routinely updated -- providing for a permanent record and system for accumulating, maintaining and retrieving land survey, ownership, topographic and even resource information.

The initial proposal is to develop the mapping component followed by decisions on the land title phase after the map data is completed.

It seems to be very worthwhile to discuss the 14(c) survey process and at the time these surveys are contracted to gather basic data -- horizontal and vertical control -- necessary to build quality mapping. Since survey crews will be mobilized for 14(c) surveys at very little additional costs the vertical control data could be gathered and if funds were available the photo points paneled and even the photography completed at the same time. As a minimum the 14(c) contracts should include specifications for the acquisition of vertical control.

Data Base Components:

Survey Control: The survey control data base consists of a network of survey control markers and the X, Y and Z coordinates. These coordinates are derived from survey measurements taken in the field.

Photogrammetric Control Data Base: Following installation of the survey control network, approximately 25% of the survey markers are targeted with materials which can be picked up by aerial photography. The area is then flown and photographed. This controlled photography is then processed to provide a rectified or otherphoto enlargement.

Land Survey Data Base: The coordinates for the governing monuments and other points of the existing land survey provides this data base. These measurements by distance and bearing are made from the survey control (geodetic) markers to the land survey or cadastral markers. From this data coordinates are established for each lot, block or corner monument within the present land survey (cadastral) system.

Mapping Data Base:

1. **Land Survey (cadastral component):** This component is constructed from survey data and is comprised of the land survey boundaries, dimensions, identifiers, hydrography. Mapping scales should be 1:1000 and 1:5000.

2. **The contour (topographic) component:**

The contours are derived photogrammetrically from the aerial photography. Information can be transformed into digital form by digitizing off-line and outputting to magnetic tape.

Once compiled the contour and spot heights information is integrated with the land survey component.

3. The ortho photo component: The ortho photo is produced from aerial photography using the photogrammetric control data base as a foundation. It is corrected so the image can be used in conjunction with the cadastral and topographic components.

PHASE I: Mapping

1. Field. Survey ties from geodetic control to cadastral and survey control markers with both horizontal (X&Y) and vertical (Z) coordinates.
2. Field - Target survey control markers.
3. Field - Aerial Photograph
4. Office - Aerial Photograph
 - Orthophoto production
 - Contour compilation
5. Office - Digitizing of cadastral, topographic & hydrographic components.
6. Office - Automated plotting of data
7. Office - Reproduction
8. Field & Office - Editing
9. Office - Printing of Map Products
10. Maintenance of these data files could come from the professional engineers and surveyors doing work in the community by requiring filing of "as built" surveys

PHASE II

1. Create property ownership files relating land title data to land description utilizing cadastral base for describing ownership parcels.
2. Maintenance of these data files would be achieved by input of land sales and property documents required to be filed at local recorders office.

PHASE III

1. Create the land resource file as resource data is gathered over time.
2. Maintenance and additions to these files would occur as new information is gathered.

The initial mapping phase would be done recognizing its relationship with Phase II and III.

Alaska Native Land Managers Association

~~8200 Seward Street~~ 528 N Street
Anchorage, Alaska 99501
~~(907) 272-4254~~ 277-9355

ALASKA NATIVE LAND
MANAGERS ASSOCIATION
Pouch 6699
Anchorage, Alaska 99502

FEB 8 1985

February 4, 1985

Senator Arliss Sturgulewski
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Re: Alaska Native Land Managers Association Meeting in Juneau

Dear Senator Sturgulewski:

This is to inform you that our association will be conducting our regular membership meeting in Juneau on Thursday, February 28, 1985. The association is a state-wide non-profit organization involved in the education of the Native corporations' land managers. We currently have approximately 80 members, the majority of which are village and regional corporations. We would cordially like to invite you, or your authorized representative, to join us at our meeting. We will be meeting at the Alaska Native Brotherhood Hall at 320 West Willoughby Avenue at 9:30 A.M. I am attaching a copy of our agenda, our current membership roster, and some background information about our organization.

Please let us know if you plan to attend. We look forward to seeing you and hope that you will make plans to participate in our upcoming meeting. If you have any questions or need additional information, please feel free to contact our Secretary/Treasurer, Fran Zimmerman, at our offices.

Very truly yours,



Dan Alex
President

Encl.
fz

*Tentative 10:00 AM / 5:00 PM presentation
re: lands issues before Senate
Resources Committee.*

DONNA MURPHY
FRAN ZIMMERMAN

Alaska Native Land Managers Association

~~840 N. STREET, SUITE 202~~ 528 N Street
Anchorage, Alaska 99501
~~(907) 272-4254~~ 277-9355

ALASKA NATIVE LAND
MANAGERS ASSOCIATION
Pouch 6699
Anchorage, Alaska 99502

FEB 8 1985

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Senator Arliss Sturgulewski
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Very truly yours,



Dan Alex
President

Encl.
fz

*Tentative 10:00 AM / Short presentation
re: lands issues before Senate
Resources Committee.*

DONNA MURPHY
FRAN ZIMMERMAN

Fm Office of Gov 10⁰⁰AM / Ray Gillespie
- leg process

10³⁰ Tentative time for presentation

Alaska Native Land Managers Association

840 K Street, Suite 202
Anchorage, Alaska 99501
(907) 272-1254

ALASKA NATIVE LAND MANAGERS ASSOCIATION
REGULAR MEETING
Thursday, February 28, 1985
Alaska Native Brotherhood Hall
320 West Willoughby Avenue, Juneau, Alaska
9:30 A.M.

TENTATIVE AGENDA

- I. CALL TO ORDER
 - II. INTRODUCTION OF EVERYONE PRESENT
 - III. ROLL CALL
 - IV. *NOMINATION OF NEW MEMBERS
 - A.
 - B.
 - C.
 - D.
 - V. ADOPTION OF AGENDA
 - VI. *APPROVAL OF MINUTES OF LAST MEETING
 - VII. REPORTS AND ITEMS FOR DISCUSSION
 - A. Community Mapping System Proposal - Curt McVee, ITECH
 - B. Alaska Native Service Agency Concept - Jake Lestenkof, Bureau of Indian Affairs
 - C. BLM Report - Robert Arndorfer, Horace Sanders, and Fran Eickbush
 - D. Allotment Committee Report - Frank Borecki
 - E. DOTPF/LMA Task Force Report - Paul Costello
 - F. ANF 14(c) Report - Sharon McClintock
 - G. *Federal Townsite Committee Report - Sharon McClintock
 - H. Submerged Lands & Overselections Committee Report - Al Cronk
 - I. Land Planning Committee Report - ? New Chairperson
 - J. Fish & Game/LMA Task Force Report - ? New Chairperson
 - K.
 - L.
 - M.
 - VIII. OTHER BUSINESS
 - A. Treasurer's Report - Fran Zimmerman
 - B. Executive Board Report - Dan Alex
 - C.
 - IX. ANNOUNCEMENTS
 - X. TIME AND PLACE OF NEXT MEETING(S)
 - XI. ADJOURNMENT
- *Potential Action Items

Alaska Native Land Managers Association

840 K Street, Suite 202
Anchorage, Alaska 99501
(907) 272-1254

ALASKA NATIVE LAND
MANAGERS ASSOCIATION
Pouch 6699
Anchorage, Alaska 99502

The Land Managers Association (LMA) was established in the period of 1973-1974 as an informal association of individuals involved in managing lands to be conveyed to Alaska Native peoples as a result of the Alaska Native Claims Settlement Act (ANCSA) of 1971. The original organization was composed of the land managers from the regional corporations only. In 1975, the organization changed the membership requirements to accept village corporations as voting members as well.

The first chairman of the Land Managers Association was Richard Atuk of the Bering Straits Native Corporation. In 1975, Daniel Alex of Eklutna, Incorporated was elected as chairman and has served in that capacity ever since. In 1976, bylaws for the Association were drafted and accepted by the Land Managers. These bylaws were reviewed by the Alaska Federation of Natives and received concept approval. In 1978, Byron Malott, then President of the Alaska Federation of Natives, signed an agreement with the United States government and the State of Alaska, beginning the existence of the Cooperative Land Management Task Force. Responsibility for monitoring and making recommendations regarding Native issues on the Task Force was assigned to the Land Managers Association.

During 1976, the Land Managers Association met and decided that a law suit was necessary to contest the legality of the reservation of certain easements in Native conveyances which would have clouded title. After a joint meeting of the Alaska Federation of Natives and the Land Managers Association, the law suit was filed and subsequently won.

On July 21, 1977, there was a large attendance and testimony given by members of the Land Managers Association at the Alaska Native Claims Settlement Act oversight hearings held in the U.S. House of Representatives, which was the first step toward the creation of the Alaska National

Interest Lands Conservation Act (ANILCA).

In 1982, the Alaska Native Land Managers Association incorporated under the non-profit laws of the State of Alaska and Section 501(c)(3) of the Internal Revenue Code. The purposes for which the corporation was formed are set forth in the Articles of Incorporation, and are as follows:

- (1) "To provide continuing education to Alaska Native Land Managers by facilitating the exchange of information, ideas, and technical assistance which may be of mutual benefit to land managers; to provide the AFN Land Claims Board and the respective Boards of Directors of the member Native corporations and organizations with information respecting regulations, precedures, problems and decision-making options; and to encourage the wise beneficial and integrated use and management of Alaska Native lands with regard for the interests of Alaska Natives; to provide information and assistance on behalf of Alaska Natives to the "Alaska Land Use Council" and other organizations and entities as the Corporation or the President, after consultation with the Board of Directors, deems appropriate.
- (2) To negotiate for common interests and speak on public issues affecting Native lands and rights; to encourage participation in the political process by knowledgeable persons;
- (3) To hold meetings of the members to discuss matters of common interest; and
- (4) To bring or defend suits to enforce Federal, State and Municipal laws of whatever kind, whether codified or common, affecting Native lands and rights."

The Alaska Native Land Managers Association has always been very active in working as a forum for solving problems related to Native lands management. Some of the areas that the Land Managers Association has worked on are:

1. Implementation of the Alaska Native Claims Settlement Act.
2. Drafting and implementation of the portions of the Alaska National Interest Lands Conservation Act that deal with Native lands.
3. Drafted the Department of Transportation and Public Facilities Airport Templates and negotiated related Memorandum of Agreement.
4. Contributed to the formation of the Alaska Native Foundation publication entitled, "Village Land Reconveyance Planning - A Handbook on ANCSA Section 14(c)".
5. Involved in resolving Municipal Trust lands issues.
6. Responsible for having the Bureau of Land Management Alaska plat approval function transferred to Alaska from Colorado.
7. Has advised the Alaska Federation of Natives Land Claims Board on specific land issues.
8. Involved in working out the escrow arrangement in the Omnibus Act.
9. Continually involved in easement and right-of-way issues.
10. Involved with the Bureau of Land Management working out problems, regarding ANCSA conveyances.
11. Has worked extensively with the Bureau of Land Management and the Bureau of Indian Affairs to resolve problems regarding Native allotments.
12. Worked on acquiring additional funding for the Bureau of Land Management Cadastral Survey to accelerate the Native land conveyance process.

13. Continually involved in education and training of individuals responsible for Native land management.
14. Worked as one the final review organizations on the ANCSA 1985 Report to the U.S. Congress.
15. Is recognized as a leading Native organization on State and National levels.

The Association's current working committees include:

1. The Land Planning Committee.
2. The Allotment Committee.
3. The Trespass Committee.
4. The D.O.T.P.F./L.M.A. Task Force.
5. The A.D.F.&G./L.M.A. Task Force.
6. The Submerged Lands and Overselections Committee.
7. The Federal Townsite Committee.

As a result of its effectiveness, the membership of the Alaska Native Land Managers Association has more than doubled in the last two years. The Association currently has some 80 member organizations, comprised of regional and village corporations, traditional councils, State and Federal agencies and land related professional corporations.

If you are interested in membership or further information, please contact either Dan Alex, President, or Fran Zimmerman, Secretary/Treasurer, at 277-9355.

Thank you for your interest.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF TECHNICAL SERVICES

BILL SHEFFIELD, GOVERNOR

3601 C STREET
SUITES 900-984
ANCHORAGE, ALASKA 99503
PHONE: (907) 276-2853

October 12, 1984

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

Dear Senator Fahrenkamp:

In response to your letter of inquiry concerning State Land Surveys pertaining to prior and current land disposal programs, the following information is submitted in numerical order of your specific concerns.

1. AS 38.04.045(b) requires an official cadastral survey prior to conveyance of surface rights to State land.

Background:

The term "Cadastral Survey" has come to mean different things to different people, including State employees. Several years ago the United Nations published a definition of a cadastral survey which had been prepared by the Pan American Institute of Geography and History. It is stated in the following language, aimed at worldwide comprehension and acceptance:

"Cadastral surveys create, reestablish, mark, and define boundaries of tracts of land. Such surveys, unlike scientific surveys of an informative character, which may be amended with changing conditions or because they are not executed according to the standards now required for accuracy, cannot be ignored, repudiated, altered, or corrected, and the boundaries created or established cannot be changed so long as they control rights vested in the lands affected."

1. Background (continued)

By virtue of the State of Alaska being created from public domain lands of the United States, with few exceptions, all title emanating from the Federal Government to the State is based on the public land surveys under the Rectangular System. An exception to this rule is title to land designated as U.S. Surveys or conveyed by Executive Orders and Public Land Orders. These are few in comparison to land selections by the State based on Townships or portions thereof.

Under Section 6(g) of the Alaska Statehood act, the B.L.M. is required to survey only the exterior boundaries of large tracts of lands selected by the State from the Public Domain in Alaska. In addition, there is an unwritten agreement whereby ground monumentation along the exterior boundaries is established at two-mile intervals. The State is presently receiving patents to blocks of townships where only the exterior township boundaries are surveyed and monumented at two-mile intervals. This has the effect that the interior township acreage is in fact, unsurveyed and the State will be responsible to complete or partially complete the Federal skeleton township surveys as predicated on resource needs. Over thirteen (13) million acres of land has also been patented to the State without any type of ground survey or monumentation, based upon protraction diagrams that were created for Federal oil and gas leases. Depending upon resource and management needs a large portion of this acreage will also require the State to perform surveys in order to identify the boundaries on the ground.

Due to the lack of adequate ground monumentation as a result of skimpy Federal Cadastral Surveys, a great burden has been placed with the State in the identification and management of lands conveyed to-date by the Federal Government. The exterior boundary skeleton surveys performed by the Federal Government require completion surveys by the State due to the approximate two-mile spacing of the Federal monuments, also, the State is required to further sectionalize by subdividing the skeleton townships into sections or other aliquot parts for current State land disposal programs. This additional survey work the State must perform is costly and will be a continuing long range program in order to support and facilitate land management programs on State lands.

1. Background (continued)

Cadastral Surveys create and establish land boundaries. They identify the parcels of land on the ground and afford descriptions and areas for the various future subdivisions for title purposes. Historically, cadastral surveys are prerequisite to any land management, development, or conservation program, since it is fundamental that the boundaries of the land being administered must be definitely identified on the ground before any program requiring the expenditure of funds can be safely undertaken. As the State continues to receive its' entitlement of lands from the Federal Government, up to 104 million acres, the necessity for the State to expend funds for Cadastral Surveys as a supplement to the Federal surveys, will continue to expand and grow based upon resource needs and development.

The lack of adequate cadastral surveys throughout Alaska compounds other issues such as determination of submerged lands both coastal and inland, navigability and computations for acreage of conveyable uplands, to cite just a few. Over 200 years of history reveals that settlement prior to survey creates many problems paramount to chaos.

In accordance with Section 6(g) of the Alaska Statehood Act, where any lands desired by the State are unsurveyed at the time of selection, B.L.M. generally surveys only the exterior boundaries of the area selected without any interior subdivision and patent is issued in terms of the exterior boundary survey.

Section 38.04.045(b) requiring an official cadastral survey is in reference to the establishment and monumentation of rectangular section corners which is the extension of the public land survey system within the B.L.M. Township exterior boundary surveys.

It is a well-settled principle that the transfer of title to State lands is based on surveying and platting the boundaries of land prior to conveyance under any legislative act for disposal. A plat of survey is the basis of title within government as well as within the private sector.

1. Waiver of Official Cadastral Survey:

The circumstances permitting the waiver of a Cadastral Survey, (section and quarter corners of the rectangular system) and substituting control monumentation are related to the type of disposal programs designated under various statutes. Specifically, the waiver of the rectangular surveys originally was to provide for the staking and subsequent metes and bounds survey under the Open to Entry and Remote Parcel disposal programs. These programs allowed dispersed or random staking, by metes and bounds, of parcels up to 40-acres in size.

Generally, the O.T.E. and Remote Parcel disposals are situated in remote areas of the State that have not been surveyed under the rectangular system due to lack of settlement and high cost of extensive surveying and monumentation, as a result of wilderness type topographic features of the land. The staking requirements for the old O.T.E.'s and Remote Parcels allowed the entryman to stake within a specified area designated for this type of disposal. Upon completion of the staking the entryman is then required to pay the cost for survey and platting of the parcel within a specified time period. This is accomplished by the entryman contracting with a private registered surveyor to perform the work.

The rectangular system of surveys has been waived in favor of control surveys for virtually all areas identified and designated for open to entry and remote parcel disposal programs. The open to entry and remote parcel disposals have accounted for roughly 60% of State land disposed of to-date, however, the remote parcel program is now replaced by the new homestead act which will increase the waiver provisions under the Title 38 rewrite. The prime justification for the waiver of the rectangular system is the high cost of performing the surveys in the remote areas of the State.

At the time of Statehood, less than 2% of the land mass in Alaska had been surveyed under the rectangular system. The surveys at this time

1. Waiver of Official Cadastral Survey (continued)

were confined to the settlement and rail belt areas and were executed to provide for Federal land disposals. After Statehood, the Federal Government began public land surveys to accommodate transfer of Federal public lands selected by the State under the Alaska Statehood Act. Later by the passage of the Alaska Native Claims Settlement Act, Federal surveys were initiated to accommodate the transfer of lands selected under A.N.C.S.A.

To-date only a small portion of the State is covered by sectionalized surveys under the rectangular system. These areas are mainly confined to the Anchorage, Matanuska Valley, Fairbanks and Kenai Peninsula where the majority of settlement and development has occurred earlier, prior to, and just after Statehood. The vast majority of State land received to-date from the Federal Government is unsurveyed as only the Township exterior boundaries are surveyed by the B.L.M. under "skeleton type" cadastral surveys. In addition, the B.L.M. has only surveyed 35% of the exterior boundaries of the State's entitlement to over 104.5 million acres selected since the advent of Statehood. It is projected that at the present rate of progress it will take the B.L.M. an additional 32 years to complete the exterior type surveys required to patent all lands selected by the State in fulfillment of the State's total entitlement. Prior to Statehood, B.L.M. protraction diagrams were constructed for the large unsurveyed areas in Alaska, whereby the mathematical values for each township corner was computed for the parenthetical identification of Federal gas and oil leases. The protraction diagrams were later used as a basis for State land selections and even some conveyances. The protractions serve an imminent administrative need by a map representation of land divisions on paper, but does not identify the boundaries on the ground. The eventual ground survey may or may not conform to the protraction diagrams and will not replace the eventual requirements for field surveys and monumentation as dictated by surface resource management needs. Land boundaries must be monumented and identified on the ground in order for the land managers to know what they are managing.

2. Control Monumentation:

Control surveys and monumentation are not cadastral surveys as the monuments established do not create or identify land boundaries. In control surveying the science of geodesy is employed to establish geodetic positions (latitude and longitude) at specific locations in order to reference the points at a precise location on the surface of the earth. Cadastral surveys are normally tied to the geodetic network but the boundaries established are controlled and identified by the cadastral corner monuments and not the control monuments.

Under AS 38.04.045(b) the substitution of control monumentation is allowed providing the monuments are placed within a two-mile radius of the designated staking areas. The remote parcel surveys, based on metes and bounds, are then tied to the control monuments to afford a geographic location to be placed in proper positions on the records status plats. The control monuments serve as a means to map identify the remote surveys but does not provide the legal descriptions for title transfer.

The waiver of the rectangular system of surveys and substituting control survey monumentation may be the most economical way for the State to dispose of land, however, the burden of costs are transferred to the private entrymen which sometimes exceeds the value of small parcels applied for. This practice also has the undesirable side effect of leaving the boundaries of areas open to staking unidentified on the ground which in many cases requires the entryman to pay the cost of surveying State administrative boundaries identified by the rectangular survey protraction diagrams. This has the effect that although the rectangular system has been waived the closed boundaries around the staking areas are still based on the rectangular system. Many problems have surfaced, and are still surfacing, where parcels have been staked outside the area identified for staking as a boundary shown on a map cannot be identified on the ground, even by professional surveyors, unless properly surveyed and monumented. Some remote parcels have been staked in areas that were not even classified for disposal.

2. Control Monumentation (continued)

Random metes and bounds staking allows the entryman to select the best land but this in turn creates the problem of DNR's accountability and management of vacant unappropriated slivers of State land not staked. Numerous title problems are being encountered due to overlaps and mislocations of remote parcels when finally surveyed and platted.

Unlike cadastral surveys that establish sections and aliquot parts thereof, control monumentation is placed on the ground in designated areas at locations within a two-mile radius of probable staking areas that just serve a one-time purpose.

The costs for performing cadastral surveys and establishing horizontal control stations in Alaska are significant and the monumentation resulting from these surveys should not serve just a single purpose in the disposal of State land, but rather, the surveys and monumentation should be designed to serve the functional needs for all State and private land identification activities now and in the future, regardless of the funding source. Survey regulations must be adopted to establish uniform standards that will insure a better utility of costly surveys are taken into account during the survey planning stages.

3. State Subdivision Surveys:

Prior to the design and subsequent staking of State subdivisions a cadastral survey is normally performed, establishing the sections the subdivisions are situated in. This allows for tracking and identification of the remaining un-subdivided acreage within the respective sections for future management or disposal purposes without need for additional surveys. The cadastral survey (extension of the rectangular system) also provides a broader acreage base for detailed soils investigations to extract more disposable net lot acres within a designated State subdivision.

3. State Subdivision Surveys (continued)

In the past agricultural parcels have been disposed of by tracts and as aliquot parts descriptions based upon cadastral surveys establishing the sections or portions thereof. This has been an expedient and economical method for agricultural disposals as the basic land unit identified under the rectangular system are established on the ground from which title to tract layouts or aliquot parts can be transferred with a minimum of field surveys. This also increases the appraised value of the land by virtue of being surveyed and monumented whereby the State's costs for the cadastral surveys are recovered in the sales price of the agricultural parcels.

Native allotment surveys are not provided for under State authority. The surveys of native allotments are the responsibility of the Bureau of Land Management under the 1906 Native Allotment Act. These surveys conform to both aliquot parts and metes and bounds descriptions depending upon the allottee's ground staking or filed applications conforming to the public land surveys (rectangular system). Under the 1906 Act, an Alaska native was allowed to claim up to 160 acres based on certain criteria, however, the 160 acres did not have to be contiguous and could be claimed in up to four (4) separate parcels making the eventual surveys cumbersome and costly.

Other surveys performed by DNR that are not related to land disposals are various original boundary surveys for land management administrative needs. These include long-term lease boundaries, based on the rectangular survey system, for upland oil and gas leases, coal leases and various mineral leases. As requested, DNR also provides for the surveys of the boundaries of other State lands such as State Park boundaries and State Forest boundaries. These are also generally identified and described in conformance to the rectangular system based upon the conveyance from the Federal Government. As the population of the State continues to grow and the need for natural resource protection and management expands, the requirements for accurate ground identification and monumentation of State land boundaries will become more evident resulting in the recognition of the continuing need for a long-range State cadastral surveying program.

4. Current Homestead Offering Procedures:

Subsequent to the implementation of the homestead act in July 1984, it became apparent that there was not sufficient land available, that was surveyed under the rectangular system, for disposal under AS 38.09.020(b) (aliquot parts). In addition, in order to quickly identify land already classified for disposal, some of the land to be included in homestead offerings did not feasibly lend themselves to the aliquot parts disposals by reasons of winding rivers with oxbows and desirable land restricted to close proximity to shore lines, or mountainous areas with probable staking areas confined to valley bottoms. As a consequence, it was proposed that SB 375 (Title 38 rewrite) amend AS 38.09.010(b) to allow the waiver of a cadastral survey (rectangular system) and substitute control monumentation under specific conditions. This was done, which in reality reinstated the remote parcel survey requirements, however, the Title 38 rewrite went further, as AS 38.09.010(b) was additionally amended to delete the requirement that a homestead entry be within one-mile of a control monument. The same language was also inserted into AS 38.04.045(b) which has the effect that not only the requirement that land open for staking be within two (2) miles of a control monument be waived, but also the cadastral survey requirements for the conveyances of surface rights to State land can be waived. As these waivers are exercised a greater survey burden will be transferred to the entrymen as they will be forced to pay the private surveyor for more extensive survey work in order to comply with platting requirements for title purposes. This will materially increase the cost for acquiring State land under the homestead program.

As the FY '86 land offerings (and '85's not contracted) will be the first surveyed under the Title 38 amendments (Chapter 152 SLA 1984), under the 1985 fiscal year budget, the following is based upon initial Division of Land and Water Management proposals.

4. Current Homestead Offering Procedures (continued)

Southcentral District:

Initially proposed 28 homestead type disposals. Initially requested 22 receive only control monumentation, of these, 7 were former remote staking areas so monumentation was in place to meet former statutory requirements. (These were considered as no survey required even though cadastral survey may have been appropriate in some areas.)

After discussions with DTS, District changed the type of disposal planned and the request that 4 other disposal areas receive only control monumentation was dropped in favor of cadastral surveys.

Because of funding limitations, not all of these projects have been advertised for contract. Remaining homestead projects to be contracted when funds become available - 12. Of those 12, Land and Water Management would like to control survey (rather than cadastral) 9 projects. It is possible further analysis and availability of funds will alter this plan further.

Northcentral District:

Proposed disposals by homestead type entry, 15, of these, 3 were to be control monumentation.

Southeast District:

Two homestead type disposals were proposed. One lies within surveyed sections. The other is to be metes and bounds parcels surveyed from control monumentation.

Statewide 45 homestead type disposals were proposed. Initial proposals were that 26 of these receive only control monumentation.

I feel it is safe to assume the percentage of waivers of cadastral surveys and even control monumentation for homestead disposal areas for.....

4. Current Homestead Offering Procedures (continued)

any given year will be as much related to the disposal level assigned (acreage to be offered), surveyed acreage available to meet the assigned disposal level, time available to perform surveys when needed and funding authorized to perform those surveys as it is to topography and other criteria assigned for waivers.

Survey procedures utilized for the homestead program are directly related to the type of parcel staking authorized by the Division of Land and Water Management under authority delegated it by the Commissioner's Office. If the parcels are to be disposed of by aliquot parts, the cadastral (rectangular) survey must be existing or created, as aliquot parts of a section are a direct function of the location of the section and quarter-section corners of that section. Until the parent parcel (the section) exists, the breakdown of that parcel (aliquot parts) does not exist and cannot be surveyed.

If the disposal is to be by random staking (metes and bounds) entries a control survey may suffice. Each disposal area is analyzed by technical staff to determine whether future land management needs dictate a sectionalized survey even though the disposal will not be by aliquot parts. Factors that might affect this determination are: topography; desirability of, or interest in, area; existence of rectangular survey in general area; access that might indicate future settlement; disposal area boundaries that need to be defined; is funding available to allow a more extensive survey than required for immediate disposal (that is can the survey be planned for the long-term rather than the short-term benefits?) and does the disposal schedule allow time for a more extensive survey if other factors indicate it is desirable.

Staking procedures are outlined in the disposal brochure for entrymen.

4. Current Homestead Offering Procedures (continued)

A review of the staking instructions for Homestead No. 1 (Summer 1984 brochure) shows the following:

- 1) Shape - approximately square or rectangular with straight boundaries (Note: this does not necessarily mean aliquot parts).
- 2) Spacing - . . . must either have a common boundary with another homestead or be at least 300 feet from other homesteads . . . 300 foot minimum spacing between homestead parcels does not apply when the homesteads are separated by trails, designated water bodies, or steep ravines. (Note: Aliquot part section breakdowns do not usually lend themselves to 300 foot dimensions or spacing. Also note many areas have parcels predesignated eliminating any options in staking.)
- 3) Water bodies - if a homestead fronts on a lake, river or stream, the side boundaries must be approximately perpendicular to the water frontage, unless prevented by unusual site conditions. (Note: This does not lend itself to aliquot part staking.)

The length of the side that fronts on such a designated water body may not exceed 33% of the homestead's total perimeter. (This, too, bears no relationship to aliquot part parcel layout.)

- 4) Orientation - along water bodies, side boundaries must be as close to perpendicular to the parcel water frontage as possible. Where water frontage or topography do not dictate the orientation of the homestead, the sides of the homestead must be oriented in the cardinal directions. The latter part of this instruction is an attempt to keep the general parcel configuration as near to an aliquot part shape as possible without actually requiring aliquot part staking.)

The above information can be found on page 30 of the Summer 1984 disposal brochure. The rules are too general to cover all cases, but they do imply

4. Current Homestead Offering Procedures (continued)

an intent to vary from the aliquot part method of disposal. An examination of page 31 of the same brochure shows the following:

- 1) Number of homestead entries to be authorized: 227.
- 2) Of those, 49 are predesignated (this eliminates any choice on the entryman's part as to location or shape).

A more definitive answer to this question would require researching each homestead offering to ascertain the site specific staking instructions being applied.

5. Remote Staking Problems:

The Department of Natural Resources has taken the position that section line easements under AS 19.10.010 apply to all Protracted Sections as depicted by the protraction diagrams covering unsurveyed areas within the State. Until such time as the section lines are surveyed and monumented on the ground, there is no way an entryman or a professional surveyor can identify with certainty the theoretical section lines during the staking process or the subsequent metes and bounds survey of remote parcels and homesteads. In addition, the actual section lines when surveyed and monumented on the ground, may or may not conform to the protractions. Once the B.L.M. surveys the township exterior boundaries, the approved plat of survey supercedes the protraction diagram and the further subdivision (sectionalizing) within the township is dependent upon the established township boundary monuments and not the protraction diagrams. This is pointed out only to emphasize that a plat of survey with accompanying ground monumentation creates legal land boundaries and not projections depicted on a map. There are other legal ramifications to this issue that are not within my purview at this time to address.

The 'patchwork' of oddly shaped parcels are inherent in any metes and bounds description and location. The claimant or entrymen will naturally stake and claim only the best parcels of land suited to individual desires, topography, access and other criteria considered. This in turn creates slivers of unclaimed State lands that still must be accounted for and

5. Remote Staking Problems (continued)

managed. In areas of unlimited entry, it is not unusual to encounter encroachment of one parcel into another that presents title problems as to senior rights among other things. The integrity of the private metes and bounds survey itself is sometimes questionable due to traversing great distances in order to obtain the required geographic ties for correct location in relation to other parcels situated in the general remote areas.

In my opinion, many of the staking problems associated with remote locations can be eliminated if, as a minimum, the State would survey and monument the exterior boundaries designating any closed area open to staking. This would be in addition to the geodetic control monuments to be established for positioning and platting purposes. In effect, this would entail a mini cadastral survey as the closed boundaries are generally described by section lines. The section and quarter corner monuments themselves then would also serve as control monuments for location purposes. Unlike the remote parcel disposal programs that were exempt from municipal platting authority, the new homestead act places the homestead surveys under municipal platting regulations which will add to the surveying and platting requirements where applicable.

Ideally, a cadastral survey should be executed in the areas for any and all types of land disposal to establish at least the basic grid of section and quarter corner monumentation. The resulting monumentation would serve multiple land identification purposes and not just a one-time single use. The section line easement issue would no longer be questionable as the section lines would be established and identifiable on the ground. Remote parcels or homesteads could be disposed of by aliquot part descriptions without additional surveys, or random metes and bounds staking could occur but with better control, as at a minimum a section or quarter corner monument would be available for geographic positions. Regardless of disposal configuration the establishment of the rectangular net will allow better land utilization and accountability in addition to quality title and less record keeping. Land title based on tracts or lots designated on a cadastral survey plat are less cumbersome than lengthy drawn out metes and bounds descriptions that require volumes of records and status maintenance.

6. Affects of Requirement for Cadastral Surveys for all State Land Disposals:

The requirement for a cadastral survey on all State lands prior to any disposal would, in my view, be highly desirable from the standpoint of the long term benefits the State would realize. The rectangular system of surveys is a marvel of simplicity. Once the section and quarter corner monuments are established on the ground, the lands can be further divided into aliquot parts, and thus described and identified. Metes and bounds descriptions may also be accommodated, but in a better controlled configuration within a section of surveyed land where all acres are accounted for. The market value of surveyed land is greater than unsurveyed land by reasons of precise identification and ability to transfer quality title.

In the past, the policy has been to perform the surveys of identified disposal projects one year in advance of the planned disposals, providing funding was available. This allows ample time for the private contracting process and the filing of the approved plats of survey in the State Recorder's Office prior to disposal offerings. As long as this one year lead time can be maintained, I cannot foresee any time delays that would be encountered in performing cadastral surveys versus control type surveys.

By nature, cadastral surveys (rectangular system) are more costly than control type surveys due to more extensive line running and density of ground monumentation. The increased costs incurred by executing cadastral surveys in areas identified for disposals are offset in the long term by better utilization of the basic land units monumented and identified on the ground. These costs are in turn recovered by the State through the sale and/or leasing of State lands.

Surveying and mapping are fundamental services and support programs that underlie practically every State endeavor beginning with the ownership, exploration and development of the lands and their resources. Meeting the requirement for surveys and land-related information is critical for the various uses of resources and for the State's social and economic well being.

6. Affects of Requirement (continued)

Collectively such information contributes to the development of a multi-purpose land record system. On a broader level, attention is focused on future requirements for natural resources and the long range objectives for the development, utilization and conservation of these resources. The programs and coordination of geodesy, cadastral surveying and multi-purpose land records activities plays a key role in the support of the Department's programs to meet these requirements.

It can be assumed that certain areas in Alaska will never require surveys, as settlement and development of the lands may not occur, such as designated wilderness areas, critical habitat management areas and parks that include glaciers or high mountainous terrain. The foreseeable need for cadastral surveys will arise in conjunction with settlement and the eventual development of the State's natural resources and conservation program thereof.

7. Funding Received for Survey for Land
Disposal FY '79 - FY '84: (1,000)

Detail

FY '79	\$	2,027.4
'80		6,480.0
'81		12,403.1
'82		11,684.8
'83		5,000.0
'84		<u>1,700.0</u>
TOTAL	\$	39,295.3

Actual funds expended on professional
 survey contracts FY '79 - FY '84: \$ 30,147.2

\$ 39,295.3 = 100%

-30,147.2 = 77%

\$ 9,148 = 23%*

* The 23% includes funding for personal services, travel, other contractual commodities and equipment.

Other contractual included space, mining claim backlog project and the following:

USGS Mapping Division	\$	25.0
NASA Photo		100.0
Orthophoto Quad Production		500.0
Tanana Basin Study		200.0
Orthophoto Mapping		28.1
ALARS Operation Study		8.0
1:250,000 Status Map		15.7
USDA Homer/Ninilchik		17.2
USDA Soils Conservation		84.0
Patenting Process		19.5
Management Training		16.5
B.L.M. Coop.		20.8
D.G.G.S. Survey Tanana Coop.		360.0
Integrated Terrain Unit Mapping		400.0
Applied Cybernetics		<u>27.4</u>

\$ 1,928.2

\$ 1,928.2 = 5%

7. Funding Received (continued)

FY '85 CIP funding for surveys to accommodate land disposals are as follows:

The direct charge CIP is set up under collocation code 10-44-07-607. All personal services (100), travel (200), commodities (400), equipment (500) will be charged to this code. All professional services contracts will be charged to 10-44-09-564. The following line spread has been established in Juneau.

	<u>10-44-07-607</u>	<u>10-44-09-564</u>	<u>TOTAL</u>
100	423.3	0	423.3
200	20.0	0	20.0
300	17.6	3,015.1 Survey Contracts	3,032.7
400	10.0	0	10.0
500	14.0	0	14.0
TOTAL	484.9	3,015.1	3,500.0

It is anticipated that the total \$3,032.7 will be expended prior to June, 1985 on survey contracts for FY '86 homestead disposals.

8. General Cost Estimates for Control Monumentation and Cadastral Surveys:

It is difficult to quantify the cost for control monumentation on a per acre basis, as the total acreage within a designated staking area is generally never claimed. The cost for control monuments depends upon the methodology used for establishing the positions, the logistics and number of monuments to be established in a project area. Past contracting experience reveals that control monumentation costs vary from a low of \$2,500.00 per monument to a high of \$6,500.00 per monument depending upon the variables mentioned.

The costs for performing cadastral surveys (rectangular system) in Alaska varies according to the geographical locations. Cadastral surveys in South Central Alaska cost between \$3,000.00 and \$3,500.00 per mile. As a section does control acreage this equates to approximately \$21.00 per acre. The costs for cadastral surveys on the North Slope will average about \$25.00 per acre due to increased logistics. The costs are also higher in Southeast Alaska averaging \$4,500.00 to \$5,000.00 per mile due to dense timber and rough terrain. The costs there will average \$30.00 per acre surveyed.

8. General Cost Estimates (continued)

The following list identifies specific disposal projects along with the costs for contracting the various surveys.

Projects Advertised in FY '84

	<u>Cost</u>	<u>Gross Acres</u>	<u>Net Acres</u>
<u>Subdivisions:</u>			
Aspenwood	74,000	320	250
Kings River	68,200	160	81
Martin	209,200	1,440	1,000
Summit Lake	83,700	1,000	100
Upper George Inlet	18,200	2,240	150
Yakutat	<u>83,800</u>	<u>1,280</u>	<u>300</u>
TOTALS	\$ 637,000	6,440	1,881
<u>Cadastral:</u>			
Cascade Creek	141,900	1,622	
Goldstream	255,100	6,140	
Lynx Lake	44,200	880	
South Lake Louise	<u>79,500</u>	<u>3,840</u>	
TOTALS	\$ 520,101	12,482	
<u>Remotes:</u>			
Blying Sound	125,000		
Rainbow Lake	17,500		
Teklanika	<u>24,700</u>		
TOTALS	\$ 167,200		
<u>Carry-Over Large Lot Cadastral:</u>			
Hutlitakwa	64,400	3,114	1,158

I hope this response sufficiently covers all items of your inquiry, however if additional information or clarification is needed please feel free to contact me.

Sincerely,


Clyde Duren
Chief Cadastral Surveyor

Attachments: Three (3)

CD:b

A BILL (TITLE 39)

For an Act entitled: "An Act relating to land surveys."

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

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 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 EXCEPT THAT THE COMMISSIONER MAY WAIVE THIS REQUIREMENT ON A DETERMINATION THAT TOPOGRAPHIC FEATURES, DIFFUSE SETTLEMENT, OR THE PUBLIC INTEREST DO NOT JUSTIFY THE REQUIREMENT.] 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 recorders 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.

AS 38.09.010 is amended to read:

DESIGNATION OF LAND FOR HOMESTEAD ENTRY. (a) The commissioner shall designate and make available for homestead entry state land, including land classified for agricultural use. State land made available for homestead entry under this chapter shall be distributed throughout the state.

(b) The commissioner shall complete a cadastral survey of homestead entry state land under AS 38.04.045 before disposing of state land for homestead entry [BUT THE COMMISSIONER MAY WAIVE THE CADASTRAL SURVEY ON A DETERMINATION THAT TOPOGRAPHIC FEATURES, DIFFUSE SETTLEMENT OR THE PUBLIC INTEREST DO NOT JUSTIFY OR REQUIRE THE CADASTRAL SURVEY]. Homestead entry parcels shall be aliquot parts excepting when practical and legal access exists adjoining any parcel boundary or is assured through a planned designated route.

(c) Notice of the designation and offering of land for homestead entry shall be given by the commissioner under AS 38.05.945.

(d) Land designated for homestead entry is not subject to a preference right under AS 38.05.

(e) The commissioner shall prescribe a homestead entry procedure for each area designated under (a) of this section. The homestead entry procedure shall establish

- (1) the minimum distance between homestead entries in the area;
- (2) the dimensions, configuration, orientation or other design requirements for a homestead entry in the area;

(3) a description of land within the area that may not be included in a homestead entry;

(4) a requirement that a landmark, monument or other point be used as a point of reference for the measurement of distances within an area;

(5) a specification of the type of stakes to be used to mark the corners of a homestead entry;

(6) the time within which a homestead entry must be staked.

(f) The commissioner shall establish the maximum size of a homestead entry that may be selected in each area designated under (a) of this section except that the commissioner may not permit an entry on more than

(1) 160 acres of land classified for agricultural use; or

(2) 40 acres of land not classified for agricultural use.

(g) The commissioner may limit the number of persons permitted to stake homestead entries within an area designated under (a) of this section by a lottery of qualified applicants.

AS 38.09.020 is amended to read:

Sec. 38.09.020. HOMESTEAD ENTRY PERMITS. (a) A homestead entry permit entitles an applicant to enter land within an area designated under AS 38.09.010 and to [SURVEY,] occupy, and improve the land in order to qualify for a patent under this chapter.

(b) An applicant for a homestead entry permit shall personally stake the corners and flag the boundaries of the land entered under this chapter and shall personally file with the commissioner a

description of the land entered. A homestead entry shall be described by aliquot parts, [UNLES OTHERWISE PERMITTED BY THE COMMISSIONER.]

AS 38.09.040 is amended to read:

Sec. 38.09.040. REVOCATION OF ENTRY PERMITS. (a) A homestead entry permit may be revoked by the commissioner for any substantial breach of the permit conditions or the requirements of this chapter, including

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

(2) failure of the permit holder to submit [A PLAT OF SURVEY] an aliquot parts description of the homestead entry to the commissioner within two years after the issuance of the permit or under (b) of this section;

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

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

(5) failure to clear and either put into production or prepare for cultivation 25 percent of the land classified for agricultural use within five years after the issuance of the permit.

(b) IF THE COMMISSIONER DETERMINES THAT A PERMIT HOLDER HAS MADE A GOOD FAITH EFFORT TO OBTAIN A PLAT OF SURVEY, THE COMMISSIONER MAY

EXTEND THE TIME REQUIRED FOR COMPLETION OF THE PLAT OF SURVEY FOR NOT MORE THAN THREE YEARS AFTER THE ISSUANCE OF THE PERMIT.]

(c) If a homestead entry permit is revoked under (a) of this section, improvements or personal property upon the land shall be managed under AS 38.05.090 and the state land remains available for homestead entry under this chapter.

AS 38.09.050 is amended to read:

Sec. 38.09.050. ISSUANCE OF PATENT. (a) The commissioner shall issue a patent to homestead entry land if the permit holder

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

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

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

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

(5) clears and either puts into production or prepares for cultivation either 25 percent of the land classified for agricultural use or 50 percent of the land having class II or III soils, whichever is less, within five years after issuance of the permit.

(b) Nothing in this chapter prohibits a homestead entry permit holder from residing in a temporary dwelling on the homestead before erection of the permanent dwelling.

SYNOPSIS OF RESULTS OF PROPOSED AMENDMENTS TO AS 38

RE: AS 38.04.045(b), rectangular survey section corner positions will be monumented and shown on a plat prior to conveyance of surface rights to state lands. Metes and bounds surveys tied to control monuments will no longer be allowed.

RE: AS 38.09.010, homestead entry parcels will be aliquot parts of sections monumented in accordance with AS 38.04.045(b), except when practical and legal access exists adjoining a boundary or through a designated route. Such access would include public roads and roads created in platted subdivisions. Access to aliquot parts parcels is insured by AS 38.04.050.

RE: AS 38.09.020, since section corner positions will be monumented and platted prior to conveyance (AS 38.04.045(b)), and homestead entry parcels will be aliquot parts of those sections (AS 38.09.010), the State should not require an applicant to survey the land. The aliquot parts description of the monumented section provides a complete description of each unique parcel, with no encumbrance of surrounding lands.

RE: AS 38.09.040(a)(2), an aliquot parts description of the homestead entry, along with the plat prepared in accordance with AS 38.04.045(b), will eliminate the need for a plat of survey prepared by the permit holder.

RE: AS 38.09.040(b), since a plat of survey would not be required, the need for time extensions to complete the plat of survey is eliminated.

RE: AS 38.09.050(a)(2), again, the aliquot parts description of a parcel within a monumented and platted section eliminates the need for an applicant to obtain an approved survey for issuance of a patent.

FEB 19 1985

February 12, 1985

ADC NO 85900

Honorable Arliss Sturgulewski
Alaska State Senate
Pouch V
Room 508, State Capitol Building
Juneau, Alaska 99811

Dear Senator Sturgulewski:

We are pleased that Senate Bill 135 has been introduced but as you are aware, this bill leaves much to be desired from our point of view. House Bill 170 is much preferred.

We strongly believe that Title 38 can and should be re-written to provide for a sustained cadastral survey program to properly manage and dispose of state lands. We also feel this can be accomplished without a budget increase for DNR. There will be no more appropriate time to implement this legislation for the benefit of all residents of Alaska.

It was a sincere pleasure to meet with you in Juneau several weeks ago. Thank you for making time in your busy schedule to listen to our presentation.

Very truly yours,



Robert M. Schweitzer, L.S.
Representative for
American Society of Photogrammetry,
Alaska Region

RMS/mf

14-0522
Bradley
2/1/85.

DRAFT

REFERRED:

RESOURCES
FINANCE

1 IN THE SENATE

BY FAHRENK
BY REQUEST

2 SENATE BILL NO. 135

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to land surveys; and providing for
7 an effective date."

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

9 * Section 1. AS 34 is amended by adding a new chapter to read:

10 CHAPTER 65. LAND SURVEYS.

11 Sec. 34.65.010. PURPOSE. The purpose of this chapter is
12 authorize right of entry on land for certain survey purposes, and
13 provide a method for preserving evidence of land surveys by filing
14 records of survey and monument records.

15 Sec. 34.65.020. ENTRY UPON LAND BY PROFESSIONAL LAND SURVEYOR:

16 (a) After giving notice, a land surveyor or an employee of a land
17 surveyor may enter public or private land or water in the state only
18 to occupy, locate, relocate, install, or replace survey monuments in
19 the process of locating real estate boundaries and determining geo-
20 detic positions.

21 (b) This section does not permit entry on public or private land
22 or water to perform an engineering, design, or topographic survey.

23 (c) This section does not authorize any unnecessary interference
24 with private rights.

25 (d) A land surveyor or an employee of a land surveyor is liable
26 to the landowner only for actual damages.

27 (e) The attorney general may bring an action in the name of the
28 state to restrain and prevent the obstruction of entry under (a) of
29 this section.

1 (f) As used in this section, "notice" means ^{REASONABLE EFFORT} written ^{TO SERVE} notice ^{OR VERBAL}
 2 ~~the time and date of entry to~~

3 ~~(1) the landowner of record postmarked not later than~~
 4 ~~hours before entry; and~~

5 (2) an occupant of the land at any time before entry.

6 Sec. 34.65.030. RECORDS OF SURVEY. After making a survey
 7 conformity with the practice and definition of land surveying, a land
 8 surveyor shall file with the district recorder a record of the survey
 9 if the survey discloses

10 (1) material evidence or physical change that in whole or
 11 in part does not appear on a plat of record previously filed in the
 12 office of the district recorder or in the records of the Bureau of
 13 Land Management;

14 (2) a material discrepancy with a plat of record previously
 15 filed in the office of the district recorder or in the records of the
 16 Bureau of Land Management; or

17 (3) evidence that by reasonable analysis might result in
 18 alternate positions of boundaries from those of record.

19 Sec. 34.65.040. RECORDS OF MONUMENT. (a) A land surveyor who
 20 in the course of a survey establishes, reestablishes, uses as control
 21 or restores a monument to make it readily identifiable or reasonably
 22 durable shall file a monument record, unless the monument and its
 23 accessories are substantially as described in a monument record file
 24 under this chapter or on a survey plat of record.

25 (b) A person or agency whose activities will disturb or destroy
 26 a monument or its accessories shall have a land surveyor

27 (1) file a monument record before the monument or its
 28 accessories are disturbed or destroyed;

29 (2) restore or replace the monument and its accessories

1 after the activities have ceased; and

2 (3) file a new monument record after restoring or replac
3 the monument or its accessories.

4 (c) A land surveyor may file a monument record for any monumen

5 (d) A land surveyor who is required to file a monument reco
6 under this section shall do so within 90 days of the completion of th
7 survey or of the establishment, reestablishment, or rehabilitation o
8 a monument.

9 (e) A monument record shall be signed and sealed by the la
10 surveyor responsible for the survey.

11 Sec. 34.65.050. WHEN RECORD OF SURVEY IS NOT REQUIRED. A recor
12 of survey is not required when a plat of the survey has been filed c
13 will be filed within 18 months after the field survey is completed.

14 Sec. 34.65.060. DUTIES OF THE COMMISSIONER. (a) The commis
15 sioner shall adopt regulations to implement this chapter.

16 (b) The commissioner shall provided a standard form for a ~~monument~~
17 ~~of survey and for a~~ monument record.

18 Sec. 34.65.070. DUTIES OF THE DISTRICT RECORDER. (a) Up
19 request the district recorder shall provide a copy of a monumen
20 record or a copy of a record of survey to the municipal clerk for th
21 municipality in which the monument or survey is located.

22 (b) The district recorder shall keep a proper index of monumen
23 records and records of survey.

24 (c) The commissioner may establish a fee for services provide
25 by a district recorder under this section.

26 Sec. 34.65.100. DEFINITIONS. In this chapter

27 (i) "accessory" means physical evidence adjacent to
28 monument used for the future identification and restoration of
29 monument;

1 (2) "commissioner" means the commissioner of natural r
2 sources;

3 (3) "land surveyor" means a professional land survey
4 licensed under AS 08.48;

5 4) "monument" means

6 (A) a United States public land survey monument;

7 (B) an Alaska state land survey primary monument;

8 (C) an exterior primary monument controlling a r
9 corded survey;

10 (5) "United States public land survey monument"

11 (A) means a survey monument established in a cadastra
12 survey by the Bureau of Land Management or its predecessor;

13 (B) includes a monument in a United States specia
14 survey and United States mineral survey that is a part of th
15 public land records of the Bureau of Land Management.

16 * Sec. 2. This Act takes effect July 1, 1985.
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Introduced: 2/4/85
Referred: Labor & Commerce
and Judiciary

PASSED, NO CHANGE

BY KOPONEN, SUND, NAVARRE,
UEHLING, JENKINS, RINGSTAD
AND PEARCE

1 IN THE HOUSE

2

HOUSE BILL NO. 170

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to land surveys."

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

8 * Section 1. AS 34 is amended by adding a new chapter to read:

9

CHAPTER 65. LAND SURVEYS.

10

Sec. 34.65.010. PURPOSE. The purpose of this chapter is to authorize right of entry on land for survey purposes, and to provide a method for preserving evidence of land surveys by filing records of survey and monument records. The provisions of this chapter supplement laws relating to land survey platting and subdivision surveys.

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Sec. 34.65.020. ENTRY UPON LAND BY PROFESSIONAL LAND SURVEYORS.
(a) A land surveyor or an employee of a land surveyor may enter public or private land or water in the state only to occupy, locate, relocate, install, or replace survey monuments, to locate boundaries, determine geodetic positions, and to make surveys and maps.

(b) A land surveyor or an employee of a land surveyor is liable to the landowner only for actual damages.

(c) The attorney general may bring an action in the name of the state to restrain and prevent the obstruction of entry under (a) of this section.

Sec. 34.65.030. RECORDS OF SURVEY. (a) After making a survey in conformity with the practice and definition of land surveying, a land surveyor shall file with the district recorder a record of the survey within 90 days if the survey discloses

(1) material evidence or physical change that in whole or

1 in part does not appear on a plat of record previously filed in the
2 office of the district recorder or in the records of the Bureau of
3 Land Management;

4 (2) a material discrepancy with a plat of record previously
5 filed in the office of the district recorder or in the records of the
6 Bureau of Land Management; or

7 (3) evidence that by reasonable analysis might result in
8 alternate positions of boundaries from those of record.

9 (b) A land surveyor who in the course of a survey establishes,
10 reestablishes, uses as control, or restores a monument to make it
11 readily identifiable or reasonably durable shall file a monument
12 record, unless the monument and its accessories are substantially as
13 described in a monument record filed under this chapter or on a survey
14 plat of record.

15 (c) A person or agency whose activities will disturb or destroy
16 a monument or its accessories shall have a land surveyor

17 (1) file a monument record before the monument or its
18 accessories are disturbed or destroyed;

19 (2) restore or replace the monument and its accessories
20 after the activities have ceased; and

21 (3) file a new monument record after restoring or replacing
22 the monument or its accessories.

23 (d) A land surveyor may file a monument record for any monument.

24 (e) A land surveyor who is required to file a monument record
25 under this section shall do so within 90 days of the completion of the
26 survey or of the establishment, reestablishment, or rehabilitation of
27 a monument.

28 (f) A monument record shall be signed and sealed by the land
29 surveyor responsible for the survey.

1 Sec. 34.65.040. WHEN RECORD OF SURVEY IS NOT REQUIRED. A record
2 of survey is not required for a survey

3 (1) made by the Bureau of Land Management;

4 (2) when a plat of the survey has been filed or will be
5 filed within 18 months of the field survey.

6 Sec. 34.65.050. DUTIES OF THE COMMISSIONER. (a) The commis-
7 sioner shall adopt regulations to implement this chapter.

8 (b) The commissioner shall provide a standard form for a record
9 of survey.

10 Sec. 34.65.060. DUTIES OF THE DISTRICT RECORDER. (a) The
11 district recorder shall provide a copy of a monument record or a copy
12 of a record of survey to the municipal clerk for the municipality in
13 which the monument or survey is located.

14 (b) The district recorder shall keep a proper index of monument
15 records and records of survey by the survey name, tract designation,
16 subdivision designation, or United States public land designation.

17 Sec. 34.65.070. DEFINITIONS. In this chapter

18 (1) "accessory" means physical evidence adjacent to a
19 monument used for the future identification and restoration of a
20 monument;

21 (2) "commissioner" means the commissioner of natural re-
22 sources;

23 (3) "land surveyor" means a professional land surveyor
24 licensed under AS 08.48;

25 (4) "monument" means

26 (A) a United States public land survey monument;

27 (B) an Alaska state land survey primary monument;

28 (C) an exterior primary monument controlling a re-
29 corded survey;

1 (5) "United States public land survey monument"
2 (A) means a survey monument established in a cadastral
3 survey by the Bureau of Land Management or its predecessor;
4 (B) includes a monument in a United States special
5 survey and United States mineral survey that is a part of the
6 public land records of the Bureau of Land Management.

Subj: it

SENATOR
ARLISS STURGULEWSKI

Alaska State Legislature

While in Juneau
POUCH V
JUNEAU, ALASKA 99811
(907) 455-3818

2957 SHELDON JACKSON
ANCHORAGE, ALASKA 99508
SENATE DISTRICT F, SEAT A



Senate

January 21, 1985

Mr. C.A. (Bud) Herschbach
Chairman, Alaska Section
American Congress on Surveying and Mapping
P.O. Box 376
Anchorage, Alaska 99510

Dear Bud:

Thank you for your letter and the copy of draft legislation. I'll look forward to seeing you on Thursday the 24th at 8:00 a.m. in my office.

As you have had numerous discussions with Senator Fahrenkamp re this legislation, I'll check regarding her interest in the legislation.

Kindest personal regards,

A handwritten signature in cursive script, appearing to read "Arliss".

Senator Arliss Sturgulewski, Chairman
Senate Resources Committee



Alaska Section
AMERICAN CONGRESS ON SURVEYING AND MAPPING
P. O. BOX 376
ANCHORAGE, ALASKA 99510

JAN 16 1985

LANDS
Surveying

Dear Arlene,

Enclosed is a copy of the correspondence and proposed bills we sent to Senator Faleunakamp. I would appreciate it if you would keep an eye that it is introduced, and if not, give us guidance as to how to introduce it. It surely will be assigned to your committee and if a public hearing could be held we can marshall a great deal of testimony from our members, the boroughs, and other affected citizens. Our members have a number of vivid graphic examples of problems they have encountered as a result of the state's past disposal actions.

We will have a group representing our societies in Juneau on the 23rd and 24th of January which I will likely accompany. I would like to stop by to discuss these bills at that time.

Hope you had a good vacation. We certainly did at the lake.

Best of luck at Juneau this year. Will be in touch.

Bud



**Alaska Section
AMERICAN CONGRESS ON SURVEYING AND MAPPING**

P. O. BOX 376
ANCHORAGE, ALASKA 99510

January 12, 1985

Senator Bettye Fahrenkamp
Alaska State Senate
Pouch V
Room 125, State Capitol Bldg.
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

Enclosed herewith are drafts of two items of proposed legislation that the members of the Alaska Section, American Congress on Surveying and Mapping and our fellow professional organizations, The Alaska Section, American Society of Photogrammetrists, and the Alaska Society of Professional Land Surveyors feel to be of extreme importance if surveying and mapping in Alaska is to proceed in orderly manner. The drafts are accompanied by justification statements, plus some general comments relative to the surveying of State lands. We respectfully request that you carefully review this proposed legislation, sponsor its introduction, and support its passage during the upcoming legislative session. We have also requested Representative Koponen to introduce this legislation in the House of Representatives.

Upon introduction, our societies would be pleased to contact other legislators in person and by mail, testify at public hearings or assist in any other respect in its passage. Representatives from the three societies plan to be in Juneau the 23rd and 24th of January. We would be pleased to meet with you or your staff at that time to further discuss any aspects of the proposed bills. In the meantime, any questions may be addressed by phone or mail to the following:

Mr. Ray Niemelä, President
Alaska Society of Professional Land Surveyors
P. O. Box 2106
Anchorage, Alaska 99510
Telephone 745-9657

Senator Bettye Fahrenkamp
January 12, 1985
Page 2

Mr. C.A. (Bud) Herschbach, Chairman
Alaska Section, American Congress on Surveying and Mapping
P. O. Box 376
Anchorage, Alaska 99510
Telephone 278-1571

Mr. James Remele, Chairman
Alaska Section, American Society of Photogrammetry
2013 Merrill Field Drive
Anchorage, Alaska 99501
Telephone 272-4495

In addition, Mr. Pat Kalen, 479-2628; Mr. Robert Kean, 349-6431;
and Mr. Warren Latvala, 278-1571; members of the Joint Legislative
Committee, may be contacted for additional information.

Very Truly yours,

Alaska Section,
American Congress on Surveying and Mapping

C.A. Herschbach
C.A. Herschbach
Chairman

CAH/dlh
cc: Senator Arliss Sturgulewski
Enclosures

A BILL

For an Act entitled: "An Act relating to land surveys."

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

Section 1. AS 34 is amended by adding a new chapter to read:

CHAPTER 65. LAND SURVEYS

Sec. 34.65.010. PURPOSE.

The purpose of this chapter is to authorize right of entry on land for survey purposes, and to provide a method for preserving evidence of land surveys by filing records of survey and monument records. The provisions of this chapter shall supplement laws relating to land survey platting and subdivision surveys.

Sec. 34.65.020. ENTRY UPON LAND BY PROFESSIONAL LAND SURVEYORS

- 4-14 last year. Had right to entry.*
- (a) A professional land surveyor registered under AS 08.48 or an employee under the supervision of a professional land surveyor may enter public or private land, water, or premises in the state only to occupy, locate, relocate, install, or replace survey monuments, to locate boundaries, determine geodetic positions, and to make surveys and maps, and is liable to the landowner for actual damages only.
 - (b) The attorney general may bring an action in the name of the state to restrain and prevent the obstruction of entry under (a) of this section.

Sec. 34.65.030. RECORDS OF SURVEY.

- (a) After making a survey in conformity with the practice and definition of land surveying, the land surveyor shall file with the district recorder a record of such survey within 90 days if such survey discloses:
 - (1) Material evidence or physical change, which in whole or in part does not appear on any plat of record previously filed in the office of the district recorder, or in the records of the Bureau of Land Management, or;
 - (2) A material discrepancy with any plat of record previously filed in the office of the district recorder, or in the records of the Bureau of Land Management, or;
 - (3) Evidence which, by reasonable analysis, might result in alternate positions of boundaries from those of record.
- (b) A land surveyor who in the course of a survey establishes, reestablishes, uses as control, or restores a monument to make it readily identifiable or reasonably durable shall file a monument record, unless the monument and its accessories are substantially as described in a monument record filed under this chapter, or on a survey plat of record.
- (c) Persons, firms or agencies whose activities will disturb or

- (d) A land surveyor may file a monument record for any monument.
- (e) A land surveyor who is required to file a monument record under this section shall do so within 90 days.
- (f) A monument record shall be signed, and sealed by the land surveyor responsible for the survey.

Sec. 34.65.040. WHEN RECORD OF SURVEY IS NOT REQUIRED.

A record of survey is not required for any survey:

- (a) Made by the Bureau of Land Management.
- (b) When a plat of the survey has been filed or will be filed within 18 months of the field survey.

Sec. 34.65.050. DUTIES OF THE COMMISSIONER.

The commissioner shall adopt regulations to implement this chapter, providing a standard form for such record of survey.

Sec. 34.65.060 DUTIES OF THE DISTRICT RECORDER.

- (a) The district recorder shall provide a copy of a monument record filed under AS 34.65.030 and a copy of a record of survey filed under Sec. 34.65.030 to the municipal or borough clerk for the area of the state in which the monument or survey is located.
- (b) The district recorder shall keep proper indexes of such monument record and record of survey by the survey name, tract designation, subdivision designation, or United States public land designation.

Sec. 34.65.070. DEFINITIONS. In this chapter,

- (a) "accessory" means physical evidence adjacent to monuments to which such monuments are referred for their future identification and restoration;
- (b) "commissioner" means the commissioner of natural resources;
- (c) "land surveyor" means a professional land surveyor licensed under AS 08.48;
- (d) "monument" means:
 - 1. a United States public land survey monument;
 - 2. an Alaska state land survey primary monument;
 - 3. exterior primary monuments controlling a recorded survey;
- (e) United States public land survey monument means:
 - 1. a survey monument established in a cadastral survey by the Bureau of Land Management or its predecessor;
 - 2. and includes monuments in a United States special survey and United States mineral survey which are a

JUSTIFICATION
AMENDMENTS TO AS 34 (ADDITION OF CHAPTER 65)

Section Authorizing Entry On Land For Survey Purposes

Thousands of survey monuments exist in the State of Alaska identifying section corners, township corners, various property boundaries and serving as geodetic control points in remote areas where no other survey control presently exists. Taxpayers' dollars were utilized to establish these monuments, as they were intended for purposes benefiting the public. Various Federal agencies, primarily the Bureau of Land Management, Coast and Geodetic Survey, Geological Survey, Corps of Engineers and Army Mapping Service and, more recently, various State of Alaska agencies established these monuments. Utilization of this existing monumentation is mandatory if the surveyors, mappers and photogrammetrists in the State are to conduct the surveys required by the public property boundaries, subdivisions, construction projects and mineral, oil and gas exploration programs. Traditionally, access to this survey control has been available to these professionals as required to conduct these surveys. Access is primarily by foot, air or water and utilization of the station usually involves only the temporary setting up of a theodolite, distance measuring equipment, satellite survey system, photo control panel or in some cases, leaving a small, unmanned, battery-powered transmitter on a small tower or tripod to continuously broadcast signals for offshore or airborne positioning systems. No damage to the monument or its surrounding environment is entailed.

In addition, in the course of conducting surveys, surveyors must often physically traverse adjoining property boundaries or gain access to hilltops, mountain peaks or shorelines so as to gain line of sight or for other technical reasons. Again, the occupancy is limited in nature and normally involves no damage to the environment.

With increasing transfer of lands from the public domain into private ownership, access to these survey control monuments, property boundaries and key terrain features is becoming increasingly curtailed. Owners, applicants and alleged owners of the underlying property on which the monument is located or to which access must be gained, even in extremely remote areas of the State, are now requiring advance permission and often the payment of considerable rental fees to briefly occupy the station or terrain feature. In some cases, there is outright refusal of access if the owners are not in agreement with the program for which a survey is being undertaken, regardless of the fact that the resultant program may be on State, Federal

or third party ownership. To further complicate the matter, often two or more persons or groups claim ownership to the same lands, leaving the surveyor in the position of not knowing from whom to obtain permission or alternatively, obtaining permission from the apparent owner only to be challenged by a second party claiming ownership. As survey monumentation in the remote areas of the State is extremely sparse, this allows the owner or alleged owner of the lands underlying a primary control monument to control developments over a vast area far outside their ownership. In some cases, a single monument may serve as primary control for thousands of square miles so use of alternate monuments is not feasible or even impossible.

This problem, nonexistent prior to five years or so ago, is annually becoming more critical. As much as surveyors, mappers and photogrammatrists wish to see the property rights of all individuals or groups to be properly protected, the time has come for some protection for all of the citizens of the State to utilize the survey monumentation which was established with their tax dollars, and to allow surveyors to determine citizen's property boundaries. Similar legislation has been found necessary in nearly all the other states of the union.

The Alaska Section, American Congress on Surveying and Mapping and the Alaska Society of Professional Land Surveyors and their members feel the time has now arrived that this legislation is mandatory if the rights of all individual citizens of this State are to be protected.

Section Requiring Record Of Survey And Monument Record

A present requirement exists in Alaska that subdivisional plats be recorded with the district recorder so as to be available for use by all citizens of interest. Hundreds of other land surveys are annually conducted, however, defining boundaries and rights-of-way, for which no such recording requirement exists and which presently do not become a part of any public record. Although some informal exchange of information currently takes place between the professional surveyors in the State, there is no official depository for records of this sort where a public or private surveyor can research records of previous surveys prior to undertaking a survey in the same area. This often results in repeated duplication of effort, boundary conflicts (between two surveyors utilizing totally different techniques to approach the same problem) and, at the very least, incursion of unnecessary costs by the surveyor's client if a private survey,

or the public at large if the survey is for public purposes. Similarly, as surveys are undertaken and key monumentation recovered, no current regulation or law requires the surveyor record any public document indicating the existence, lack of existence, condition of, or current status of key control monumentation in the project area. This is especially critical where monumentation will or likely will be destroyed during forthcoming construction following the initial survey. Replacement of these destroyed monuments is extremely costly unless adequate records exist prior to any disturbance, indicating the exact original position of the monument with ties to appropriate accessories.

These professional associations and their members believe it is the duty of all professional surveyors to file a record of survey and monument records for all appropriate surveys they undertake and that an appropriate procedure be established by the State to provide the mechanism for the recording of these documents.

The burden and cost of this recordation will primarily fall upon the surveyor and not the government entity. The sole cost to the State of Alaska or its subentities will be the cost of accepting and maintaining these records. It is estimated the total number of documents would not exceed 1000 per year. This very minor cost would be greatly offset by the value to State agencies, boroughs and municipalities that could make great use of the vast amount of information so recorded and made readily available with no cost of field acquisition whatsoever. Likewise, when individual citizens of the State require survey in the future, they will often achieve a cost saving because of the ready availability of these documents.

The majority of other states currently have statutes requiring recordation of monument and/or survey records. This is especially true in the western states where fewer surveys exist, with the resultant greater distance between monuments and longer time intervals between occasions when monuments may be inspected by professional surveyors.

A BILL

For an Act entitled: "An Act relating to land surveys."

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

11. 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 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 EXCEPT THAT THE COMMISSIONER MAY WAIVE THIS REQUIREMENT ON A DETERMINATION THAT TOPOGRAPHIC FEATURES, DIFFUSE SETTLEMENT, OR THE PUBLIC INTEREST DO NOT JUSTIFY THE REQUIREMENT.] 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,

JUSTIFICATION
AMENDMENTS TO AS 38

Sections AS 38.04.045(b) and AS 38.09.010(b) Requiring Cadastral Surveys and Aliquot Part Description

During the rewrite of the Title 38 legislation last year, the provisions allowing waiver of cadastral surveys and control surveys were considerably expanded over the belated opposition of the surveyors, mappers, and photogrammetrists in the State. These professionals' concerns appear to have been amply justified as the Division of Land and Water Management has subsequently distributed a draft of their implementing policy (attached). It, for all practical purposes, will allow nearly all disposals in the future to occur without prior survey whatsoever, ignoring the fact that history reveals settlement prior to survey creates many problems paramount to chaos. They are forgetting land boundaries must be monumented and identified on the ground in order for their own land managers to know what they are managing, that section line access right-of-ways are legally and practically useless without surveys, that a nightmare of cost, access, and boundary problems are being dumped on citizens who receive parcels, and that title to thousands of acres of residual State land becomes tainted and of no value for years. In the name of expediency and false economy they are abandoning a proven land identification system in favor of a system that is destined to bring chaos into the management of Alaska lands and disillusionment to the citizens who will obtain lands under the future disposal programs.

The State of Alaska is failing to observe and benefit from the experience of the United States Government and our sister states in this matter. Early in the history of our Federal Government it was recognized that a system must be adopted to not only transfer public lands into private hands, but to allow the recipient to physically identify his boundaries, assure access, protect him to the maximum extent from conflicts with neighboring properties, and provide a method of description to assure ease of conveyance, financing or other procedures. The resultant system was the rectangular land survey system which allowed any parcel to be readily identified, plotted accurately on status maps even without survey, eliminated the excess or deficiency in acreage problem, virtually eliminated boundary disputes and provided a single set of survey procedures for establishment. Federal law prescribes that all public domain lands will be physically surveyed and monumented in conformance with the rectangular survey system prior to disposal, acknowledging the fact that this was a governmental responsibility that should not be forfeited or passed to private entities. This system has been followed in all public domain states except Alaska.

The rectangular survey system has historical precedent of 200 years in the United States, is understood by surveyors, title companies, lending institutions, recording offices, attorneys, and most citizens, is utilized as the backbone of all land record systems and has procedural manuals already adopted and in place. It, however, is gradually being discarded in Alaska. In its place basically a metes and bounds system is being adopted, the least desirable of all possible land identification systems. This system is outlawed in most boroughs as a means of subdividing property, as they see first hand the problems it manifests. It creates a patchwork of oddly-shaped and irregularly-adjoined parcels to which access and intelligent utility distribution is next to impossible. It creates slivers of unclaimed State land that become of zero value to the citizenship of the State as a whole. It is expensive and difficult to survey accurately, creates voluminous land records, makes it impossible to plot parcels accurately on a status map without field survey and encumbers all residual land within a township (36 square miles or 23,040 acres) until all applicants' parcels are surveyed. It is the worst of all possible methods and should only in specific, exceptional cases be allowed to be utilized in the disposal of State lands.

The planners and land managers in the Division of Lands and Waters Management may feel comfortable in having small-scale, inaccurate, topographic maps in their hands to manage the lands in their jurisdiction. The individual or entity obtaining the lands, however, has little need or use for a map that only marginally represents his property's characteristics and provides no benefits in assisting him in identifying his specific parcel or legally describing its boundaries. It is at this point he suddenly finds the "cheap" land he obtained from the State to be a tremendously expensive parcel when the cost of an adequate survey and preparation of legal description is contemplated. The fact that he will usually seek and contract for this survey as an individual, instead of becoming the beneficiary of a vast survey of many thousands of acres as would be done in a State-performed survey, gives him no benefit whatsoever of economies of scale. He finds difficulty obtaining financing for improvements, runs into title problems with title companies, boundary conflicts with his neighbors, and often finds he has no legal or practical access. He becomes disillusioned, and, instead of the State having a citizen that is pleased with the State's stewardship of its natural resources, he instead feels he has been misled and tricked by his government.

In addition to the land recipient's problems, the surrounding public domain for years remains in a "no man's land," unable to be properly and accurately platted on a status map, and, as a result, preventing it from being utilized in any useful manner by private citizens or governmental agencies.

The State must face its responsibilities to its citizens. It must amend AS 38 to again require minimal cadastral surveys be performed prior to disposal and the aliquot part method be utilized to the maximum extent to convey ownership, especially to the larger homestead parcels. Our lands with their resources are of such value that the need for efficient land management far outweighs the cost of survey.

DRAFT POLICY
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF LAND AND WATER MANAGEMENT

Regional Offices may recommend the Commissioner waive cadastral survey requirements of homestead entry lands under AS 38.09.010(b) upon making one or more of the following findings:

Topographic Features:

The presence of features such as swamps or steep hills escalate the cadastral survey costs above the benefits to be obtained from such survey.

Diffuse Settlement:

The settlement pattern resulting from the State's proposed disposal program will result in private ownership of less than 30 percent of the land within the minimum rectangle encompassing the land to be disposed.

Public Interest:

1. The cost associated with a cadastral survey is greater than the direct benefit in increased land values that would accrue to the public from such a survey and the public benefit to be derived from the disposal is greater than the cadastral survey cost.
2. The time to complete a cadastral survey will significantly impact the State disposal program and the benefit from such survey does not equal or exceed the benefit from accomplishing the State's public interest land disposal goals.

SURVEYING OF ALASKA PUBLIC LANDS GENERAL COMMENTS

As evidenced by the proposed legislation, the professional surveyors, mappers, and photogrammetrists in the State of Alaska perceive there to be deficiencies or omissions in existing legislation which have given rise to situations that are becoming quite serious in some areas. The professional societies and their members are likely responsible for a share of the problem, having been rather mute and nonparticipatory in screening legislation or requesting legislative actions in the past. The current situation, however, has become alarming enough to encourage the professional societies and their members to become more active in monitoring State procedures and requesting appropriate legislation to correct perceived ills. The State Professional Registration Act requires registered surveyors to serve and protect the public interest. Failure to come forward to the Legislature at this time to voice their concerns would be a neglect of this responsibility.

Present deficiencies in State survey procedures probably stem from the fact that the State of Alaska, in its rush to secure its lands from the Federal Government, with vast acreages to manage and little demand for transfer of ownership, at the start failed to put in place a survey authority to establish appropriate procedures. In its haste, no central survey authority was ever established. It was probably assumed the Department of Natural Resources would assume the appropriate role. The Division of Technical Services, a division of the Department of Natural Resources, was established. It, however, was established as a record keeping and maintenance organization and not as a survey authority. Only when the demands for disposal of lands to private citizens had begun in the late 1970's did the Department of Technical Services take on the role of overseeing cadastral and disposal surveys within the State. This it primarily seems to have done by default as no other entity existed.

Unfortunately, as a result of legislation passed for political reasons or as a result of input from non-technical branches of the State government, the majority of its policies and procedures were developed to expedite the disposal of lands in maximum haste and at minimum cost, with little regard for the long range effect. Additionally, only a certain amount of State surveys come under the Division of Technical Services. The Department of Transportation and Public Facilities, Division of Parks, Division of Forestry, and other State agencies continued to also do land or boundary surveys, each to a different set of specifications and some in direct conflict with accepted professional practices and procedures. As the State's revenues have leveled off in very recent years with the resultant push to reduce costs, even the minimal surveys conducted under the supervision of the professionals in the Division of Technical Services have been circumvented and deleted to the point that utter chaos is in store for Alaska lands if some reversal in policies does not take place in the immediate future.

The majority of U.S. public domain states, provinces of Canada, and states of Australia established a central survey authority to oversee the surveying of lands obtained from their federal governments. A Surveyor General or individual with similar title normally was appointed by statutory requirement to oversee these activities.

The State of Alaska erred in a number of ways. First, it agreed to accept lands from the U.S. Federal Government under the Statehood Act that were not surveyed in conformance with the previous federal law or in conformance with practices that had been observed in all previous states, except the original thirteen. It accepted lands that were either not physically surveyed at all or only marginally surveyed at 2 mile intervals on the township boundaries. Then, instead of immediately recognizing the survey deficiency of the lands as conveyed from the Federal Government, creating a survey authority and proceeding with the task of surveying the lands in an orderly manner and under a single set of guidelines, it ignored the survey problem until the public outcry for lands disposal in the '70's. It has since patched and repatched together a makeshift set of statutes to meet immediate needs that have only served to greatly compound the longer term problem.

The solution is obvious. Although extremely late in being established, a central survey authority should be established in the State of Alaska having jurisdiction over the survey of all State lands whether by themselves, by contract surveyors, or by other State entities. A set of survey procedures and specifications similar to the Federal "Manual of Surveying Instructions" should be adopted and adhered to by all entities surveying State lands. When questions arise, as they inevitably will, as to the applicability, cost effectiveness and suitabilities of performing surveys in specific instances on specific lands, professionals in this central survey authority, after input from other State entities, would make the final recommendations. This is in reverse of the procedure as it now exists where many survey decisions or recommendations are being made by individuals in various State divisions or departments who are totally unqualified and incapable of making meaningful decisions in this regard. The adoption of such a central surveying authority, although perhaps slowing lands disposals on the short term and requiring the expenditure of additional State dollars for more adequate surveys, would pay off many times over in dollars saved in the future and prevent the otherwise inevitable public disillusionment with the State's land management policies.

We urge that careful consideration be given to the passing of a carefully drafted and thought out statute that would create such a central state survey authority to get management of our lands on track and prevent the disaster that is gradually encompassing this most valuable asset of the citizens of the State.

3 pm group.

Bud Herschbark (w) 278-1571

12/27/84 - call + a dmic
state of R. D. council.
will set up speaking
engagement + meet w/
leg committee
ideas

① Monument - availability.
setup w/ 7 rd + 10. Now
Native Corps - charging
rental to us. Says
most states have law
allows use but charging
if damage.

② issue cadastral
surveying. See if
note avail from last
year.

Betty had promised to help
+ has been working w/ them

RANDUM

Tom HAWKINS OF NATURAL RESOURCES


State of Alaska
Southeast Regional Office

TO: Tom Hawkins, Director
Division of Land & Water Management

DATE: January 2, 1985

FILE NO:

TELEPHONE NO: 465-3400


FROM: Paula Burgess, Regional Manager
Southeast Regional Office

SUBJECT: Homesteading in Southeast Alaska

Homesteading is one of the most popular means of getting land into private hands. The image conjured up by the term "homestead" is that of a vast and beautiful tract of ones favorite landscape, title to which is gained not by payment but by successfully making ones home on the land.

The homestead program is expensive for the state, even under favorable conditions. In large state selections with fairly uniform terrain and sufficient monumentation, homesteads can be defined by aliquot part legal descriptions. Even under these conditions, however, the state must provide careful instructions to the applicant, must resolve the inevitable staking errors, and must manage the haphazard land remnants.

In Southeast Alaska, land available for private ownership is in great demand. The selections in Southeast cover extremely rugged terrain, and the number of buildable sites within a selection is small. Because the resource is extremely limited, land is generally sold in lots smaller than five acres.

Because of the rugged terrain, the small number of buildable sites, and the demand for land in Southeast Alaska, land should be used as efficiently as possible. Lots need to be carefully layed out in the most buildable areas, maximizing the use of the shoreline. Selling land under the homestead program in five acre lots over rugged terrain would result in an extremely inefficient pattern of land use.

The primary difference between the homestead program and the homesite program (other than name popularity of the first) is that the homesite survey is completed by the state. While this is a greater expenditure of public funds, it is a much more efficient use of public resources. In Southeast Alaska, when state land is a scarce and valuable resource, the need for efficient land management far outweighs the cost of survey.

While the state would not incur the cost of surveying homestead land, the state does issue survey instructions, spend countless hours answering questions, doing field inspections, corresponding with applicants over staking problems, and managing the useless leftover pieces of real estate. That cost to the state could easily exceed the cost of subdivision.

When land in Southeast Alaska does have fairly uniform terrain and can be described by aliquot part, it can be offered under the homestead program. The disposal at Cape Pole (Kosciusko Island) is an example; the FY 86 proposed sale includes a 200 net acre area for homesteading.

1 IN THE HOUSE

BY KOPONEN

2

HOUSE BILL NO. 387

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to land surveys."

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

8 * Section 1. AS 34 is amended by adding a new chapter to read:

9

CHAPTER 65. LAND SURVEYS.

10

Sec. 34.65.010. PURPOSE. The purpose of this chapter is to provide a method for preserving evidence of land surveys by providing for the filing of monument records. The provisions of this chapter are supplementary to laws relating to platting and subdivision surveys.

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Sec. 34.65.020. FILING OF MONUMENT RECORD BY LAND SURVEYOR. (a)

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A land surveyor who conducts a survey that uses a monument as a control corner shall file with the commissioner a monument record describing the monument unless the monument and its accessories are substantially as described in a monument record filed within the three years before the initiation of the survey under this chapter or in a subdivision survey approved by a municipal platting board.

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(b) A land surveyor who at any time establishes a monument or reestablishes, restores, or rehabilitates a monument to make it readily identifiable or reasonably durable shall file a monument record with the commissioner.

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(c) A land surveyor required to file a monument record under this section shall file the record within 90 days of the completion of the survey or of the establishment, reestablishment, restoration, or rehabilitation of a monument.

1 (d) A monument record shall be filed with the commissioner for
2 each control corner before a monument is removed or disturbed in
3 construction. The person responsible for the construction project has
4 the responsibility for filing the monument record.

5 (e) A monument shall be described in terms of three or more
6 accessories and shall be certified, signed, and sealed by the land
7 surveyor responsible for the survey.

8 Sec. 34.65.030. WHEN MONUMENT RECORD NOT REQUIRED TO BE FILED.
9 A monument is not required to be filed with the commissioner when a
10 plat is in preparation for recording or has been recorded as a subdi-
11 vision survey approved by a state or municipal platting authority.

12 Sec. 34.65.040. DUTIES OF COMMISSIONER. (a) The commissioner
13 may adopt regulations to implement this chapter.

14 (b) The commissioner may not collect a fee for filing a monument
15 record. The commissioner may charge a fee for the reproduction of a
16 monument record.

17 (c) The commissioner shall provide a copy of a monument record
18 filed under AS 34.65.020 to the municipal clerk or recorder with
19 responsibility for the area of the state in which the monument is
20 located.

21 Sec. 34.65.050. DUTIES OF MUNICIPAL CLERK OR RECORDER. Each
22 municipal clerk and recorder shall maintain a file which is open to
23 the public of the monument records provided by the commissioner under
24 AS 34.65.040(c).

25 Sec. 34.65.060. CIVIL PENALTIES. A person who wilfully or
26 knowingly removes or disturbs a monument without complying with
27 AS 34.65.020 is subject to a civil penalty of not more than \$10 a day
28 for each day the delinquency continues after the time the monument
29 record is required to be filed as determined by the commissioner

1 subject to right of appeal to the superior court. An affidavit stat-
2 ing facts in mitigation may be submitted to the commissioner by a
3 person against whom a civil penalty is assessed.

4 Sec. 34.65.100. DEFINITIONS. In this chapter,

5 (1) "accessory" means physical evidence in the vicinity of
6 a survey monument that is used to perpetuate the location of the
7 monument;

8 (2) "Alaska state land survey monument" means a monument
9 that is permanent in nature, that may be used to control the reloca-
10 tion of a lost corner, and that is established in a cadastral survey
11 completed under the direction of the commissioner;

12 (3) "aliquot corner" means a corner established under
13 established principles of land surveying by or under the supervision
14 of a land surveyor;

15 (4) "bench mark" means a relatively immovable point that
16 has a known elevation above or below sea level;

17 (5) "commissioner" means the commissioner of natural re-
18 sources;

19 (6) "control corner" means a monument whose position con-
20 trols the location of the boundaries of a parcel of land;

21 (7) "land surveyor" means a professional land surveyor
22 licensed under AS 08.48;

23 (8) "monument" means

24 (A) a public land survey monument;

25 (B) an Alaska state land survey monument;

26 (C) an aliquot corner monument from a section corner
27 through the 1/16th corner;

28 (D) primary monuments within a legal subdivision;

29 (E) a United States Geological Survey monument;

- 1 (F) a United States Corps of Engineers monument;
- 2 (G) a United States National Ocean Survey monument;
- 3 (H) a monument established by a predecessor of or
- 4 successor to an agency described in this subsection; or
- 5 (I) a monument established under AS 34.65.020(b);
- 6 (9) "monument record" means a written and illustrated
- 7 document describing a monument or a bench mark and their accessories;
- 8 (10) "public land survey monument"
- 9 (A) means a monument established in a cadastral survey
- 10 by the Bureau of Land Management;
- 11 (B) includes a monument established by the United
- 12 States mineral surveyor and made a part of the public land re-
- 13 cords of the Bureau of Land Management.

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purpose connected with the operations of the company, such corporation may acquire title to such real estate or right-of-way, or easement or other right, in the manner provided by law for the condemnation of real estate, or right-of-way. Any ditch, reservoir, or pipeline company, in the same manner, may condemn and acquire the right to take and use any water not previously appropriated.

General:

By the 1952 amendments, this section is sufficiently broad to include necessary acquisition of land for construction of a generating plant and where a petition alleges the sale is for a public purpose, a motion to dismiss admits such purposes. *Miller v. Public Service Co. of Colo.* (1954) 129 C. 513, 272 P. 2d 283.

This section does not include, within the purposes for which land may be condemned, the acquisition of land by eminent domain for the enlargement of an electric generating plant for machine shops and storage of coal supply (prior to 1952 amendment). *Potashnik v. Public Service Co. of Colorado* (1952) 126 C. 98, 247 P. 2d 137.

When a petition in eminent domain proceedings, brought under this section, conforms with the statute and contained necessary jurisdictional averments, it was error for court to dismiss action. *Otero Irrigation Dist. v. Enderud* (1950) 122 C. 136, 220 P.2d 862.

A mining company has a right to condemn land for right-of-way for a pipeline for the milling of ore by authority of this section. *Pine Martin Mining Co. v. Empire Zinc Co.* (1932) 90 C. 529, 11 P.2d 221.

Private ways of necessity are not confined to the common law easements so designated which existed by implied grant. Under this section "ways of necessity" include the location of a road by a private corporation across private lands by the only practical way to reach property of the petitioner. Such question of necessity is a judicial question except where a statute provides otherwise. *Crystal Park Co. v. Martin* (1915) 27 C. A 74, 146 P. 566. (Compare; *Pine Martin Mining Co. v. Empire Zinc Co.* (1932) 90 C. 529, 11 P.2d 221, on "necessity".)

Where a mining and drainage tunnel is authorized which is to be used by such mine owners as desire to avail themselves thereof eminent domain is proper under this section. While not conclusive on the courts, the legislative judgment as to the question of public use and service is entitled to great weight; and the general assembly is the exclusive judge of the necessity of vesting power of eminent domain subject to the determination of the courts. *Tanner v. Treasury Tunnel & Mining Co.* (1906) 35 C. 593, 83 P. 464.

50-2-2. Entering lands to survey--liability.--Any corporation formed, for the purpose of constructing a road, ditch, tunnel or railroad, may cause such examination and survey as may be necessary to the selection of the most advantageous route, and for such purpose, by its officers, agents or servants, may enter upon the lands of any person or corporation, but subject to liability for all actual damages which shall be occasioned thereby.

36-18-38. Board inquiries and investigation of violations -- Report and prosecution. It shall be the duty of the board of examiners to inquire into the identity of any person alleged to be engaging in the unlawful practice of architecture, professional engineering or land surveying. It shall be the duty of the board to investigate every alleged violation of the provisions of this chapter, and report to the proper state's attorney any person or case that in the judgment of the board warrants prosecution. It shall be the duty of the attorney general and the several state's attorneys to prosecute violations of this chapter, in the name of and on behalf of the board.

36-18-39. Injunction to prevent violations of chapter -- Election of remedies. The board of examiners may proceed by injunction to restrain violations of the provisions of this chapter, as an alternate to criminal proceedings. The commencement of one proceeding by the board constitutes an election.

36-18-40. Severability of provisions. If any provision of this chapter or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application and to this end the provisions of this chapter are declared to be severable.

B. Powers of Surveyors, Public Utility Corporations, Other Miscellaneous

1-1-9. Map of federal acquisitions to be filed -- Recording of evidence of title. A map of any land acquired by the United States, under the provisions of this chapter, shall be filed and recorded in the office of the secretary of state and the evidence of the United States' title shall be recorded in the county wherein the land is situated as in other cases relating to the transfer of real property.

1-1-10. Land entry authorized to survey boundaries -- Consent required to enter mine -- Damage to property. For the purpose of making surveys required by or essential to the effect of any acts of the United States Congress or of the Legislature of this state or for the determination of boundaries of real estate, any of the duly authorized officers or agents of the United States or of this state, or any engineer or land surveyor duly qualified or registered under the laws of this state, and the persons necessarily and lawfully employed in making any such survey may enter upon lands within the boundaries of this state for such purposes, but this section shall not be construed as authorizing any unnecessary interference with private rights. Nothing in this section shall be construed to permit any person to enter any shaft, tunnel, stope, or underground workings of any individual person engaged in mining for precious metals without consent of the owner or person in possession of such shaft, tunnel, stope, or underground working.

Nothing herein contained shall exempt any person from payment of actual damages done by him while upon such land.

NEW MEXICO

61-23-2. Right of entry on public and private property; responsibility.

The engineers and surveyors of the United States and of the state of New Mexico and registered professional engineers and land surveyors of the state of New Mexico shall have the right to enter upon the lands and water of the state and of private persons and of private and public corporations within the state for the purpose of making surveys, inspections, examinations and maps, subject to responsibility for actual damage to crops or other property, or for injuries resulting from negligence or malice caused on account of such entry so made.

History: Laws 1933, ch. 130, § 2; 1941 Comp., § 51-2427; Laws 1947, ch. 110, § 3; 1953 Comp., § 67-21-2.

Cross-references. — For suit on county surveyor's bond, see 4-42-2 NMSA 1978. As to penalties for interfering with county surveyor, see 4-42-6 NMSA 1978. As to entry for county drain surveys, see 72-4-1 NMSA 1978.

Applies to Army Corps of Engineers. — The U.S.

Army Corps of Engineers may go upon state-owned or private land and make core drilling and surface cut explorations to determine the feasibility of certain civil flood control projects in the state of New Mexico. 1957-58 Op. Atty Gen. No. 57-51.

Am. Jur. 2d and C.J.S. references. — 63 Am. Jur. 2d Public Lands §§ 56 to 64.
73 C.J.S. Public Lands §§ 36 to 71.

61-23-3. [Violation of reference mark and entry provisions.]

Any person violating any of the provisions of this act [61-23-1 to 61-23-3 NMSA 1978] shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100.00) dollars for each such offense.

History: Laws 1933, ch. 130, § 3; 1941 Comp., § 51-2428; 1953 Comp., § 67-21-2A.

61-23-4. Short title.

Article 23 of Chapter 61 NMSA 1978 may be cited as the "Engineering and Land Surveying Practice Act."

History: 1953 Comp., § 67-21-2B, enacted by Laws 1957, ch. 211, § 1; 1979, ch. 363, § 1.

The 1979 amendment substituted the provisions of the present section for the former section which read:

"This act may be cited as the 'Engineering Practice Act.'"

61-23-5. Declaration of policy.

The legislature declares that it is a matter of public safety, interest and concern that the practice of engineering and of land surveying merit and receive the confidence of the public and that only qualified persons be permitted to engage in the practice of engineering or land surveying, and in order to safeguard life, health and property, and to promote the public welfare, any person in either public or private capacity practicing or offering to practice engineering or land surveying shall be required to submit evidence that he is qualified to so practice and shall be registered as provided; and it shall be unlawful for any person to practice or offer to practice in the state, or to use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a professional engineer or professional land surveyor or land surveyor, unless such person is duly registered or exempt under the provisions of the Engineering and Land Surveying Practice Act. That act shall be construed in accordance with this declaration of policy.

History: 1953 Comp., § 67-21-30, enacted by Laws 1957, ch. 211, § 2; 1979, ch. 363, § 2.

The 1979 amendment substituted "engineering or land surveying" for "engineering and land surveying"

following "to engage in the practice of" near the beginning of the section, and substituted "professional engineer or professional land surveyor or land surveyor" for "professional engineer, professional engi-

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- shall be deemed a more necessary public use than use for the same purpose by a private corporation, and whenever a right of way shall have been taken and the person, firm, or corporation taking such right of way shall fail or neglect for five years to use the same for the purpose to which it had been appropriated, the attempt by another person, firm, or corporation to appropriate such right of way shall be considered a more necessary public use;
4. Franchises for toll roads, toll bridges, ferries, and all other franchises, but such franchises shall not be taken unless for free highways, railroads, or other more necessary public use;
 5. Any system of waterworks, electric light and power plant, wells, reservoirs, pipelines, machinery, franchises, and all other property of any character whatsoever comprising a waterworks system or an electric light and power system;
 6. All rights of way for any and all the purposes mentioned in section 32-15-02 and any and all structures and improvements thereon, and the lands held or used in connection therewith, shall be subject to be connected with, crossed or intersected by any other right of way or improvement or structure thereon. They also shall be subject to a limited use in common with the owner thereof when necessary, but such uses, crossings, intersections, and connections shall be made in the manner most compatible with the greatest public benefit and the least private injury; and
 7. All classes of private property not enumerated may be taken for public use when such taking is authorized by law.

32-15-05. What must appear before property taken.--Before property can be taken it must appear:

1. That the use to which it is to be applied is a use authorized by law;
2. That the taking is necessary to such use; and
3. If already appropriated to some public use, that the public use to which it is to be applied is a more necessary public use.

32-15-06. Entry for making surveys.--In all cases when land is required for public use, the person or corporation, or his or its agents, in charge of such use may survey and locate the same, but it must be located in the manner which will be compatible with the greatest public benefit and the least private injury and subject to the provisions of section 32-15-21. Whoever may be in charge of such public use may enter upon the land and make examinations, surveys, and maps thereof, and such entry shall constitute no cause of action in favor of the owner of the land except for injuries resulting from negligence, wantonness, or malice.

Operation and Effect (Court Decisions) In an application for a permit to enter upon private property for the purpose of making a survey and testing soil, plaintiff was required to show only that it was in the category of persons entitled to seek eminent domain, and was not required to prove that at that stage of the proceedings eminent domain was proper, justified and necessary. Square Butte Elec. Cooperative v. Dohn, 219 NW 2d 877 (1974).

2. Arbitration

32-29-01. When arbitration authorized.--Persons capable of contracting may submit to the decision of one or more arbitrators any controversy which might be the subject of a civil action between them, except the question of title to real property in fee or for life. This qualification does not include questions relating merely to the partition or boundaries of real property.

right to install a gate in the fence so as to give the owners a farm crossing. *Hildebrand v. Chicago, B. & Q.R.R.*, 45 Wyo. 175, 17 P.2d 651 (1933).

Jury questions. — Where cattle were injured by entering railroad's property by private gate which was not protected by cattle guards and plaintiff makes out prima facie case independent of former § 37-210, question of negligence is for

jury. *Hildebrand v. Chicago, B. & Q.R.R.*, 45 Wyo. 175, 17 P.2d 651 (1933).

Where railroad has knowledge that gates along right of way are customarily left open and no steps are taken to correct the custom, question of railroad's negligence when cattle are injured is for the jury. *Hildebrand v. Chicago, B. & Q.R.R.*, 45 Wyo. 175, 17 P.2d 651 (1933).

ARTICLE 3. ROADS, DITCHES AND FLUMES; PIPE, ELECTRIC TRANSMISSION, TELEPHONE AND TELEGRAPH LINES

Cross references. — As to telegraph lines generally, see art. 10, §§ 12, 15 to 18, Wyo. Const. For provision that telegraph, telephone or electric light line shall not be constructed within the limits of any municipal organization without the consent of its local authorities, see art. 13, § 4, Wyo. Const. As to incorporation of ditch company, see § 17-12-101. As to incorporation of flume company, see § 17-12-106. As to incorporation of telegraph company, see § 17-12-107. As to mining corporations preempting right-of-way over public lands, see § 30-1-128. As to power of public service commission to direct manner of use of public highways by public utilities, see § 37-3-114.

Editor's note. — This article was not enacted as part of the original Civil Code.

Law review. — See note, "Compensation for Condemnation: Recent Wyoming Development," 17 Wyo. L.J. 246 (1963).

Am. Jur. 2d, ALR and C.J.S. references. — 26 Am. Jur. 2d Eminent Domain §§ 73, 102, 112, 126, 138.

Right to use or permit use for private telegraph or telephone line of street or highway, 34 ALR 405.

Furnishing electricity for telegraph or telephone system as a public use, 44 ALR 752; 58 ALR 787.

29A C.J.S. Eminent Domain §§ 65 to 86.

§ 1-26-301. Right-of-way along public ways granted; permission necessary for new lines.

Corporations organized under the laws of this state or of any other state or of the United States for the purpose of constructing, maintaining and operating telephone, telegraph or electric transmission and distribution lines may set their poles, piers, abutments, wires and other fixtures along, across or under any of the public roads, streets and waters of this state in such manner as not to inconvenience the public in their use. Any telegraph, telephone or other company desiring to place their wires or other fixtures underground in any city shall first obtain consent from the city through the municipal authorities. A person or firm must first obtain permission from the state highway commission or the board of county commissioners in the county where the construction is contemplated before entering upon any state highway or county road for the purpose of commencing the construction of any new telephone, telegraph, or electrical transmission or distribution lines. (Laws 1901, ch. 31, § 1; C.S. 1910, § 3870; C.S. 1920, § 4934; R.S. 1931, § 38-301; Laws 1939, ch. 80, § 1; C.S. 1945, § 3-6201; W.S. 1957, § 1-791; Laws 1977, ch. 188, § 1.)

Chicago, B. & Q.R.R., 46
Ill. (1938).
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are customarily left open and
taken to correct the custom,
road's negligence when cattle are
jury. Hildebrand v. Chicago, B.
No. 175, 17 P.2d 651 (1938).

**FLUMES; PIPE,
TELEPHONE**

ES

— This article was not enacted
original Civil Code.

— See note, "Compensation for
Recent Wyoming Development,"
6 (1968).

ALR and C.J.S. references. —
Eminent Domain §§ 73, 102, 112.

or permit use for private
telephone line of street or highway.

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as a public use, 44 ALR 752;

Eminent Domain §§ 65 to 86.

granted; permission

or of any other state or
maintaining and operating
distribution lines may set their
g, across or under any of
such manner as not to
telephone or other company
bound in any city shall first
authorities. A person or firm
commission or the board
construction is contemplated
road for the purpose of
telegraph, or electrical
1; C.S. 1910, § 3870; C.S.
§ 1; C.S. 1945, § 3-6201;

§ 1-26-302. Same; right of entry upon private lands.

(a) The companies may enter upon any land whether owned by private persons or corporations in fee or in any less estate, except railroad rights-of-way, for the purpose of making preliminary surveys and examination as may be necessary to erect poles, piers, abutments, wires or other fixtures for telephone, telegraph or electric transmission or distribution lines. The companies may make such changes of location of the lines as may be deemed necessary, shall have the right of access to construct the line and, as may be required, to make repairs, and may obtain the right-of-way and condemn the land therefor in the manner provided in the Wyoming Rules of Civil Procedure.

(b) If the landowner has not consented to the entry, no entry shall be authorized until the company has deposited with the public service commission a cash or surety bond of two thousand dollars (\$2,000.00). The public service commission shall release the bond to the company upon sufficient showing that the company has reached an agreement for entry with the landowner. If the company causes any damage to a landowner's property prior to reaching an entry agreement, the bond shall be withheld for distribution as determined by a court of law or upon a settlement agreement between the company and landowner. (Laws 1901, ch. 31, § 2; C.S. 1910, § 3871; C.S. 1920, § 4935; R.S. 1931, § 38-302; Laws 1939, ch. 80, § 2; C.S. 1945, § 3-6202; W.S. 1957, § 1-792; Laws 1977, ch. 73, § 2; ch. 188, § 1.)

Cross reference. — For provision as to condemnation of property, see Rule 71.1, W.R.C.P.

The 1977 amendment designated the formerly undesignated provisions of this section as subsection (a), added subsection (b), and in subsection (a), substituted "the Wyoming Rules of Civil Procedure" for "section 38-303" at the end of the subsection and made other minor changes in style.

Editor's note. — Section 1-27-302, which was enacted by § 1, ch. 188, Laws 1977, has been

made subsection (a) of this section and § 1-792(b), W.S. 1957, which was amended by § 2, ch. 73, Laws 1977, has been made subsection (b) of this section. This was a Revisor's change. This section has also been renumbered from § 1-27-302 to § 1-26-302 because of chapter renumbering.

Effective dates. — Section 3, ch. 80, Laws 1939, makes the act effective from and after passage. Approved February 18, 1939.

Section 3, ch. 73, Laws 1977, makes the act effective May 27, 1977.

§ 1-26-303. Right of eminent domain granted.

Whenever any road, ditch, telegraph, telephone or fluming company, or any petroleum or other pipeline company, organized or to be organized under the provisions of this chapter, or any law of this state, or under the laws of any other state and legally doing business in this state, shall not have acquired by gift or purchase, any land, real estate or claim required for the construction or maintenance of their road, ditch, flume, pipe, telegraph or telephone line, or which may be affected by any operation connected with the construction or maintenance of the same, the said corporation shall have the right of eminent domain and may condemn the land, real estate, right-of-way or claim required by the corporation in the manner provided by the Wyoming Rules of Civil

OKLAHOMA

(c) Wherever in those counties the amount of Indian lands or those exempt from taxation by reason of the operation of any federal law is thirty percent (30%) or more of the total area of the county, then the Board of County Commissioners may, upon its own initiative, and if the public interests demand it, move to secure roads over, adjacent to, or for the benefit of all such exempted lands in the following manner: The Board shall call upon the Director as a disinterested party to undertake and make such surveys, plans and estimates and obtain all other essential data and records as are required to make a full and complete statement and report upon the interest involved, and to make such recommendations as in the premises may seem proper. When so prepared, the Department shall then advance the matter to the Department of the Interior of the United States, or to any other federal department concerned, through its proper local representative, if there be one, with the request that the matter be considered and disposed of as speedily as possible. If the project be so approved and authorized, then the work may proceed under the special supervision and direct administration of the Department and subject to such special regulations as the circumstances seem to require.

69 § 651. Section and quarter section corners

The provisions of Sections 1229-1233 of this Code, relating to the marking and obliteration of section and quarter section corners within rights-of-way of State highways, shall apply with full force and effect and in like manner to the Board of County Commissioners of each county, whenever section corners or quarter section corners are obliterated, or may be obliterated by the construction or resurfacing of either low type or high type paved roads of any county highway within the county.

69 § 702. Entry upon premises to make surveys and examinations for establishment or relocation of highways—Notice

The Department, through its authorized agents and employees, may enter upon any lands, waters, and premises in the State for the purpose of making surveys, soundings and drillings, and examinations as may be determined necessary or convenient for the purpose of establishing, locating, relocating, constructing, and maintaining State highways or relocations thereof and facilities necessary and incidental thereto. Such entry shall not be deemed a trespass, nor shall an entry for such purpose be deemed an entry under any condemnation proceedings which may be then pending; but notice shall be given to the owner of or person residing on the premise, personally or by registered mail, at least ten (10) days prior to such entry.

69 § 703. Reimbursement for actual damages

The Department shall make reimbursement for any actual damages resulting to such lands, waters, premises and property as a result of activities pursuant to the preceding Section. In the event of disagreement as to the amount of the damage, either the person damaged or the Department may file a petition with the District Court for the appointment of commissioners to appraise the damages and proceed to have the same determined as in condemnation proceedings.

69 § 704. Commission to complete and revise maps

The Commission may complete the topographic mapping of the State of Oklahoma and revise existing United States Topographic maps of the State, so that a complete and accurate map of the entire State may be complete and obtained by State departments and agencies, the Federal Government, and all persons desiring information relative to the natural resources of the State

69 § 705. United States Geological Survey, agreements with

The commission may enter into agreements with the Director of the United States Geological Survey, or legal successor thereof, for the purpose of making the necessary surveys and maps, and preparing data covering topographic surveys, so that they may be made available for public use.

69 § 706. Expenses

The Commission shall pay the expenses incurred under Sections 704 and 705 out of the State Highway Construction and Maintenance Fund upon proper vouchers. Provided, that any funds so expended shall be matched by the United States Government, and the total expenditures of State funds shall not exceed Fifty Thousand Dollars (\$50,000.00) in any fiscal year.

69 § 707. Surveys—Lawful to cross premises

For the purpose of carrying into effect the provisions of Sections 704 and 705, it shall be lawful for all persons employed in the making of the topographic survey to enter upon and cross all lands within the State; provided, however, that in so doing no damage shall be done to private property.

69 § 1229. Location and identification of corners within right-of-way

The Department shall, in cooperation with the County Surveyor of the county affected, locate section and quarter section corners within the right-of-way of all State highways when surveys and plans are being made for contemplated new construction or resurfacing, and re-mark such corners in the right-of-way by a suitable marker, of a design to be approved by the Department. Whenever such corners are located on a highway to be hard-surfaced, or resurfaced, the Department shall identify such corners on the roadway by bronze surface markers, of a design to be approved by the Department.

69 § 1230. Obliteration of corners by highway construction

Where any section or quarter section is obliterated, or may be obliterated, by highway construction, the Department shall witness the location of such corners by two or more well defined objects located outside of the contemplated right-of-way limits and shall note such witnesses on the highway construction plans.

69 § 1231. Re-marking of existing corners

The Department shall also re-mark existing section corners and quarter section corners on State Highways that are now paved, with markers similar to those described herein, where reliable reference ties are available.

his deputy a professional engineer; *Provided*, this requirement shall not apply if the county surveyor is both a professional engineer and a Registered Land Surveyor.

Source: Laws 1879, § 127, p. 386; Laws 1905, c. 50, § 1, p. 295; R.S.1913, § 5685; Laws 1921, c. 141, § 1, p. 606; C.S. 1922, § 5015; C.S.1929, § 26-1601; Laws 1939, c. 28, § 16, p. 154; C.S. Supp., 1941, § 26-1601; R.S.1913, § 23-1901; Laws 1969, c. 170, § 1, p. 747.

23-1901 01. **County surveyor; appointment from another county; when.** When there is no qualified surveyor within a county who will accept the office of county surveyor, the county board of such county may appoint a competent surveyor from any other county of the State of Nebraska to such office.

Source: Laws 1951, c. 45, § 1, p. 162.

23-1902. **Chainmen; employment; oath.** All necessary chainmen shall be employed by the person or persons causing the survey to be made. The chainmen shall be disinterested persons, and approved of and sworn by the surveyor to measure justly and exactly, to the best of their knowledge and ability, all lines measured by them.

Source: Laws 1879, § 130, p. 386; R.S.1913, § 5686; C.S.1922, § 5016; C.S.1929, § 26-1602.

23-1903. **Witnesses; attendance and testimony; power to compel fees.** The county surveyor or his deputy, in the performance of his official duties, shall have the power to summon and compel the attendance of witnesses before him, to testify respecting the location and identification of any line or corner. When any such witness testifies to any material fact, his testimony must be reduced to writing and subscribed by him and made a matter of record. The county surveyor and his deputy are hereby authorized and empowered to administer oaths and affirmations to any person appearing as a witness before them. But the testimony as provided for herein shall never be used as evidence in any action involving corners or boundary lines, except for the purpose of impeachment. Each witness shall be entitled to the same fees allowed before justices of the peace.

Source: Laws 1913, c. 43, § 1, p. 142; R.S.1913, § 5687; Laws 1921, c. 138, § 1, p. 604; C.S.1922, § 5017; C.S.1929, § 26-1603.

23-1904. **Surveyor's certificate; use as evidence; effect.** The certificate of the county surveyor of any survey made by him of any lands in the county shall be presumptive evidence of the facts stated therein, unless such surveyor shall be interested in the same.

Source: Laws 1913, c. 43, § 2, p. 142; R.S.1913, § 5688; C.S.1922, § 5018; C.S.1929, § 26-1604.

23-1905. **Surveyor; interest; disqualification; who may act.** Whenever a survey of any lands or lots is required, in which the county surveyor is interested, such survey may be made by the surveyor of another county in like manner and to the same effect as though such survey had been made by the surveyor of the county where the land is situated. The surveyor doing the work shall record the field notes of said survey in the official record of surveys of the county wherein the land is situated.

Source: Laws 1913, c. 43, § 3, p. 142; R.S.1913, § 5689; C.S.1922, § 5019; C.S.1929, § 26-1605.

23-1906. **Trespass; exemption from liability.** The county surveyor in the performance of his official duties, shall not be liable to prosecution for trespass.

Source: Laws 1913, c. 43, § 4, p. 143; R.S.1913, § 5690; C.S.1922, § 5020; C.S.1929, § 26-1606.

County surveyor, when in performance of his official duties, is not liable to prosecution for trespass. *Kislinger v. State*, 123 Neb. 850, 244 N.W. 794.

23-1907. **Original corners; perpetuation.** It shall be the duty of the county surveyor in surveys made by him to perpetuate all original corners not at the time well marked, and all corners or angles that he may establish or reestablish, in a permanent manner by setting monuments of concrete, burned vitrified clay, iron or stone, and depositing at the base thereof, at a suitable depth to protect it from loss or destruction, a memorial of durable material upon which shall be marked the date and the initial letters of the surveyor's name, and where the corner is unmistakably a government corner, the letters G.C. (initial letters of the words Government Corner), in addition thereto; and where suitably growing trees are convenient to such corner or angle, he shall, in addition to said monument and memorial, carefully note the direction and distance to the middle of each tree, the size and kind of tree, all of which shall be carefully noted in the field notebook provided for that purpose. Where witness pits were dug at any original government corners, and they can be identified as such, the surveyor shall record their directions and distances from the corner, according to the instructions of the State Surveyor.

Source: Laws 1913, c. 43, § 5, p. 143; R.S.1913, § 5691; C.S.1922, § 5021; C.S.1929, § 26-1607.

23-1908. **Corners; establishment and restoration; rules governing.** The boundaries of the public lands established by the duly appointed government surveyors, when approved by the Surveyor General and accepted by the government, are unchangeable, and the corners established thereon by them shall be held and considered as the true corners which they were intended to represent, and the restoration of lines and corners of said surveys and the division of sections into their legal subdivisions shall be in accordance with the laws of the United States, the circular of instructions of the commissioner of the general land office on the restoration of lost

26-5. PROCEDURE ACT. 26-501 to 26-517.

26-512. Same; making surveys and location. The prospective condemner or its agents may enter upon the land and make examinations, surveys and maps thereof, and such entry shall constitute no cause of action in favor of the owners of the land, except for actual damages thereto. [L. 1963, ch. 234, § 12; Jan. 1, 1964.]

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* DELIVER TO: JPOM *
* *
* ORIGINAL *
* SENT: 02/11/85 TIME: 17:05 *
* FROM: MICKI HENSON *
* SUBJECT: POM *
* PRINT DATE: 02/11/85 TIME: 17:05 *
* *

29

TO: THE ANCHORAGE-DELEGATION

SENATORS ABOOD, FAIKS, V. FISCHER, HALFORD, KELLY, RODEY,
STURGULEWSKI

REPRESENTATIVES BOUCHER, CLOCKSIN, COLLINS, COTTEN, FURNACE,
GRUENBERG, HANLEY, JENKINS, MARTIN, PEARCE,
PETTYJOHN, PHILLIPS, SIGNALBERI, POURCHOT,
RIEGER, SZYMANSKI, UEHLING, KOPONEN, NAVARRE
RINGSTAND, SUND

FROM: SHERWIN A. START
320 MCCAREY STREET 'C'
ANCHORAGE, AK. 99504 PHONE: 337-8988 HOME

RE: HB 170

GOOD BILL ! 34.65.020(A) AND (B) COULD BE INTERPRETED TO EXCLUDE
THE GENERAL PUBLIC FOR LOOKING FOR A SURVEY MONUMENT. ALSO OPEN
UP THIS MONUMENT RECORDING CAPABILITY TO THOSE THAT CAN SHOW
COMPETENCE . THERE ARE MANY HUNDEREDS OF PEOPLE IN THE STATE
THAT ARE EXPERT IN THE LOCATION AND RECOGNITION AND VERIFICATION
OF SURVEY MONUMENTS.