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HOUSE COMMITTEE REPORT

(9)

Date referred: 4/30/87

FURTHER REFERRALS: Judiciary
Finance

DATE: 5/7/88

The Resources Committee has considered CSSB 136 (Res)

"An Act relating to multiple use of state land and water."

RECOMMENDS:

- replace with HCS CSSB 136 (RES) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Jan Gt
White Young
Al D
Clay Davidson
Dick Stutz

SIGNING OTHER RECOMMENDATIONS:

Adelheid Herrmann Rokee

Jan Gt

Chairman's signature

Original sponsors: Coghill, Faiks,
Bennett, et al.

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 136 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to multiple use of state land and
7 water."

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

9 * Section 1. AS 38.04.910(4) is amended to read:

10 (4) "multiple use"

11 (A) means the management of state land and its various
12 resource values so that it is used in the combination that will
13 best meet the present and future needs of the people of Alaska,
14 making the most judicious use of the land for [SOME OR] all of
15 the [THESE] resources or related services over areas large enough
16 to provide sufficient latitude for periodic adjustments in use to
17 conform to changing needs and conditions; [IT]

18 (B) includes

19 (i) [(A)] the use of the [SOME] land for less
20 than all of the resources but does not exclude compatible
21 competing uses; [,] and

22 (ii) [(B)] a combination of balanced and diverse
23 resource uses that takes into account the short-term and
24 long-term needs of present and future generations for renew-
25 able and nonrenewable resources, including, but not limited
26 to, recreation, range, timber, minerals, watershed, wildlife
27 and fish, and natural scenic, scientific, and historic
28 values;

29 * Sec. 2. AS 38.05.300(a) is amended to read:

1 (a) The commissioner shall, where considered necessary and
2 proper, classify land for surface use [CLASSIFY FOR SURFACE USE LAND
3 IN AREAS CONSIDERED NECESSARY AND PROPER]. This section does not
4 prevent reclassification of land where the public interest warrants
5 reclassification, nor does it preclude multiple [PURPOSE] use of land
6 whenever different uses are compatible. An area of state [STATE]
7 land, water, or land and water [AREA] may not, except by act of the
8 state legislature, be closed to multiple [PURPOSE] use if the area
9 involved contains more than 640 acres.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HCS for CS by SB 136
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: 5/7/88
Title: HCS for CS for SB 136 An Act
Relating to Multiple Use
Sponsor: Coghill
Requestor: house Resources

Agency Affected: Dept. of Natural Resources
BRU: Land & Water Mgmt
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The Department anticipates no fiscal impact with respect to this legislation.

Prepared by: Lawrence Ostrovsky Phone: 465-2400
Division: Commissioner's Office Date: 5/7/88

Approved by Commissioner: Lawrence Ostrovsky Date: 5/7/88
Agency: Department of Natural Resources

Distribution (by preparer):

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

DRAFT

SB 136 files

3/11/88

Comparitive Discussion of Language in 4/22/87 CSSB 136 as it Relates to Fish and Wildlife Values Which are not Commonly or Readily Quantified (prepared at request of Representative Sam Cotten, Chairman of House Resources Committee)

Question: How, using examples, does the language proposed for deletion from existing law differ from language proposed for addition, in terms of ADF&G's ability to ensure that all fish and wildlife values are adequately factored into ADNR's best interest findings prepared under AS 38.05.035(e)?

Background/Legislative Intent: Sections 1 and 2 amend the definition of multiple use as it is defined in AS 38.04 (Alaska Lands Act) and AS 41.17 (Forest Practices and Resources Act) to require that multiple use lands be managed for all of their resources, thereby negating current statutory discretion to manage lands for a predominant use or for less than all competing uses. Section 3 appears to remove the statutory requirement that state lands be classified for surface use and grants the Commissioner of Natural Resources discretion to classify land where considered necessary and proper.

Analysis of Bill/Program Effects: The existing definition of multiple use is consistent with the state's constitutional provision that "Fish, forest, wildlife, grasslands, and all other replenishable resources belonging to the state should be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses." The existing language accommodates the commonly recognized fact that all potential natural resource uses may not be compatible on every acre. The current definition also allows for the objective and reasonable identification of appropriate primary, secondary, and incompatible uses on an area-specific basis.

The definition of "multiple use" in CSSB 136 emphasizes that the land be used for "all" rather than "some or all" resources. Although CSSB 136's reduced emphasis on "the use of the land for less than all of the resources," is accompanied by the added qualification that multiple use "does not exclude compatible competing uses," the latter requires that individual determinations be made as to whether competition between uses is great enough to result in incompatibility. There is concern that such compatibility tests may 1) unduly tax already strained agency staffs and budgets, 2) create delays in land use decisions that would be burdensome to private industry and the general public, and 3) place the burden of proof unduly upon those attempting to utilize those resources that are often the most difficult to quantitatively value.

To the extent that CSSB 136 also proposes to supplant the multiple use definition in the state's Forest Resources and Practices Act, it would eliminate the current provision that "consideration be(ing) given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output." This provision in existing statute is especially valuable insofar as it recognizes the fact that certain fish, wildlife, and other resource values may not be as easily quantified in economic terms as may timber and certain non-renewable resources. It should also be noted that this provision has a long history in federal law. In fact, the entire portion of existing AS 38.04.910 that CSSB 136 proposes to delete is practically identical to language in the federal Multiple Use-Sustained Yield Act of June 12, 1960 (74 Stat. 215; 16 U.S.C. 528-531) which reads as follows:

Sec 4.(a) "Multiple use" means the management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output. (emphasis added)

Attached is a discussion of this federal law that appeared in the Oregon Law Review (Vol. 64, 1985). If there have been problems in achieving a balance in the multiple resource uses of the national forests since 1960, one might attribute them in part to how adequately the Congressional intent of the Multiple Use-Sustained Yield Act has been implemented.

Later federal legislation has retained the emphasis of the Multiple Use-Sustained Yield Act and has added reference to specific resource uses. The Federal Land Policy and Management Act of 1976 reads as follows:

Sec. 103(c) The term "multiple use" means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of

balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources. including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

Example Situations in Which Statutory Emphasis on Least Quantifiable Fish & Wildlife Values Would Encourage Their Adequate Consideration:

For practical purposes, every land management decision that ADNR makes and which potentially affects fish and wildlife habitat involves the need for adequate consideration of both those fish and wildlife values that are readily quantifiable (such as ex-vessel and first wholesale values of commercial fisheries in Bristol Bay) and the myriad of values that are more difficult to quantify and less tangible. While it is not possible to determine how past resource tradeoff decisions may have been made differently had the changes proposed in CSSB 136 been in place, one can conclude that the greater the emphasis that the state's multiple use statute places on considering the less tangible values, the greater will be the obligation of future as well as present state land managers to ensure that this consideration is given.

Partially in recognition of this need, ADF&G devoted most of its January-February 1988 issue of Alaska Fish & Game to this very subject. There are a number of articles in that issue that address the subject, and copies of two of them are attached to illustrate both the concept and specific examples.

Example 1: The attached article by Sarah Watson, entitled "Dall Sheep - What are they worth," illustrates the kinds of values that are associated with consumptive and non-consumptive use of Dall sheep.

Example 2: The attached article by Bruce Baker, entitled "Pondering the Intangibles and Other Fish & Wildlife Values," summarizes the differences between price, cost, and value and goes on to emphasize the need for adequate recognition, in resource decisions, of commercial, recreational, subsistence, existence, bequest, and other values associated with fish and wildlife. Examples include a consideration of streamside habitat values compared with more tangible timber values.

Example 3: Another example of the need to provide clear legislative emphasis if all fish and wildlife values are to be adequately considered in resource management decisions can be

found in a summary of public comments compiled by ADNR and attached to a February 17, 1988 memorandum letter from Tom Hawkins, Assistant Commissioner, ADNR, to Norman Cohen, Deputy Commissioner, ADF&G. The following quotes from that approximately 100-page summary illustrate some of the values and concerns that people have expressed.

a. "The Susitna Valley gets quite a few numbers of tourists each year as hunters, anglers, etc. . . . Its streams have world-class fisheries plus beautiful remote scenery. That's why you get visitors from all over the world. They bring quite a boost to the Alaskan economy. They certainly would be less inclined to come visit and fish/hunt if the place no longer has that 'wilderness quality.'"

b. "My understanding is that the State will receive less than \$100,000 per year from the proposed lease, and that a few jobs will be created. My concern is for the degradation of a superb fishing/hunting/tourism resource that will surely be caused by the proposed clear cutting. Revenue generated by low impact use, fishing/hunting/tourism, of the Susitna Valley is thought to exceed \$5,000,000 per year."

c. "The Susitna Valley presently has a \$5-10 million world class sport fishing industry in place which is growing rapidly. A wilderness lodge industry such as ours cannot successfully co-exist with a logging project of the magnitude proposed."

d. "The one-page economic analysis is entirely inadequate."

e. "The only animals that may thrive will be moose, after the cutting of timber. What about other animals? Bear and other mammals. Where will they go when 50% of their habitat is gone?"

Although it may be possible to mitigate some of the effects indicated in the above comments, tradeoffs in natural resource use are also likely. It is essential to factor both quantitative and qualitative indications of value into both mitigation and tradeoff decisions. The responsiveness of present and future state resource managers to values and concerns such as these can be expected to be at least indirectly influenced by the statutory guidance that they receive on the meaning of the multiple use concept that they are charged to carry out.



Dall Sheep

What are they worth?

by Sarah Watson

Dall sheep habitat is viewed by some as mountainous and inaccessible and its climate unforgiving. Some investment-minded people, however, have seen the alpine tundra as a place of economic possibilities. Domestic livestock grazing, homesite subdivisions, ski facilities, and mining are some examples of proposed development projects. Dall sheep already living where future developments occur will have to habituate to their new neighbors or, at the extreme, die off and disappear as did many bighorn sheep populations in the western U.S. There, mining and settlement, in addition to decreasing the amount of habitat available for bighorns, attracted more settlers who brought domestic livestock. These animals competed for range and transmitted new and deadly diseases to bighorns. The incremental losses of bighorn sheep and habitat added up over time. Present bighorn sheep abundance, even after decades of restoration attempts, does not approach the historic levels.

However, in retrospect, tradeoffs are always made in economic decisions. Economic decisions involve the weighing of all

costs and benefits in search of the most benefits for the least cost. Does this mean Alaskans have to trade wildlife for economic development and a sound state economy?

On the contrary, Dall sheep as well as other wildlife resources have economic importance, too. Their value is in part reflected in people's actions—how they choose to spend their time and money. For example, some people travel long distances just to see these all-white mountain-dwelling animals which grow massive curling horns. To some, it is important to go sheep hunting every year. Photographers often win photo contests with pictures of Dall sheep, their photos gracing magazine covers, newspapers, and travel posters. For some, just knowing sheep are there, perhaps even in distant mountains, is of value.

Measuring these values in economic terms and comparing them to the benefits of a traditional industry is challenging. However, for those to whom wildlife is important, it can no longer be enough to say wildlife is "priceless" or has an indefinable value. Many land use decisions are being made using economic values and "priceless" cannot be used in economic analysis. With such a designation, wildlife such as Dall sheep may not be considered among the economically important choices for Alaska's future.

In 1983, biologists in the Fairbanks office of ADF&G decided to take on the challenge of estimating the value of Dall sheep by quantifying the importance of hunting to Alaska's economy and to hunters. With the help of the Foundation for North American Wild Sheep, especially its Alaska chapter, and the University of Alaska, we sent a questionnaire to all who hunted Dall sheep in Alaska in 1983. Over 2500 questionnaires were mailed to resident sheep hunters in all corners of Alaska and to nonresident hunters around the U.S. and the world. We received replies from 86 percent of the hunters, including 90 percent of the nonresidents.

J. Hyde

Hunters answered questions about the cost and the benefits of their sheep hunt. The costs included money spent for equipment, time off from work without pay, guide services, transportation, taxidermy, and other expenditures. Payment for these goods and services went to businesses both inside and out of Alaska and had positive impact on the economy. However, costs do not measure the value of the hunting experience to the hunter. The benefits to the consumer—the hunter—must also be considered in order to make sound economic evaluations.

Economists measure benefits to the consumer by the difference between the amount the consumer is willing to pay and the price actually paid. We asked hunters how much more they would have been willing to spend on their sheep hunt before deciding that it was too expensive to go Dall sheep hunting in Alaska that year.

Each individual decides what a hunt is worth and what he or she would be willing to give up in order to hunt. [See sidebar.] For some, sheep hunting is very important; they would be willing to forego most other activities in order to hunt. To others, sheep hunting just is not all that important and the money could be better spent doing something else, maybe moose hunting or maybe on that new set of tires. Everyone performs his or her own cost-benefit analysis individually. If we can spend less than the maximum we are willing to pay for the same experience,

we get a good deal! We all like good deals enough to choose them. This is why the amount spent on a hunt may not be a measure of the hunt's value.

From the survey, we found that Alaska's Dall sheep hunters spent an estimated \$6.2 million dollars in 1983. The average resident hunter spent over \$1,500 on a hunt. Nonresident hunters spent on the average almost \$8,000. Nonresidents had higher transportation costs and, by law, must hire a guide unless hunting with a resident relative within the second degree of kindred. Nonresidents additionally spent an estimated \$760,000 on hunting other species, visiting relatives, and buying items not related to their hunt. Nonresident sheep hunters accounted for only 17 percent of the hunters. Almost \$6 million from sheep hunting went directly into Alaska's economy for a harvest of about 1000 rams.

A few hunters thought that sheep hunting was an over-rated activity that costs far too much in energy and money for too little gain. However, most hunters not only "got what they paid for," but also got more out of the experience than what it cost. The net benefit of sheep hunting (not including other hunts or tourism) to hunters in economic terms came to \$5.5 million for their 1983 hunt.

The estimated costs and benefits attributable to sheep hunting in 1983 are minimum values. We did not measure the economic value of sheep hunting opportunities for those who chose not to hunt in 1983, and, judging from hunting statistics from ADF&G, the number of people hunting Dall sheep is increasing annually. We must eventually determine the value of Dall sheep to those who just want to see, photograph, or know wild sheep will be around for their great grandchildren to enjoy. Although it may be difficult to determine the value of an experience not normally bought and sold, it is important to express the benefits as well as the costs in any economic evaluation. As more and more land use decisions are being made based on economics, it is important to fully evaluate the tradeoffs.

Sarah Watson, a Fish and Game Technician with the Division of Game, ADF&G, Fairbanks, has worked on the research and management of Dall sheep since 1981.



J. Hyde

Is Hunting Worth It?

"Is hunting worth it? Can I afford to go hunting?"

Every year many Alaskans silently wrestle with these questions in their minds and, judging from the popularity of hunting in Alaska, the answer for many is yes!

Why do people choose to spend their time and money hunting? Many people have to evaluate how much time they can take off from work, how much money the hunt will cost after buying camp food, gas, ammunition, and maybe that new rifle. Can an air charter be afforded or will it have to be a hunt along the road system with the crowds again?

The benefits are also considered. The meat is good. Many people enjoy getting away from town to where it is quiet and where they can get some exercise, inhale that fresh mountain air, and spend time with their favorite hunting partners.

Maybe this is the year that trophy animal will be found. For some, it is a very personal time, a spiritual renewal of ties to nature.

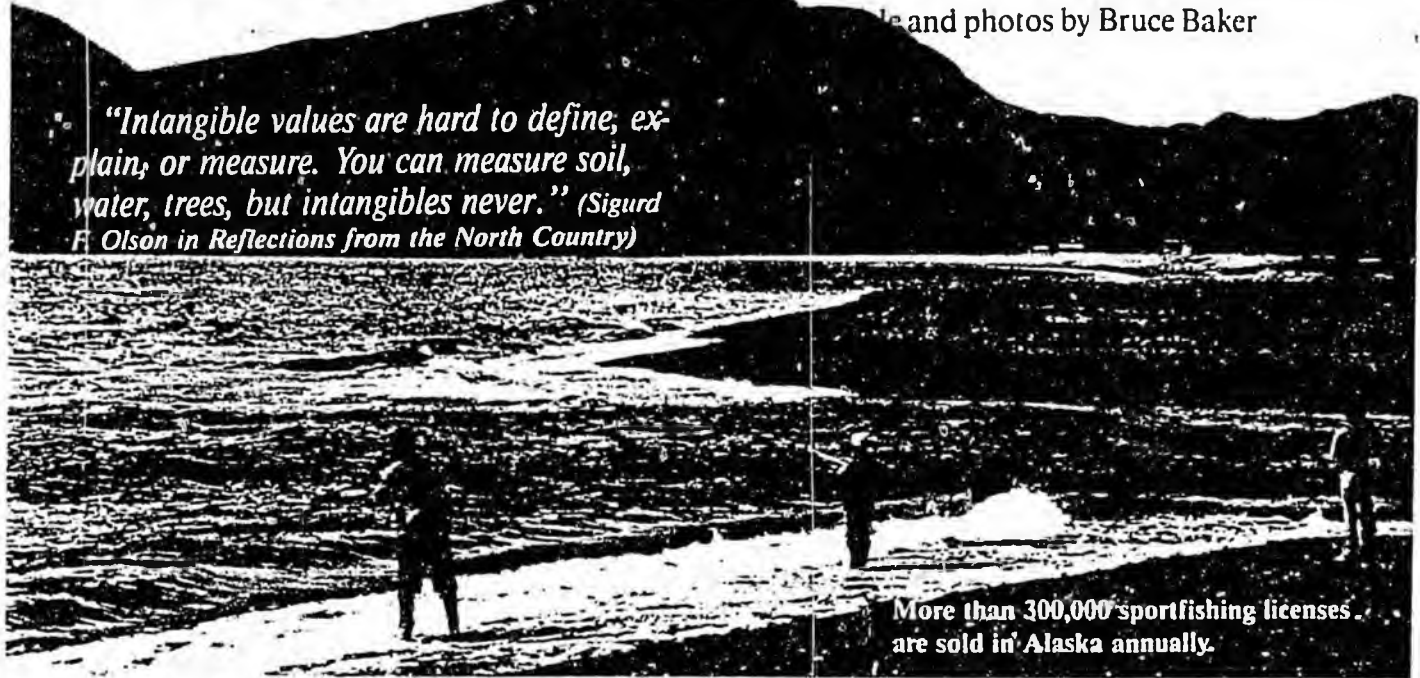
We make decisions daily by weighing the costs and benefits of alternate choices, trying to decide which will give us the most benefits for the least cost. Our values, which stem from our social, historic, religious, and educational backgrounds, determine what is a benefit or cost to us. Still, individuals with similar backgrounds may have different values because values are very personal and reflect the basic preferences of individuals. Values are expressed in economic decisions every time we choose to buy or not to buy some item.

So, to answer the question why some people choose to go hunting, it is because the benefits outweigh the costs.

Pondering the Intangibles and Other Fish & Wildlife Values

Article and photos by Bruce Baker

"Intangible values are hard to define, explain, or measure. You can measure soil, water, trees, but intangibles never." (Sigurd F. Olson in Reflections from the North Country)



More than 300,000 sportfishing licenses are sold in Alaska annually.

B iologists really do face a challenge in protecting fish and wildlife habitat through land management decisions. They can simply describe those values that are most readily quantifiable, such as the value of sockeye salmon to those working the fishing boats or canneries of Bristol Bay. The limitation of this approach is that only some of the resource's real value will be considered. An alternative is to quantify as many fish and wildlife values as possible and make a strong qualitative argument for those which do not lend themselves as well to quantitative analysis.

Professor Robert Weeden recently distinguished between price, cost, and value (*Alaska Fish & Game*, May-June 1987). He described price as simply the monetary agreement between buyer and seller, an actual market transaction and seldom an indication of true cost. Cost he defined as what we forego for something. The cost of using one's vacation time to paddle and portage across Admiralty Island may include the cost of passing up a moose hunt in the Interior later in the year. Value refers to the worth of something to an individual of certain preference in a particular situation. People value outdoor experiences differently.

The values of fish and wildlife are commonly described as commercial, recreational, option, existence, and bequest. A **commercial value** is the long-term contribution that Alaska's salmon fishery makes to the state's overall economy. The amount that one pays or would be willing to pay in order to sport fish the Kenai River or to photograph brown bears at the McNeil River Game Sanctuary is considered a **recreational value**. An **option value** is one that a New Yorker places on being able to someday visit Alaska and see a wolf. Even if one has no intent to visit Alaska, the knowledge that wildlife abounds here provides an **existence value**. Another commonly recognized value is that of **bequest**, the willingness to pay for providing wildlife for future generations.

There are variations on this simplified value classification. Aesthetic, educational, social, and biological considerations may be associated, for instance, with existence value. Subsistence hunting satisfies basic human needs, albeit more directly than does commercial harvest. It can also be of considerable social value to those whose community fabric has evolved around it. A biological value is the need for a species or population to thrive in sufficient numbers and over suf-

ficient range to ensure the viability of its gene pool and thus its long-term survival. Though often scoffed, there are also those who place great importance on the intrinsic right of species or populations to exist for their own sake, still another form of existence value.

Our nation's laws place the ownership of fish and wildlife resources in the public domain and require that state or federal governments manage these resources in the public interest. Government is expected to consider the full range of social benefits and costs in its decisions and not just those costs and returns that can be measured by the private sector. This concept is known as the Public Trust Doctrine, and it compels public servants to protect the interests of a variety of wildlife users, consumptive and nonconsumptive. Alaska's Constitution requires that "Fish, forests, wildlife, grasslands, and other replenishable resources belonging to the State should be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses." The Constitution could not prescribe specific levels at which each of these resources are to be sustained. Most of the necessary laws and regulations are, however, available to resolve

Coastal communities like Elfin Cove on Chichagof Island are economically dependent on commercial fishing as well as sport-fishing charter boats and lodges.



resource management disagreements on state lands. This is often done through comprehensive land use planning or detailed project reviews in which sustainable levels of various natural resources are at least implicitly optimized, often at less than their individual maximum sustainable levels. Through its coastal management legislation, the state may assist coastal communities in satisfying both state and local habitat management objectives. Specific resource development projects call for protecting wildlife while at the same time allowing the development of other resources to proceed at a reasonable level and cost. Management of federal lands and waters in or off Alaska offers additional opportunities for the state to influence basic resource allocation decisions and project-specific measures to protect fish and wildlife. Habitat management on these areas is, however, subject to the consideration of national as well as state and local needs. And finally, private land management requires a balance in protecting public fish and wildlife resources and guarding the rights of private ownership.

It is the Commissioner of Fish and Game who has the specific statutory

responsibility to "manage, protect, maintain, improve, and extend the fish, game and (curiously) aquatic plant resources of the state." This department must make the case for human use of wildlife and the need for habitat protection. Department biologists must be able to explain wildlife values in order to effectively influence area-wide or project level planning decisions. The latter may include provisions for fish passage through culverts, caribou movement and calving in oil fields, protecting eagle nesting trees, maintaining sediment-free spawning gravels for fish, or retaining blocks of subalpine timber in which mountain goats can escape bitter winter storms.

The need to describe fish and wildlife uses prompted ADF&G to devote two entire volumes of its 1986 Alaska Habitat Management Guide series to providing an economic overview of fish and wildlife. These volumes contain more than 1,200 pages describing, on a statewide or regional basis, commercial and sport fish uses, as well as the consumptive and non-consumptive uses of other wildlife.

A current example of a highly quantitative economic argument is the statement that gross wholesale revenues to processors in the Alaska salmon industry

averaged \$1.07 billion during the 1981 to 1985 period, soaring to \$1.5 billion in 1986; or that in 1984, the total commercial harvesting employment reached an estimated 30,000. It's more difficult, however, to quantify the need to protect the most important caribou calving habitat on the arctic coastal plain when oil prospects there may provide an opportunity to revitalize a sagging state economy and when a security conscious, consumer nation is trying to hedge its bets against political unrest in the oil-rich Middle East.

And all the sophisticated and computerized quantitative evaluation tools at our disposal don't seem to help much when you're standing on a streambank with a logger who has just told you that a nearby 400-year-old Sitka spruce is worth \$5,000 to \$8,000. You take a deep breath and explain that if the tree lives another century or so, it will provide that many years of bank stability; refuge among its washed out roots for thousands of young coho salmon fry; shade in a stream that may otherwise reach extreme summer or winter temperatures lethal to fish; a den used by generations of river otters; and perches for unknown numbers of American bald eagles. When



Both residents and visitors spend millions of dollars each year to view as well as hunt Alaska's wildlife.

the tree finally dies, it will continue to serve many of these functions and will provide refuge for cavity-nesting birds such as woodpeckers. If it eventually falls into the creek, it may provide a deep bankside pool and a riffle, a combination valuable for fish eggs, fry, and lunkers alike. It's extremely difficult to quantify these benefits, and even if we could, values may change over time.

Theodore Roosevelt, a conservationist among presidents, referred to the mountain lion as "the big horse-killing cat, the destroyer of the deer, the lord of stealthy murder, facing his doom with a heart both craven and cruel." Would he be likely to say that today? Would others? Biologists are fond of quoting Aldo Leopold, and even he, in 1920, promised to persevere until "the last wolf or lion in New Mexico" was dead. Within five years he was already beginning to temper his view, evidence that values can change within each of us, even those who are viewed as experts.

By 1948, Leopold summed up his thinking when he said, "Conservation is getting nowhere because it is incompatible with our Abrahamic concept of land. We abuse it because we regard it as a commodity belonging to us. When we see land as a community to which we belong, we may begin to use it with love and respect." He also felt that "Perhaps the most serious obstacle impeding the evolution of a land ethic is the fact that our educational and economic system is headed away from rather than toward, an intense consciousness of the land." That's a broader approach than debating the relative merits of applying the travel cost or the contingent value method in valuating wildlife, yet it seems that the most prudent resource management decisions really do require both philosophical and technical approaches if we are to succeed in protecting the habitats we are charged to look out for. And, of course, economics directs itself to producing technical approaches from philosophical foundations.

Bruce Baker has recently served as Acting Director of the Division of Habitat, ADF&G, Juneau.

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(e) All conveyances under the Act referred to in subsection (h) of section 1 hereof of national forest lands reserved from the public domain shall, upon recommendation of the Secretary of Agriculture, be made by the Secretary of the Interior.

Multiple Use-Sustained Yield Act

• Act of June 12, 1960 (74 Stat. 215; 16 U.S.C. 528-531)

Sec. 1. It is the policy of the Congress that the national forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes. The purposes of this Act are declared to be supplemental to, but not in derogation of, the purposes for which the national forests were established as set forth in the Act of June 4, 1897 (16 U.S.C. 475). Nothing herein shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish on the national forests. Nothing herein shall be construed so as to affect the use or administration of the mineral resources of national forests lands or to affect the use or administration of Federal lands not within national forests. (16 U.S.C. 528)

Sec. 2. The Secretary of Agriculture is authorized and directed to develop and administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom. In the administration of the national forests due consideration shall be given to the relative values of the various resources in particular areas. The establishment and maintenance of areas of wilderness are consistent with the purposes and provisions of this Act. (16 U.S.C. 529)

Sec. 3. In the effectuation of this Act the Secretary of Agriculture is authorized to cooperate with interested State and local governmental agencies and others in the development and management of the national forests. (16 U.S.C. 530)

Sec. 4. As used in this Act, the following terms shall have the following meanings:

(a) "Multiple use" means the management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs

and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

(b) "Sustained yield of the several products and services" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the national forests without impairment of the productivity of the land. (16 U.S.C. 531)

McIntire-Stennis Act

- Act of October 10, 1962 (76 Stat. 806; 16 U.S.C. 582a to 582a-7)

Sec. 1. It is hereby recognized that research in forestry is the driving force behind progress in developing and utilizing the resources of the Nation's forest and related rangelands. The production, protection, and utilization of the forest resources depend on strong technological advances and continuing development of the knowledge necessary to increase the efficiency of forestry practices and to extend the benefits that flow from forest and related rangelands. It is recognized that the total forestry research efforts of the several State colleges and universities and of the Federal Government are more fully effective if there is close coordination between such programs, and it is further recognized that forestry schools are especially vital in the training of research workers in forestry. (16 U.S.C. 582a)

Sec. 2. In order to promote research in forestry, the Secretary of Agriculture is hereby authorized to cooperate with the several States for the purpose of encouraging and assisting them in carrying out programs of forestry research. Such assistance shall be in accordance with plans to be agreed upon in advance by the Secretary and (a) land-grant colleges or agricultural experiment stations established under the Morrill Act of July 2, 1862 (12 Stat. 503), as amended, and the Hatch Act of March 2, 1887 (24 Stat. 440), as amended, and (b) other State-supported colleges and universities offering graduate training in the sciences basic to forestry and having a forestry school; however, an appropriate State representative designated by the State's Governor shall,

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sage of the Multiple-Use Sustained-Yield (MUSY) Act of 1960.³⁰⁴

3. *The Multiple-Use Sustained-Yield Act of 1960*

In addition to the troublesome *Perko* decision, the 1950s brought other challenges to the Forest Service's management authority and policies.³⁰⁵ Wilderness advocates, timber companies, and other users of the national forests pressured the agency and Congress to protect their respective interests.³⁰⁶

In 1956 Senator Hubert Humphrey introduced the first national forest wilderness³⁰⁷ and multiple-use bills.³⁰⁸ After some hesitation by the Forest Service, Chief Richard McArdle decided to support multiple-use legislation.³⁰⁹ Accordingly, on February 5, 1960, the Department of Agriculture formally proposed the Forest Service's own multiple-use bill to Congress.³¹⁰

³⁰⁴ 16 U.S.C. §§ 528-531 (1982).

³⁰⁵ Prior to the 1950s, the Forest Service's authority and management policies remained relatively stable and uncontroversial:

[F]or 55 years the Forest Service administered nearly 20 million acres of forests, rivers, mountains, and ranges with little legislative guidance, not much interest from the public and, frequently, tremendous pressures from exploiters of range, timber, and mineral resources. The Forest Service acted both as protector and as arbitrator. Pride in work, pride in the land, dedication to duty, and a tradition of keeping a distance from special interests lent credence to the characterization of the Forest Service as a "priesthood." Although without fault, better stewardship during this period would have been hard to find.

Flamm, *Evolution of National Forest Management: The Statutory Stimulus in CRISIS IN FEDERAL FOREST LAND MANAGEMENT*, *supra* note 2, at 49.

³⁰⁶ See generally S. DANA & S. FAIRFAX, *supra* note 52, at 179-201; H. STEEN, *supra* note 49, at 278-304.

³⁰⁷ S. 4013, 84th Cong., 2d Sess. (1956).

³⁰⁸ S. 3615, 84th Cong., 2d Sess. (1956). The bill would have created citizen advisory councils to recommend policy to the Secretary of Agriculture. In addition, it listed range, timber, water, minerals, wildlife, and recreation as resources to be protected.

³⁰⁹ Assistant Chief of the Forest Service Edward Crafts called this the "most critical decision" of McArdle's administration. H. STEEN, *supra* note 49, at 304-05. McArdle made his decision in spite of fears among his staff that the bill could jeopardize the agency's authority if Congress failed to enact the bill. Once McArdle decided to support the bill, however, members of the agency gave their unanimous support. *Id.*

³¹⁰ *National Forests - Multiple Use and Sustained Yield: Hearings on H.R. 10,572 Before the Subcomm. on Forests of the House Comm. on Agriculture*, 86th Cong., 2d Sess. 1-4 (1960) (hereinafter cited as *Hearings on H.R. 10,572*). The administration's bill stated, in full:

The Forest Service's management authority and policies under the 1897 Act. The scope of the bill was to be 551.³¹¹ Nevertheless, the bill inserted conflicting provisions for management of the national forests under the multiple-use act. There would be no management of the national forests under the bill. The bill would be enacted.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to carry out the following purposes: (1) to develop and manage the national forests for multiple use, and (2) to obtain the maximum benefit from the national forests for the present and future generations.

SEC. 2. The Secretary of Agriculture is authorized to carry out the following purposes: (1) to develop and manage the national forests for multiple use, and (2) to obtain the maximum benefit from the national forests for the present and future generations.

SEC. 3. The Secretary of Agriculture is authorized to carry out the following purposes: (1) to develop and manage the national forests for multiple use, and (2) to obtain the maximum benefit from the national forests for the present and future generations.

Id. at 1.

³¹¹ The bill would have amended the 1897 Act to provide for the management of the national forests for multiple use, and to obtain the maximum benefit from the national forests for the present and future generations. The bill would have amended the 1897 Act to provide for the management of the national forests for multiple use, and to obtain the maximum benefit from the national forests for the present and future generations.

³¹² *Hearings on H.R. 10,572*, *supra* note 310, at 1. The bill would have amended the 1897 Act to provide for the management of the national forests for multiple use, and to obtain the maximum benefit from the national forests for the present and future generations.

The Forest Service bill, while not proposed as an amendment to the 1897 Act, clearly sought to confirm, if not to expand, the scope of the agency's regulatory authority under 16 U.S.C. § 551.³¹¹ Nevertheless, during testimony on the bill, McArdle asserted confidently that the agency already had the authority to manage for recreation, range, and wildlife purposes. He declared, "The national forests have been administered for many years under the dual conservation policies of multiple use and sustained yield. There is no question as to the Department's authority to so manage the national forests, and the recommendation that this bill be enacted should not be so construed."³¹² Congress generally

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the policy of the Congress that the national forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes. Nothing herein shall be construed to affect the authority of the Secretary of the Interior provided by law with respect to mineral resources.

SEC. 2. The Secretary of Agriculture is authorized and directed to develop and administer the renewable surface resources of the national forest for multiple use and sustained yield of the several products and services obtained therefrom. In the administration of the national forests due consideration shall be given to the relative values of the various resources in particular areas.

SEC. 3. In the effectuation of this Act the Secretary of Agriculture is authorized to cooperate with interested State and local governmental agencies and others in the development and management of the national forests.

Id. at 1.

³¹¹ The first section of the Forest Service bill proposed to expand the section of the 1897 Act concerning purposes for establishment (16 U.S.C. § 475) by adding recreational, grazing, and wildlife purposes. This section was later amended, at the request of the timber interests, to state that the three new purposes were "supplemental to, but not in derogation of," the timber and water purposes of the 1897 Act. 16 U.S.C. § 528 (1982). See Note & Comment, *Natural Resources — National Forests — The Multiple Use - Sustained Yield Act of 1960*, 41 OR. L. REV. 49, 53-55 (1961). Similarly, section 2 of the bill "authorized and directed" the Secretary "to develop and administer" the five resources named in the first section. Section 2, then, eliminated the possibility that the agency's administrative authority could be limited to fulfilling the purposes of water flow and timber supply. See *infra* text accompanying notes 317-19.

³¹² *Hearings on H.R. 10,572, supra* note 310, at 36. Dana and Fairfax have explained the ambivalent posture the Forest Service had to maintain:

The Forest Service position in pressing the legislation was quite awkward. On the one hand, they had to convince Congress that the need for legislation was real and haste was necessary in passing the act. On the other hand, they were required to assert that the proposed legislation was nothing new; the agency had all the authority required to practice multiple use management of the forests and had been doing so for over fifty years.

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accepted McArdle's claim that the bill would not affect the amount of authority over the national forests that Congress had already delegated to the executive branch.³¹³ With the support of virtually all national forest user groups,³¹⁴ as well as the administration,³¹⁵ Congress quickly approved a revised version of the Forest Service bill.³¹⁶

Notwithstanding the Forest Service's official position, the MUSY Act has fortified the agency's defense against legal challenges to its regulatory authority. *McMichael v. United States*³¹⁷ illustrates the Act's effect on judicial review. In *McMichael* the Court of Appeals for the Ninth Circuit upheld the agency's authority under 16 U.S.C. § 551 to prohibit use of motorized vehicles in an administratively designated "primitive area."³¹⁸ The court concluded that in the MUSY Act Congress had "expressly manifested its approval" of the Forest Service's policy to regulate the national forests for recreational purposes.³¹⁹ The same result

Clearly, the agency did not want to be left, if their legislative initiative failed, with the implication that they had no authority to provide recreation facilities on the National Forests.

S. DANA & S. FAIRFAX, *supra* note 52, at 201.

³¹³ During floor debate on the bill, Representative Harold Cooley, Chairman of the House Committee on Agriculture, stated, "The law does not give the Secretary of Agriculture any new authority." 106 CONG. REC. 11,707 (1960). Later, Cooley said, "This bill simply tries to clarify the administrative responsibilities of the Secretary of Agriculture . . . I do not think that we make any basic change at all." *Id.* at 11,711. Senator James Eastland, Chairman of the Senate Committee on Agriculture and Forestry, explained during the Senate floor debate, "The bill requires no change from existing policy and gives the Secretary no new authority." *Id.* at 12,078.

³¹⁴ See generally, *Hearings on H.R. 10,572, supra* note 310.

³¹⁵ See Letter from Richard E. McArdle to Hon. James O. Eastland (June 2, 1960), reprinted in 106 CONG. REC. 12,078 (1960) (expressing Forest Service's approval of MUSY bill).

³¹⁶ The enacted version included recognition of concurrent state jurisdiction over wildlife, specific authorization to establish wilderness areas, reiteration of the purposes stated in the 1897 Act for establishing forest reserves, and definitions of "multiple use" and "sustained yield." See 16 U.S.C. §§ 528-531 (1982).

³¹⁷ 355 F.2d 283 (9th Cir. 1965).

³¹⁸ *McMichael* was similar to *United States v. Perko*, 108 F.Supp. 315 (D. Minn. 1952), *aff'd* 204 F.2d 446 (8th Cir.), *cert. denied*, 346 U.S. 832 (1953), except that the primitive area in *McMichael* had no special congressional recognition. Thus, *McMichael* directly confronted the "question" raised in *Perko*. See *supra* note 303.

³¹⁹ The court of appeals stated:

The consistent administrative interpretation of section 551 . . . has been that while recreational considerations alone will not support the establishment of a national forest, they are appropriate subjects for regulation. Congress has tacitly shown its approval of this interpretation by appropri-

should logically flow from the broad terms of 16 U.S.C. § 551 as construed in *United States v. Grimaud*³²⁰ and other cases,³²¹ but passage of the MUSY Act made the judicial task much easier.

4. The Modern Legislation

During the 1960s Congress began to restrict the Forest Service's authority through environmental legislation. The Wilderness Act of 1964³²² limited the types of management that could occur in wilderness areas. The Endangered Species Act of 1973³²³ precluded activities that could adversely affect the habitats of threatened and endangered wildlife. The Wild and Scenic Rivers Act of 1968³²⁴ required protective management of certain river corridors. The National Trails System Act of 1968³²⁵ restricted management activities in the areas through which national scenic trails pass. Each of these laws limited the Forest Service's authority to alter the environment of specific areas.

After 1968 Congress enacted broader environmental safeguards for the national forests. The National Environmental Policy Act of 1969³²⁶ (NEPA) required the Forest Service to analyze environmental effects prior to undertaking any major federal action. NEPA, for example, caused the Forest Service to stop development activity in all national forest roadless areas.³²⁷ The Federal Water Pollution Control Act of 1972³²⁸ placed general limits on activity that would violate water quality standards on national forest watercourses. The Alaska National Interest Lands Conservation Act of 1980³²⁹ has been construed to require the Forest Service to allow reasonable access to private lands located in wilderness study lands in all national forests, not just those in

ating the sums required for its effectuation. Further Congress has expressly manifested its approval by actually adopting and furthering administrative policy in [the Multiple-Use Sustained-Yield Act].

McMichael, 355 F.2d at 285. The court did not examine the legislative history in the MUSY Act that sought to ensure the validity of primitive-type areas.

³²⁰ 220 U.S. 506 (1911), discussed *supra* in text accompanying notes 285-87.

³²¹ See, e.g., *Hunt v. United States*, 27 U.S. 96 (1928), and *supra* notes 292-300.

³²² 16 U.S.C. §§ 1131-1136 (1982), discussed *infra* section IX.

³²³ 16 U.S.C. §§ 1531-1543 (1982), discussed *infra* notes 1548-50.

³²⁴ 16 U.S.C. §§ 1271-1287 (1982), discussed *infra* section VIII (C).

³²⁵ 16 U.S.C. §§ 1241-1249 (1982).

³²⁶ 42 U.S.C. §§ 4321-4370 (1982).

³²⁷ See *infra* text accompanying notes 1863-93.

³²⁸ 33 U.S.C. §§ 1251-1376 (1982), discussed *infra* section V(B)(1).

³²⁹ 16 U.S.C. §§ 3101-3233 (1982).

FISCAL NOTE

REQUEST:

Revision Date: 4/22/87
Title: An act relating to multiple use of state land
Sponsor: Coghill, Faiks, et. al.
Requestor: House Resources

Agency Affected: Natural Resources
BRU: Land and Water Management
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The Department of Natural Resources expects no additional funding requirements from this legislation.

Prepared by: Lawrence Z. Ostrovsky Phone: 465-2400
Division: Commissioner's Office Date: _____

Approved by Commissioner: *Lennie Gorsch* Date: 3-7-88
Agency: Natural Resources

Distribution (by preparer):

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

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

20 104
STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1725
PHONE: (907) 485-2400

April 9, 1987

The Honorable Jack Coghill
Chairman, Senate Resources Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Coghill:

Subject: CSSB 136, an act relating to multiple use of state land and water.

Position: The Department of Natural Resources recommends passage of CSSB 136.

Background: In Section 1, CSSB 136 amends the current definition of multiple use contained in AS 38.04.910(4), to include management of state land, making the most judicious use of the land for all of the resources, but allowing for use of the land for less than all of the resources if there is incompatibility of uses.

Additionally, Section 2 deletes the definition of multiple use which is currently in Title 41, and substitutes the new definition contained in AS 38.04.910 in its place.

Recommendation: The Department of Natural Resources supports the changes as currently set out in CSSB 136. These changes accurately reflect the department's current land planning and classification process. This process supports the multiple use concept through a rigorous resource value advocacy program, which, by nature, receives and considers all competing and non-competing resource uses and users.

This legislation, in the opinion of the Department, still allows for classification of land into primary and secondary values, with the use of secondary values permitted when their use does not conflict with those uses designated primary. Uses which are not compatible with the primary management intent will still be excluded.

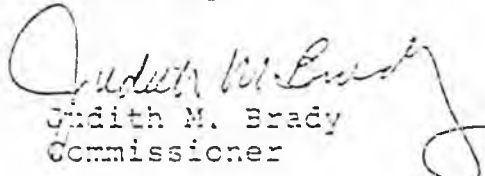
April 9, 1987

The second issue which this legislation addresses is the consolidation and reduction of multiple use definitions. In the opinion of the Department, it is paramount that we manage our land guided by consistent principles. The Title 38 definition proposed in the committee substitute is preferable to the current multiple use definition contained in Title 41 (the Forest Resources and Practices Act). The proposed Title 38 definition calls for consideration of all resource uses, including those which are difficult or impossible to quantify economically, including wildlife, natural scenic, scientific and historic values. In the opinion of the Department, a single multiple use definition throughout Titles 38 and 41 is preferable to the status quo - different definitions in different titles.

Multiple use is the management goal that the Department aspires to. The proposed definition contained in CSSB 136 provides a workable guide to land managers which should be followed consistently in our statutory framework. As Alaska prepares to engage Pacific rim and other foreign markets, our land use mandate should be as direct and consistent as possible.

Therefore, the Department of Natural Resources supports passage of CSSB 136. As always, my staff and I stand available to assist the committee or provide additional information.

Sincerely,



Judith M. Brady
Commissioner

cc: Committee Members
Bill Sponsors
George Sullivan
Rod Swope

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: SB 136
 Publish Date: _____

REQUEST:
 Revision Date: 4/13/87
 Title: An act relating to multiple use of state land
 Sponsor: Council, Parks, et al
 Requestor: Senate Resources

Agency Affected: Natural Resources
 BRU: Land and Water Management
 Components: _____

EXPENDITURE/REVENUE: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
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						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The Department of Natural Resources expects no additional funding requirements from this legislation.

Prepared by: Larry Z. Ostrovsky Phone: 465-2400
 Division: Commissioner's Office Date: 4/13/87
 Approved by Commissioner: [Signature] Date: 4-14-87
 Agency: Natural Resources

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

Tony Gasbarro
2687 Horseshoe Trail
Fairbanks AK 99701

ALASKA STATE SOCIETY
OF
AMERICAN FORESTERS



COOK INLET CHAPTER
JUNEAU CHAPTER
KETCHIKAN CHAPTER
YUKON RIVER CHAPTER
SITKA CHAPTER
STIKINE RIVER CHAPTER

5 March 1987

MAR 9
1987

Senator Jack Coghill
P.O. Box V
Juneau, Alaska 99811

Dear Senator Coghill:

The Alaska State Society of American Foresters appreciates the opportunity to comment on both SB 136, "An Act relating to multiple use of state land and water" and SB 137, "An Act relating to the definition of 'multiple use'". I have enclosed a copy of our national society's position on "Multiple Use of Forestlands" hoping that it will be useful to you and your committee as both bills are discussed.

The Alaska State Society of American Foresters supports the concept of multiple use on State lands and encourages the adaptation of a sound and clear definition of multiple use. We would emphasize that multiple use does not necessarily mean that all land must be managed for all uses. Furthermore, a specific area of land may be managed with emphasis on a specific resource (i.e. timber, wildlife or recreation). Other resources may be managed as a secondary benefit but the potential for the secondary resource may not be maximized if conflicts occur between resources. Resource priorities should be set through a planning process on any land base with consideration given for land capabilities and society's needs. In total resource planning and management, the application of the multiple use concept will benefit all society.

Sincerely,

Tony Gasbarro
State Chairman
Alaska Society of American Foresters



Multiple Use of Forestlands

Forests occupy some 3/4 billion acres, or 1/3 of the land area of the United States. Demands on forestlands for goods and services are increasing rapidly and are expected to increase still faster in the future. Conflicts in use have become accentuated in recent years by requests to administrative, legislative, and judicial bodies to influence and regulate public and private forest management. Such conflicts are especially sharp where interest groups believe that the use demands of other interest groups compete with their own.

Diversity of Use Demands on Forestlands

Forests receive, store, and make available most of the nation's usable water. They satisfy the nation's requirements for wood—a major, renewable, and highly versatile raw material. Forest vegetation stabilizes soil, has a moderating effect on local climate, reduces sound and air pollutants, and helps maintain atmospheric oxygen-carbon dioxide balances. Recreation, encompassing a wide variety of individual and group activities, has become a major use of forestlands. Forests, and the streams and lakes they help to sustain, provide the habitat for wildlife and fish, which are also major, renewable resources. Forestlands provide forage to help feed browsing wildlife and domestic livestock. Some forestlands are an important source of minerals, and others provide space for utility lines, transportation corridors, reservoirs, and other land-consuming uses.

What Multiple Use Is

Increasing demands on limited forestlands can be met with coordination of uses on specific areas. Foresters have developed and applied the concept of multiple use whereby land is managed for a variety of purposes that utilize, without impairment, the capabilities of the land to meet different demands simultaneously. Properly implemented, multiple use sustains

production and avoids environmental deterioration. The multiple-use strategy takes effective advantage of capabilities of diverse portions of a forest to meet both current and projected demands.

Many benefits accrue on a forest regardless of the management strategy employed. For example, a forest managed exclusively for recreation can provide water, climatic, and wildlife benefits. Similarly, one managed exclusively for timber can provide water, climatic, wildlife, and recreation benefits. It is extremely difficult to visualize any exclusive forest use that does not also provide other benefits. The supply of forestlands is inadequate to meet all demands, but the multiple-use strategy normally provides the largest sum of social, economic, and spiritual benefits.

Who Plans and Manages for Multiple Use?

Use and management of forestlands and forest resources are determined in large measure by the objectives, policies, and means of the landowner, whether the people of a political unit, shareholders of a corporation, or an individual. Uses should be professionally planned, and all planning should consider all potential capabilities to meet different demands on a sustained basis; compatibility among uses; and costs and benefits of different use combinations over a period of time. Forestry professionals have special education and experience to determine the net benefits that forests are capable of producing—information that is basic to the planning of uses.

Plans should incorporate the landowners' objectives and should be based on accurate information about the resources involved. Planning is a continuing process, and landowners—who for government lands include the general public—should participate along with foresters. When plans have been decided on, forestry professionals should implement them by prescribing and super-

A Position of the Society of American Foresters

Approved by the Council of the Society of American Foresters, November 14, 1983. Originally adopted on June 25, 1973, and subsequently renewed on September 1, 1977, and November 20, 1980. A position of the Society of American Foresters expires three years after the date of its adoption unless, after thorough review, its continuance is approved.

vising the necessary specific practices.

How Multiple Use is Implemented

In application, the multiple-use concept involves managing a specific forest area for various benefits and may result in (1) exclusive use on some portions, (2) the emergence of primary and secondary uses on other portions, and (3) a general-use category where no one use justifies specific designation. An exclusive use is one for which an area is reserved and managed for one purpose, with other managed uses excluded. A primary use is one for which an area is predominantly managed but permits secondary managed uses. A secondary use is a managed use other than that for which the land area is predominantly managed. An incidental use is one for which a forest is not deliberately managed, but which occurs automatically. In the general-use category, forestlands are deliberately managed for specified objectives, but no assignment of priorities is made.

Much of the forestland managed under the multiple-use concept is in a general-use category, because com-

patibility at existing levels of demand does not require the designation of primary or exclusive uses. However, lands in the general-use category are often considered to be recreation lands by recreation interests, wildlife habitat by wildlife interests, watershed lands by water interests, mineral lands by mining interests, and timberlands by timber interests. As demands increase and conflicts arise, establishing land-use priorities becomes a valuable procedure for implementing the multiple-use concept. Priorities should be based on the objectives and needs of the landowner, reviewed periodically, and, where necessary, changed to reflect changing conditions of resources and changing needs.

Establishing Use Priorities

Use limitations are often established on public forestlands by legislation, as for wilderness areas or parks. Priorities on both public and private forestlands administered under the multiple-use concept (exclusive use, primary use, or secondary use) are generally determined by the land administrators or managers, governed by the objectives and poli-

cies of the landowner. When substantial doubt or controversy arises, these priorities may best be decided by the landowners themselves. When landowners establish priorities, they should consider the knowledge of forestry professionals as to land capabilities and the degree of compatibility among uses at various levels of demand.

Accomplishing the Objectives of Forestland Ownership

In applying the multiple-use concept, primary and secondary uses emerge on specific portions of forest areas. The expertise of forestry professionals is required to determine, within the objectives of ownership, which is the primary use; how it can best be implemented; and, where desirable, how it can be modified to accommodate secondary and incidental uses. To best accomplish the objectives of the landowner, multiple-use forestlands—whether managed for exclusive, primary, and secondary uses, or left in a general-use category—should be managed for the greatest sum of net benefits over time. ■

Alaska State Legislature

Senate Resources Committee



Sen. John B. (Jack) Coghill, Chairman
Sen. Paul Fischer, Vice-Chairman
Sen. Lloyd Jones
Sen. Artiss Sturgulewski
Sen. Jim Duncan
Sen. Fred Zharoff
Sen. Dick Eliason

Box V
Juneau, Alaska 99811
(907) 465-4907

MEMORANDUM

TO: Senate Resource Committee Members

FROM: Senate Resource Committee Staff

RE: SB 136; An Act relating to the multiple use of State Land and Water.

DATE: March 16, 1987

List of packet information:

- 1) Sponsor Memo; Senator Coghill
- 2) An overview of the federal Classification and Multiple Use Act of September 19, 1964; from "Mineral Title Examination" (1984) by Dr. Terry S. Maley.
- 3) Public Law 88-607: Classification and Multiple Use Act.
- 4) 43 CFR; federal regulations pertaining to multiple use.

Staff has been working with the Department of Natural Resources to alleviate agency concerns with the wording of this bill. It is staffs understanding that DNR is also working with interest groups to develop language that implements the intent of SB 136, without causing major revisions of current procedures and policies.

March 16, 1987

The bill as written is legal services adaptation of an Alaska Minerals Commission recommendation found on page 8 of their "Initial Report."

"THE COMMISSION RECOMMENDS THAT:

2. The Legislature amend Alaska Statute 38.05.300 as follows:
Classification of lands. (a) The commissioner shall, where considered necessary and proper, classify land for surface use. This section does not prevent reclassification of land, where the public interest warrants reclassification, nor does it preclude multiple use of land whenever different uses are compatible. State land, water or land and water area may not, except by act of the state legislature, be closed to multiple use or to mineral entry if the area involved contains more than 640 acres."

Staff discussions with legal drafting indicated that the question of compatibility with other surface uses would be best addressed through the definition of multiple use. This resulted in SB 137.

THE AUTHOR

Terry Maley received B.S. and M.S. degrees in geology from Oregon State University and a Ph.D. in economic geology from the University of Idaho. He has taught graduate-level courses in mineral law and mineral title at several universities and has presented mineral law courses nationwide to more than 1000 mineral industry professionals since 1978. Most courses have been awarded continuing legal education units by several state bar associations. Dr. Maley also speaks frequently at educational seminars sponsored by state bar associations. He has served four years as Administrator of the Idaho Division of Earth Resources with responsibility over all state research and regulatory programs concerning geology and mineral resources. He has worked for the Bureau of Land Management in Washington, D.C., Arizona, Nevada and most currently in the Idaho state office with responsibilities over casework involving mineral leases, mineral in character classifications and mining claims. Dr. Maley has authored 30 articles and 3 books and was the 1982 recipient of the Gold Quill Award for the outstanding paper published in the *Journal of the American Society of Farm Managers and Rural Appraisers*. His most recent paper "Mineral Law Since NEPA" was published by the *Idaho Law Review* in 1982.

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II. Classification and Multiple Use Act

The Classification and Multiple Use Act of September 19, 1964 (78 Stat. 986, 43 USC 1411) authorizes the Secretary of Interior to review the public lands to determine which lands shall be classified as suitable for disposal and which lands he considers to contain such values as to make them more suitable for retention in Federal ownership. See applicable regulations in 43 CFR 2461 and 2462. A notice of a proposed classification involving more than 2,560 acres will be published in the *Federal Register* and in a newspaper having general circulation in the area of the affected lands. After receiving comments on the published notice, the government may classify the lands any time after the expiration of 60 days following the publication of the proposed classification in the *Federal Register*. Once the actual classification is made, it is publicized in the same manner as the proposed classification. 43 CFR 2462.2.

Classification Segregates from Mineral Entry

"Publication of notice in the *Federal Register* by the Secretary of the Interior of a proposed classification under this subchapter shall have the effect of segregating such land from settlement, location, sale, selection, entry, lease, or other formal disposal under the public land laws, including the mining and mineral leasing laws, except to the extent that the proposed classification or subsequent notification thereof specifies that the land shall remain open for one or more of such forms of disposal under the public land laws." 43 USC 1414. However, publication will not change the "applicability of the public land laws governing the use of the lands under lease, license, or permit or governing the disposal of their mineral and vegetative resources, other than under the mining laws." 43 CFR 2462.4.

Termination of Classification

There are four ways by which the segregative effect of a proposed classification may be terminated (43 CFR 2462.4):

1. Classification of the lands within 2 years of publication of the notice of proposed classification in the *Federal Register*;
2. Publication in the *Federal Register* of a notice of termination of the proposed classification;
3. An Act of Congress;
4. Expiration of a 2-year period from the date of publication of the notice of proposed classification without continuance under the Classification and Multiple Use Act, or

expiration of an additional period, not exceeding 2 years, if the required notice of proposed continuance is given.

The segregative effect of a classification for sale or other disposal may be terminated in one of the following ways:

1. Disposal of the lands;
2. Publication in the *Federal Register* of a notice of termination of the classification;
3. An Act of Congress;
4. Expiration of 2 years from the date of publication of the proposed classification without disposal of the land and without the notice of proposed continuance under the Act.

Mining Claims Located After Segregation are Null and Void

Mining claims located after the land has been segregated from appropriation under the mining laws by notice of proposed classification under the Classification and Multiple Use Act of 1964 (43 US 1411-18) published in the *Federal Register* are properly declared null and void *ab initio*. *Rudolph Chase and Raymond W. Voss*, 8 IBLA 351 (1972).

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Public Law 33-607

AN ACT

To authorize and direct that certain lands exclusively administered by the Secretary of the Interior be classified in order to provide for their disposal or interim management under principles of multiple use and to produce a sustained yield of products and services, and for other purposes.

Enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That, consistent with and supplemental to the Taylor Grazing Act of June 28, 1934, as amended (48 Stat. 1269; 43 U.S.C. 315), and pending the implementation of recommendations to be made by the Public Land Law Review Commission:

(a) The Secretary of the Interior shall develop and promulgate regulations containing criteria by which he will determine which of the public lands and other Federal lands, including those situated in the State of Alaska exclusively administered by him through the Bureau of Land Management shall be (a) disposed of because they are (1) required for the orderly growth and development of a community or (2) are chiefly valuable for residential, commercial, agricultural (exclusive of lands chiefly valuable for grazing and raising forage crops), industrial, or public uses or development or (b) retained, at least during this period, in Federal ownership and managed for (1) domestic livestock grazing, (2) fish and wildlife development and utilization, (3) industrial development, (4) mineral production, (5) occupancy, (6) outdoor recreation, (7) timber production, (8) watershed protection, (9) wilderness preservation, or (10) preservation of public values that would be lost if the land passed from Federal ownership. No such regulation shall become effective until the expiration of at least thirty days after the Secretary or his designee has held a public hearing thereon. Before such public hearing is held, a notice of at least thirty days shall have been given through publication in the Federal Register and notification to the President of the Senate and the Speaker of the House of Representatives, both of whom shall receive with the notice a copy of the proposed regulation.

(b) The Secretary of the Interior shall, as soon as possible, review the public lands as defined herein, in the light of the criteria contained in the regulations issued with this section to determine which lands shall be classified as suitable for disposal and which lands he considers to contain such values as to make them more suitable for retention in Federal ownership for interim management under the principles enunciated in this section. In making his determinations the Secretary shall give due consideration to all pertinent factors, including, but not limited to, ecology, priorities of use, and the relative values of the various resources in particular areas.

(1) None of the land subject to this Act shall be given a designation or classification unless such designation or classification is authorized by statute or defined in regulations promulgated by the Secretary of the Interior.

SEC. 2. At least sixty days prior to taking the following action the Secretary of the Interior or his designee shall give such public notice of the proposed action as he deems appropriate, including publication in the Federal Register and in a newspaper having general circulation in the area or areas in the vicinity of the affected land:

(a) Classification for sale or other disposal under any statute of a tract of land in excess of two thousand five hundred and sixty acres.

(b) Classification by the Bureau of Land Management of an area in excess of two thousand five hundred and sixty acres

when the action will exclude from the area permanently, or for a substantial period of time, one or more uses enumerated in section 4 of this Act.

SEC. 3. The Secretary of the Interior shall develop and administer for multiple use and sustained yield of the several products and services obtainable therefrom those public lands that are determined to be suitable for interim management in accordance with regulations promulgated pursuant to this Act.

SEC. 4. Publication of notice in the Federal Register by the Secretary of the Interior of a proposed classification under this Act shall have the effect of segregating such land from settlement, location, sale, election, entry, lease, or other formal disposal under the public land laws, including the mining and mineral leasing laws, except to the extent that the proposed classification or subsequent notification thereof specifies that the land shall remain open for one or more of such forms of disposal under the public land laws. The segregative effect of such proposed classification shall continue for a period of two years from the date of publication unless classification has theretofore been completed in accordance with the provisions of this Act and the regulations to be promulgated hereunder, or unless the Secretary of the Interior shall terminate it sooner. Lands classified for sale or other disposal shall be offered for sale or such other disposal within two years of the date of publication of the proposed classification and if not so offered for sale or other disposal the segregative effect shall cease at the expiration of two years from the date of publication. The proposed classification or proposed sale or other disposal may be continued beyond the two-year period if notice of such proposed continuation, including a statement of necessity for continued segregation, is submitted to the President of the Senate and the Speaker of the House of Representatives and published in the Federal Register not more than ninety days nor less than thirty days prior to the expiration of the two-year period specified herein; and thereupon the segregative effect shall be extended for such additional period as is specified in the notice, not exceeding two years, unless Congress or the Secretary of the Interior terminates the segregation at any earlier date.

SEC. 5. As used in this Act, the following terms shall have the following meanings:

(a) The term "public lands" means any land: (1) withdrawn or reserved by Executive Order Numbered 6910 of November 26, 1934, as amended, or 6964 of February 5, 1935, as amended, or (2) within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, or (3) located in the State of Alaska, which are not otherwise withdrawn or reserved for a Federal purpose.

(b) "Multiple use" means the management of the various surface and subsurface resources so that they are utilized in the combination that will best meet the present and future needs of the American people; the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination or use that will give the greatest dollar return or the greatest unit output.

(c) "Sustained yield of the several products and services" means the achievement and maintenance of a high level annual or regular periodic output of the various renewable resources of land without impairment of the productivity of the land.

SEC. 6. The purposes of this Act are declared to be supplemental to the purposes for which any of the Federal lands in section 1 of this Act have been designated, acquired, withdrawn, reserved, held, or administered. This Act shall not be construed as a repeal, in whole or in part, of any existing law, including, but not limited to, the mining and mineral leasing laws.

SEC. 7. Nothing herein contained shall be construed as—

(a) Restricting prospecting, locating, developing, mining, entering, leasing, or patenting the mineral resources of the lands to which this Act applies under law applicable thereto pending action inconsistent therewith under this Act

(b) Restricting the entry and settlement of lands open to entry and settlement under the public land laws pending action inconsistent therewith under this Act

(c) Restricting the Secretary of the Interior from disposing of lands under applicable statutes after the land has been classified in accordance with this Act.

(d) Affecting the jurisdiction or responsibilities of the several States with respect to the lands referred to herein.

SEC. 8. The authorizations and requirements of this Act shall expire June 30, 1969, except that the segregation prior to June 30, 1969, of any public lands from settlement, location, sale, selection, entry, lease, or other form of disposal under the public land laws shall continue for the period of time allowed by this Act.

Approved September 19, 1964.

Public Law 83-608

AN ACT

To provide temporary authority for the sale of certain public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That pending the implementation of recommendations to be made by the Public Land Law Review Commission, in addition to any other authority that he may have, the Secretary of the Interior is authorized and directed to dispose of public lands that have been classified for disposal in accordance with a determination that (a) the lands are required for the orderly growth and development of a community or (b) the lands are chiefly valuable for residential, commercial, agricultural (exclusive of land chiefly valuable for grazing and raising forage crops), industrial, or public use, or development. Such disposals shall be in tracts not exceeding five thousand one hundred and twenty acres each to qualified governmental agencies at the appraised fair market value thereof as determined by the Secretary of the Interior or to qualified individuals through competitive bidding at not less than the appraised fair market value as determined by the Secretary of the Interior.

SEC. 2. At least ninety days prior to offering lands for sale in accordance with this Act, the Secretary of the Interior shall notify the head of the governing body of the political subdivision of the State having jurisdiction over zoning in the geographic area within which the lands are located or, in the absence of such political subdivision, the Governor of the State, in order to afford the appropriate body with the opportunity of zoning for the use of the land in accordance with local

planning and development. No sale shall be conducted under the authority of this Act until zoning regulations have been enacted by the appropriate local authority.

SEC. 3. At least thirty days before entering into an agreement with a governmental agency or of the opening of bids from individuals, notice of the offering of lands for sale in accordance with this Act shall be furnished by the Secretary of the Interior through a newspaper of general circulation in the area in which the lands are situated and by publication of the notice in the Federal Register.

SEC. 4. All patents or other evidences of title issued under this Act shall contain a reservation to the United States of all mineral deposits which shall thereupon be withdrawn from appropriation under the public land laws including the mining and mineral leasing laws. Patents and other evidences of title may contain such reservations and reasonable restrictions as are necessary in the public interest, but no restriction to insure proper development of the lands after they have passed from Federal ownership shall be imposed.

SEC. 5. For the purposes of this Act the following terms have the following meaning:—

(a) "Public land" means any public lands which are withdrawn by Executive Order Numbered 6940, dated November 26, 1954, or amended, or by Executive Order Numbered 6961, dated February 2, 1955, as amended, or pursuant to section 1 of the Act of June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315), and not reserved, reserved, or which are vacant, unappropriated, and unreserved public lands in Alaska.

(b) "Qualified governmental agency" means any of the following, including their lawful agents and instrumentalities: (A) the State, county, municipality, or other local government subdivision within which the land is located and (B) any municipality within convenient access to the lands if the lands are within the same State as the municipality.

(c) "Qualified individual" means (A) any individual who is a citizen or otherwise a national of the United States (or who has declared his intention to become a citizen) aged twenty-one years or more; (B) any partnership or association, each of the members of which is a qualified individual as defined in subparagraph (A); and (C) any corporation organized under the laws of the United States or of any State thereof, and authorized to hold title to real property in the State in which the land is located.

SEC. 6. Ninety per centum of the proceeds from lands sold in the State of Alaska pursuant to this Act shall be transferred to the State of Alaska in consideration for which the State shall surrender its right to select an equal acreage of land pursuant to section 6(b) of the Alaska Statehood Act (72 Stat. 339).

SEC. 7. The authority granted by this Act shall expire June 30, 1969, except that sales concerning which notice has been given in accordance with section 3 hereof prior to June 30, 1969, may be consummated and patents issued in connection therewith after June 30, 1969.

Approved September 19, 1964.

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ions of this section are applicable to any administrative review other than that provided in section 7 or to appeal under provisions of Parts 1840 and 1850 of this title.

245.6 Effect of final order.

A final order of the Secretary continues in full force and effect until the lands remain subject to classification under the authorities in Subpart 2400 until an authorized officer revokes or modifies it. If it is so revoked or modified, all classifications and petition-applications for the lands not consistent with the classification of the lands will not be valid. Any payments submitted in connection with the application will be returned. If the classification is revoked or modified, the land may be opened to entry on an equal-opportunity basis after public notice in accordance with applicable regulations for the purpose for which it may be classified.

(1) Nothing in this section, however, shall prevent the Secretary of the Interior, personally and not through a delegate, from vacating or modifying a classification order of the Secretary. In the event that the Secretary vacates or modifies a final order within sixty days of the date it became final, any preference right of a petitioner-applicant will be restored.

245.7 Right to occupy or settle.

The filing of a petition-application does not give a person the right to occupy or settle upon the land. A person shall be entitled to possession and use of land only after his entry, selection, or location has been allowed, or a lease has been issued. Settlement on the land prior to the time it is classified constitutes a trespass.

245.8 Preference right of petitioner-applicant.

Where public land is classified for entry under section 7 of the Taylor Grazing Act or under the Small Tract Act pursuant to a petition-application filed under this part, the petitioner-applicant is entitled to a preference right of entry, if qualified. If, however, it should be necessary thereafter for any reason to reject the application of the preference right claimant, the

next petitioner-applicant in order of filing shall succeed to the preference right. If there is no other petitioner-applicant the land may be opened to application by all qualified individuals on an equal-opportunity basis after public notice or the classification may be revoked by the authorized officer.

PART 2460—BUREAU INITIATED CLASSIFICATION SYSTEM

Subpart 2461—Multiple-Use Classification Procedures

Sec.

- 2461.0-1 Purpose.
- 2461.1 Proposed classifications.
- 2461.2 Classifications.
- 2461.3 Administrative review.
- 2461.4 Changing classifications.
- 2461.5 Segregative effect.

Subpart 2462—Disposal Classification Procedure—Over 2,560 Acres

- 2462.0-3 Authority.
- 2462.1 Publication of notice of, and public hearings on, proposed classification.
- 2462.2 Publication of notice of classification.
- 2462.3 Administrative review.
- 2462.4 Segregative effect of publication.

Subpart 2461—Multiple-Use Classification Procedures

SOURCE: 35 FR 9564, June 13, 1970, unless otherwise noted.

§ 2461.0-1 Purpose.

Formal action to classify land for retention for multiple use management will be governed by the following procedures:

§ 2461.1 Proposed classifications.

(a) Proposed classifications will be clearly set forth on a map by the authorized officer, and on the Land Office records.

(1) Notice of proposed classifications involving more than 2,560 acres will be, and those involving 2,560 acres or less may be, published in the FEDERAL REGISTER and an announcement in a newspaper having general circulation in the area or areas in the vicinity of the affected lands.

(2) Notice of the proposals will be sent to authorized users, licensees, lessees, and permittees, or their selected representatives, the head of the governing body of the political subdivision of the State, if any, having jurisdiction over zoning in the geographic area in which the lands are located, the governor of that State, the BLM multiple use advisory board in that State, and the District advisory board and to any other parties indicating interest in such classifications.

(3) The notice will indicate where and when the map and Land Office records may be examined. The notice will specify the general location of the lands, the acreage involved, and the extent to which the land is proposed to be segregated from settlement, location, sale, selection, entry, lease, or other form of disposal under the public land laws, including the mining and mineral leasing laws. The notice of proposed classification will specify the period during which comments will be received, which will not be less than 60 days from date of publication of the notice.

(4) The authorized officer will hold a public hearing on the proposal if (i) the proposed classification will affect more than 25,000 acres or (ii) he determines that sufficient public interest exists to warrant the time and expense of a hearing.

§ 2461.2 Classifications.

Not less than 60 days after publication of the proposed classification, a classification will be made by the authorized officer, and a notice of classification published in the FEDERAL REGISTER and recorded in the Land Office records and on a map which will be filed in the local BLM District Office. Such map will be available for public inspection.

§ 2461.3 Administrative review.

For a period of 30 days after publication of the classification in the FEDERAL REGISTER, the classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior.

§ 2461.1 Changing classifications.

Classifications may be changed, using the procedures specified in this subpart.

§ 2461.5 Segregative effect.

Segregative effect of classifications and proposed classifications:

(a) Publication in the FEDERAL REGISTER of a notice of proposed classification pursuant to § 2461.1(a) or of a notice of classification pursuant to § 2461.2 will segregate the affected land to the extent indicated in the notice.

(b) The segregative effect of a proposed classification will terminate in one of the following ways:

(1) Classification of the lands within 2 years of publication of the notice of proposed classification in the FEDERAL REGISTER;

(2) Publication in the FEDERAL REGISTER of a notice of termination of the proposed classification;

(3) An Act of Congress;

(4) Expiration of a 2-year period from the date of publication of the notice of proposed classification without continuance as prescribed by the Classification and Multiple Use Act, or expiration of an additional period, not exceeding 2 years, if the required notice of proposed continuance is given.

(c) The segregative effect of a classification for retention will terminate in one of the following ways:

(1) Reclassification of the lands for some form of disposal;

(2) Publication in the FEDERAL REGISTER of a notice of termination of the classification;

(3) An Act of Congress;

(4) Expiration of the classification.

Subpart 2462—Disposal Classification Procedure—Over 2,560 Acres

SOURCE: 35 FR 9564, June 13, 1970, unless otherwise noted.

§ 2462.0-3 Authority.

Section 2 of the Classification and Multiple Use Act of September 19, 1954 (78 Stat. 936, 43 U.S.C. 1412), requires the Secretary of the Interior to take certain actions when he proposes

classification for sale or other disposal under any statute of a tract of more than 2,500 acres.

21 Publication of notice of, and public hearings on, proposed classification.

The authorized officer shall publish notice of his proposed classification in the FEDERAL REGISTER and an announcement in a newspaper having general circulation in the area or areas in the vicinity of the affected land.

The notice shall include the legal description of the affected land, the laws under which the lands would be disposed of together with such other information as the authorized officer deems pertinent. Copies of the notice will be sent to the head of the governing body of the political subdivision of the State, if any, having jurisdiction over zoning in the geographical area within which the affected lands are located, the governor of that State and the BLM multiple use advisory board in that State, the land-use planning committee and land-use planning committees, if any, of the county, in which the affected lands are located, the authorized user or users of the lands and their selected representatives, the petitioner-applicants involved, and by other party the authorized officer determines to have an interest in the proper use of the lands. The authorized officer will hold a public hearing on the proposal if (a) the proposed classification will affect more than 5,000 acres or (b) he determines that sufficient public interest exists to warrant the time and expense of a hearing.

2162.2 Publication of notice of classification.

After having considered the comments received as the result of publication, the authorized officer may classify the lands any time after the expiration of 60 days following the publication of the proposed classification in the FEDERAL REGISTER. The authorized officer shall publicize the classification in the same manner as the proposed classification was publicized, indicating in the notice the differences, if any, between the proposed classification and the classification.

2162.3 Administrative review.

For a period of 30 days after publication in the FEDERAL REGISTER of a notice of classification for disposal, the classification shall be subject to the exercise of supervisory authority by the Secretary of the Interior for the purpose of administrative review. If, 30 days from date of publication, the Secretary has neither on his own motion, on motion of any protestant or the State Director exercised supervisory authority for review, the classification shall become the final order of the Secretary. The exercise of supervisory authority by the Secretary shall automatically vacate the classification and reinstate the proposed classification together with its segregative effect. In this event the final departmental decision shall be issued by the Secretary and published in the FEDERAL REGISTER.

2162.4 Segregative effect of publication.

(a) Publication in the FEDERAL REGISTER of a notice of proposed classification pursuant to § 2462.1 or of a notice of classification pursuant to § 2462.2 will segregate the affected land from all forms of disposal under the public land laws, including the mining laws except the form or forms of disposal for which it is proposed to classify the lands. However, publication will not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral and vegetative resources, other than under the mining laws.

(b) The segregative effect of a proposed classification will terminate in one of the following ways:

(1) Classification of the lands within 2 years of publication of the notice of proposed classification in the FEDERAL REGISTER;

(2) Publication in the FEDERAL REGISTER of a notice of termination of the proposed classification;

(3) An Act of Congress;

(4) Expiration of a 2-year period from the date of publication of the notice of proposed classification without continuance as prescribed by the Classification and Multiple Use Act of September 19, 1964 (78 Stat. 986, 43

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U.S.C. 1411-18), or expiration of an additional period, not exceeding 2 years, if the required notice of proposed continuance is given.

(c) The segregative effect of a classification for sale or other disposal will terminate in one of the following ways:

(1) Disposal of the lands;

(2) Publication in the FEDERAL REGISTER of a notice of termination of the classification;

(3) An Act of Congress;

(4) Expiration of 2 years from the date of publication of the proposed classification without disposal of the land and without the notice of proposed continuance as prescribed by the Classification and Multiple Use Act; or

(5) Expiration of an additional period, not exceeding 2 years, if the required notice of proposed continuance is given.

PART 2470—POSTCLASSIFICATION ACTIONS

Subpart 2470—Opening and Allowance

Sec.

2470.1 Opening of lands to disposal.

2470.2 Allowance and entry.

Subpart 2470—Opening and Allowance

2470.1 Opening of lands to disposal.

After lands have been classified for disposal, the authorized officer shall, at the appropriate time, open the lands to those forms of disposal consistent with the classification.

135 FR 9565 June 13, 1970)

2470.2 Allowance and entry.

(a) After lands are classified pursuant to the regulations of this part, and opened for entry or other disposal, all the laws and regulations governing the particular kind of entry, location, selection, or other disposal must be complied with in order for title to vest or other interests to pass.

(b) After lands are classified for disposal under the regulations of this subpart, the lands shall be offered for sale or other disposal consistent with

Part 2510

the classification. If a petitioner applicant does not have a preference right under § 2450.8, the lands shall be opened on an equal-opportunity basis.

135 FR 9565 June 13, 1970)

Group 2500—Disposition; Occupancy and Use

NOTE: The information collection requirements contained in Parts 2520, 2530, 2540 and 2560 of Group 2500 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004-0094, 1004-1010, 1004-0311, 1004-0023, 1004-0024, 1004-0028, 1004-0029 and 1004-0039. The information is being collected to permit the authorized officer to determine whether certain petitions or applications for use and occupancy of the public lands should be granted. The information will be used to make that determination. A response is required to obtain a benefit.

140 FR 40889, Sept. 12, 1983)

PART 2510—HOMESTEADS

Subpart 2511—Original Homesteads

Sec.

2511.0 7 Cross references.

2511.0 8 Lands subject to entry.

2511.0 9 Mortgage loans

2511.1 Applicants.

2511.2 Initiation of claims.

2511.3 Procedures.

2511.3 1 Petitions and applications.

2511.3 2 Showing required of applicant.

2511.3 3 Payments; form of renunciation; receipts; notice.

2511.3 4 Proof.

2511.3 5 Amendments; exercise of equitable powers.

2511.4 Requirements for proof.

2511.4 1 Habitable house.

2511.4 2 Residence.

2511.4 3 Cultivation.

2511.4 4 Agricultural entries of withdrawn coal lands.

2511.4 5 Noncompliance.

2511.5 Rights of widows, heirs, or devisees.

2511.5 1 On death of entryman.

2511.5 2 Heirs of contestants.

Subpart 2512—Additional Entries

2512.1 After proof on original claim after March 2, 1889.

2512.2 For land contiguous to original entry (Act of April 26, 1904, as amended).

SB 136

cc members'
files

Multiple Use

- Title 38
- Title 41
- FLPMA - 1976
- MU SYA - 1960
- ONTARIO
- draft Planning handbook

(b) A municipality has standing to petition the commissioner for the adoption of a regulation, or for the amendment or repeal of an existing regulation, or to appeal a decision of the commissioner with respect to classification, management, or disposal of land made under authority of a regulation adopted under (a) of this section with respect to state land outside the corporate boundaries of the municipality to protect any interest which the municipality is authorized to regulate outside its boundaries under AS 29.48.037.

(c) If the regulations adopted by the commissioner under (a) of this section fail to provide for a process by which decisions of the commission may be appealed, an interested person may petition for reconsideration of a decision. The petition shall contain the information required to be submitted by AS 44.62.220 and shall be acted upon by the commissioner in the manner provided in AS 44.62.230. For purposes of this section, a municipality is an interested person with respect to its interests in land defined in (b) of this section. (§ 5 ch 181 SLA 1978; am § 94 ch 6 SLA 1984)

Effect of amendments. — The 1984 amendment, in subsection (a), deleted the former last three sentences, relating to draft regulations and to new and revised regulations, and, in the remaining language, substituted "believed" for "he believes are."

Sec. 38.04.910. Definitions. In this chapter, unless the context otherwise requires,

(1) "commissioner" means the commissioner of the Department of Natural Resources;

(2) "director" means the director of the division of lands of the Department of Natural Resources;

(3) "fair market value" means the price at which a willing seller and a willing buyer will trade;

(4) "multiple use" means the management of state land and its various resource values so that it is used in the combination that will best meet the present and future needs of the people of Alaska, making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; it includes

(A) the use of some land for less than all of the resources, and

(B) a combination of balanced and diverse resource uses that takes into account the short-term and long-term needs of present and future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific, and historic values;

(5) "official cadastral survey" means a United States public land survey or a survey executed under survey instructions issued by the division for the purpose of preparing a cadastral survey plat, and

approved and accepted by the division for the state's official records;

(6) "official control survey" means a position marked on the ground by triangulation or traverse stations established in conformity with standards adopted by United States Coastal and Geodetic Survey for first, second and third order work, whose geodetic positions have been rigidly adjusted on the North American datum of 1927 and approved by the division;

(7) "short-term lease" means a lease for a term of ^{ten} ~~five~~ years or less;

(8) "state park" means an area of state land designated by law to be managed for public use and enjoyment of recreational, scenic, cultural, historical, wilderness, and similar values, and includes roadside rests and recreational beaches, state monuments and historic sites, state recreation areas and state parks, including marine parks;

(9) "state trail" means an area designated by law to be managed as a public historic or recreational trail including but not limited to

(A) trails designated under AS 41.21.850 — 41.21.860, wilderness trails and campsites; and

(B) trails and footpaths designated under AS 41.21.864 — 41.21.872,

(10) "sustained yield" means the achievement and maintenance in perpetuity of a high level annual or regular periodic output of the various renewable resources of the state land consistent with multiple use;

(11) "wild and scenic river" means a free-flowing river or stream designated as provided in 16 U.S.C. 1271-1287 (Wild and Scenic Rivers Act, 82 Stat. 906). (§ 5 ch 181 SLA 1978; am § 95 ch 6 SLA 1984)

Cross references. — For state parks and recreation areas, see AS 41.21; for state monuments and historic sites, see AS 41.35.030.

Effect of amendments. — The 1984 amendment rewrote paragraph (8).

NOTES TO DECISIONS

Sustained yield principle. — The "sustained yield principle" as used in Alaska Const., art. VIII, § 4, accords with the definition set forth in paragraph (10) of this section, and the added language in the "sustained yield" definition of AS 41.17.950 that it "does not require that timber be harvested in a nondeclining

yield basis over a rotation period" should be read as permitting timber cutting at a level that cannot be sustained over a forest rotation period only in unusual circumstances. Southeast Alaska Conservation Council, Inc. v. State, Sup. Ct. Op. No. 2662 (File No. 5855), 665 P.2d 544 (1983).

Chapter 05. Alaska Land Act.

Article

1. Administration (§§ 38.05.005 — 38.05.040)
2. Sale of Lands (§§ 38.05.045 — 38.05.069)
3. Leasing of Lands Other than for the Extraction of Natural Resources (§§ 38.05.070 — 38.05.105)
4. Disposal of Timber and Materials (§§ 38.05.110 — 38.05.120)
5. Reservation of Rights to Alaska (§§ 38.05.125 — 38.05.130)

Sec. 41.17.950. Definitions. In this chapter, unless the context otherwise requires,

- (1) "board" means the Board of Forestry established in AS 41.17.043;
- (2) "broadcast chemicals" includes pesticides, herbicides, fungicides, fertilizers, poisons, and any other substances:
 - (A) used for silvicultural management or related purposes;
 - (B) not native to the ecosystem in which they are being applied; and
 - (C) having a foreseeable adverse impact on the welfare of renewable resources, as determined by the commissioner of environmental conservation;
- (3) "commissioner" means the commissioner of natural resources;
- (4) "department" means the Department of Natural Resources;
- (5) "division" means the division of forestry;
- (6) "forest land" means land stocked or having been stocked with forest trees of any size and not currently developed for nonforest use, regardless of whether presently available or accessible for commercial purposes, and includes any such land under state, municipal, or private ownership;
- (7) "forest landowner" means a person who owns forest land;
- (8) "multiple use" means

(A) the management of all the various resources of forest land so that they are used in the combination that will best meet the needs of the citizens of Alaska, making the most judicious use of the land for some or all of these resources or related values, benefits, and services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions;

(B) that some land will be used for less than all of the resources; and

(C) harmonious and coordinated management of the various resources, each with the other, without significant impairment of the productivity of the land and water, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output;

(9) "operations" means timber harvesting or activities associated with timber harvesting or forest development unless exempted under AS 41.17.900(a)-(c);

(10) "operator" means a person who is engaged in timber harvesting or activities associated with timber harvesting or forest development, or who contracts with others to conduct operations for that person, except a person who is engaged in an operation as an employee with wages or piecework as the sole compensation;

(11) "person" includes a joint venture as well as the entities set out in AS 01.10.0071;

(12) "significant impairment of the productivity of the land and water" means any activity which may foreseeably result in prolonged or substantial impairment to renewable resources or prolonged or substan-

tial reduction of the continuing capability of the land or produce renewable resources at their natural or historic level;

(13) "silviculture" means the art of producing and tending the application of the knowledge of silvics in the treatment and the theory and practice of controlling and managing:

- (A) yield, composition, and growth;
- (B) stand structure, composition, and growth;

(14) "state forest" means an area which is retained in state ownership in order to

(A) provide a base for sustained yield management of renewable resources; and

(B) permit a variety of beneficial uses;

(15) "sustained yield" means the achievement and maintenance of a high level annual or regular periodic production of various renewable resources of forest land and water without significant impairment of the productivity of the land and water, and requires that timber be harvested in a non-declining yield rotation period; and

(16) "timber owner" means a person who owns timber or who has the rights to timber, but does not own the land. See AS 10.05.010 ch 108 SLA 1978; am § 88 ch 59 SLA 1982)

Revisor's notes. — In 1983 paragraphs (12) — (16) were reorganized to place the terms defined in alphabetical order. **Effect of amendments.** — The 1982 amendment substituted "forest, land, and water" for "forest, land, and water" in paragraph (5).

NOTES TO DECISIONS

The "sustained yield principle" as used in Alaska Const. art. VIII, § 4 accords with the definition set forth in AS 38.04.910(10), and the added language in the definition of "sustained yield" in this section that it "does not require that timber be harvested in a nondeclining yield basis over a rotation period" should be read as permitting the level that cannot be sustained over a rotation period only in instances. *Southeast Alaska Council, Inc. v. State*, 585 P.2d 2662 (File No. 6855).

Chapter 20. Parks and Recreational Fa

[Renumbered as AS 41.21.010 — 41.21.990]

Chapter 21. Parks and Recreational Fa

Article

- 1 Administration (§§ 41.21.010 — 41.21.040)
- 2 State Parks (§§ 41.21.110 — 41.21.167)
- 3 Alaska Marine Parks (§§ 41.21.300 — 41.21.306)
- 4 State Recreation Areas (§§ 41.21.410 — 41.21.490)
- 5 Wildlife Preserves (§§ 41.21.610 — 41.21.630)
- 6 Roadside Rests, Beaches (§§ 41.21.800 — 41.21.805)

- Sec. 500. Existing rights-of-way.
- Sec. 510. Effect on other laws.
- Sec. 511. Coordination of applications.

TITLE VI—DESIGNATED MANAGEMENT AREAS

- Sec. 601. California desert conservation area.
- Sec. 602. King range.
- Sec. 603. Bureau of land management wilderness study.

TITLE VII—EFFECT ON EXISTING RIGHTS: REPEAL OF EXISTING LAWS; SEVERABILITY

- Sec. 701. Effect on existing rights.
- Sec. 702. Repeal of laws relating to homesteading and small tracts.
- Sec. 703. Repeal of laws related to disposals.
- Sec. 704. Repeal of withdrawal laws.
- Sec. 705. Repeal of laws relating to administration of public lands.
- Sec. 706. Repeal of laws relating to rights-of-way.
- Sec. 707. Severability.

TITLE I—SHORT TITLE, DECLARATION OF POLICY, AND DEFINITIONS

SHORT TITLE

01 SEC. 101. This Act may be cited as the "Federal Land Policy and Management Act of 1976".

DECLARATION OF POLICY

01 SEC. 102. (a) The Congress declares that it is the policy of the United States that—

(1) the public lands be retained in Federal ownership, unless as a result of the land use planning procedure provided for in this Act, it is determined that disposal of a particular parcel will serve the national interest;

(2) the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts;

(3) public lands not previously designated for any specific use and all existing classifications of public lands that were effected by executive action or statute before the date of enactment of this Act be reviewed in accordance with the provisions of this Act;

(4) the Congress exercise its constitutional authority to withdraw or otherwise designate or dedicate Federal lands for specified purposes and that Congress delineate the extent to which the Executive may withdraw lands without legislative action;

(5) in administering public land statutes and exercising discretionary authority granted by them, the Secretary be required to establish comprehensive rules and regulations after considering the views of the general public; and to structure adjudication procedures to assure adequate third party participation, objective administrative review of initial decisions, and expeditious decisionmaking;

(6) judicial review of public land adjudication decisions be provided by law;

(7) goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis

of multiple use and sustained yield unless otherwise specified by law;

(8) the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use;

(9) the United States receive fair market value of the use of the public lands and their resources unless otherwise provided for by statute;

(10) uniform procedures for any disposal of public land, acquisition of non-Federal land for public purposes, and the exchange of such lands be established by statute, requiring each disposal, acquisition, and exchange to be consistent with the prescribed mission of the department or agency involved, and reserving to the Congress review of disposals in excess of a specified acreage;

(11) regulations and plans for the protection of public land areas of critical environmental concern be promptly developed;

(12) the public lands be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands including implementation of the Mining and Minerals Policy Act of 1970 (84 Stat. 1876, 30 U.S.C. 21a) as it pertains to the public lands; and

(13) the Federal Government should, on a basis equitable to both the Federal and local taxpayer, provide for payments to compensate States and local governments for burdens created as a result of the immunity of Federal lands from State and local taxation.

(b) The policies of this Act shall become effective only as specific statutory authority for their implementation is enacted by this Act or by subsequent legislation and shall then be construed as supplemental to and not in derogation of the purposes for which public lands are administered under other provisions of law.

DEFINITIONS

SEC. 103. Without altering in any way the meaning of the following terms as used in any other statute, whether or not such statute is referred to in, or amended by, this Act, as used in this Act—

(a) The term "areas of critical environmental concern" means areas within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.

(b) The term "holder" means any State or local governmental entity, individual, partnership, corporation, association, or other business entity receiving or using a right-of-way under title V of this Act.

(c) The term "multiple use" means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to

provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

(d) The term "public involvement" means the opportunity for participation by affected citizens in rulemaking, decisionmaking, and planning with respect to the public lands, including public meetings or hearings held at locations near the affected lands, or advisory mechanisms, or such other procedures as may be necessary to provide public comment in a particular instance.

(e) The term "public lands" means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except—

(1) lands located on the Outer Continental Shelf; and

(2) lands held for the benefit of Indians, Aleuts, and Eskimos.

(f) The term "right-of-way" includes an easement, lease, permit, or license to occupy, use, or traverse public lands granted for the purpose listed in title V of this Act.

(g) The term "Secretary", unless specifically designated otherwise, means the Secretary of the Interior.

(h) The term "sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use.

(i) The term "wilderness" as used in section 603 shall have the same meaning as it does in section 2(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131-1136).

(j) The term "withdrawal" means withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land, other than "property" governed by the Federal Property and Administrative Services Act, as amended (40 U.S.C. 472) from one department, bureau or agency to another department, bureau or agency.

(k) An "allotment management plan" means a document prepared in consultation with the lessees or permittees involved, which applies to livestock operations on the public lands or on lands within National Forests in the eleven contiguous Western States and which:

(1) prescribes the manner in, and extent to, which livestock operations will be conducted in order to meet the multiple-use, sustained-yield, economic and other needs and objectives as determined for the lands by the Secretary concerned; and

(2) describes the type, location, ownership, and general specifications for the range improvements to be installed and maintained on the lands to meet the livestock grazing and other objectives of land management; and

Post, p. 2776.

Post, p. 2785.

(3) contains such other provisions relating to livestock grazing and other objectives found by the Secretary concerned to be consistent with the provisions of this Act and other applicable law.

(i) The term "principal or major uses" includes, and is limited to, domestic livestock grazing, fish and wildlife development and utilization, mineral exploration and production, rights-of-way, outdoor recreation, and timber production.

(m) The term "department" means a unit of the executive branch of the Federal Government which is headed by a member of the President's Cabinet and the term "agency" means a unit of the executive branch of the Federal Government which is not under the jurisdiction of a head of a department.

(n) The term "Bureau" means the Bureau of Land Management.

(o) The term "eleven contiguous Western States" means the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

(p) The term "grazing permit and lease" means any document authorizing use of public lands or lands in National Forests in the eleven contiguous western States for the purpose of grazing domestic livestock.

TITLE II—LAND USE PLANNING; LAND ACQUISITION AND DISPOSITION

INVENTORY AND IDENTIFICATION

SEC. 201. (a) The Secretary shall prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values (including, but not limited to, outdoor recreation and scenic values), giving priority to areas of critical environmental concern. This inventory shall be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values. The preparation and maintenance of such inventory or the identification of such areas shall not, of itself, change or prevent change of the management or use of public lands.

(b) As funds and manpower are made available, the Secretary shall ascertain the boundaries of the public lands; provide means of public identification thereof including, where appropriate, signs and maps; and provide State and local governments with data from the inventory for the purpose of planning and regulating the uses of non-Federal lands in proximity of such public lands.

43 US

LAND USE PLANNING

SEC. 202. (a) The Secretary shall, with public involvement and consistent with the terms and conditions of this Act, develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands. Land use plans shall be developed for the public lands regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses.

(b) In the development and revision of land use plans, the Secretary of Agriculture shall coordinate land use plans for lands in the National Forest System with the land use planning and management programs of and for Indian tribes by, among other things, considering the policies of approved tribal land resource management programs.

43 US

Public Law 86-517

AN ACT

To authorize and direct that the national forests be managed under principles of multiple use and to produce a sustained yield of products and services, and for other purposes.

June 12, 1960
[H. R. 10572]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the policy of the Congress that the national forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes. The purposes of this Act are declared to be supplemental to, but not in derogation of, the purposes for which the national forests were established as set forth in the Act of June 4, 1897 (16 U.S.C. 475). Nothing herein shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish on the national forests. Nothing herein shall be construed so as to affect the use or administration of the mineral resources of national forest lands or to affect the use or administration of Federal lands not within national forests.

National forests.
Management.

30 Stat. 34.

Multiple use;
sustained yield.

SEC. 2. The Secretary of Agriculture is authorized and directed to develop and administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom. In the administration of the national forests due consideration shall be given to the relative values of the various resources in particular areas. The establishment and maintenance of areas of wilderness are consistent with the purposes and provisions of this Act.

SEC. 3. In the effectuation of this Act the Secretary of Agriculture is authorized to cooperate with interested State and local governmental agencies and others in the development and management of the national forests.

SEC. 4. As used in this Act, the following terms shall have the following meanings:

(a) "Multiple use" means: The management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

Definitions.

(b) "Sustained yield of the several products and services" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the national forests without impairment of the productivity of the land.

Approved June 12, 1960.

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Appendix 1

*From Guidelines of Land Use Planning
Ontario (Canada) Ministry of Natural Resources
1980*

Terminology

AMENITY	A pleasant feature; something that makes life easier and more pleasant or interesting. This term is used in planning to indicate the features or developments whose benefits are difficult to quantify in economic terms.
BENEFIT	Anything for the good of a person or thing. Common measures of benefits are jobs, dollars earned and user days of recreation.
CAPABILITY	The natural ability of an area to provide continuous opportunity for benefits under an assumed level of management.
CAPACITY	The upper limit to which an area of land, or water, may be used or developed without an undesirable change taking place in the environment. Also called carrying capacity.
COMPATIBILITY AND CONFLICT	When two uses can occur on the same general area at the same time they are said to be compatible uses. When uses cannot occur together they are said to be in conflict. Example of uses that could be compatible are forestry and upland wildlife production. Uses in conflict are forestry and wilderness preservation.
COSTS	The financial implications of a proposal, the price paid in dollars.
ENVIRONMENT	All of the natural and man made systems, conditions and commodities of a planning area.
LAND USE	The human use of the planning area. This may vary from very intensive use in urban areas to very extensive use in wildland areas.

LAND USE PLAN A Ministry of Natural Resources land use plan is a document which indicates how the Ministry plans to use Crown land and how the Ministry intends to influence the use of private land in order to achieve its objectives.

MANAGEMENT The judicious use of means to achieve ends. Management may have various levels of intensity. If a high degree of technology is used or if very careful tending is given, the management is high level. Where haphazard care is given with little attention to detail, the level of management is low.

MULTIPLE USE A resource management or planning concept applied to very large areas to indicate that all basic uses are accommodated. This may include single use areas which are necessary to achieve certain objectives. The concept of multiple use should be applied to a whole planning area rather than to any particular part of it.

PLANNING AREA The area for which a planning process is done and for which a land use plan is made.

PUBLIC PARTICIPATION The citizens concerned with the planning area take part in the planning process rather than react to decisions made.

OBJECTIVE A quantifiable end result to be achieved.

POLICY The decision concerning the objectives to be achieved and the means of achieving them. For land use planning we are mainly concerned with the objectives and targets.

RESOURCE Any commodity that meets a need.

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another. For example, the area described by the boundaries of a particular vegetation type may be split by soil or ownership boundaries. Therefore, the boundaries must be generalized. The aim of this process is to retain the important characteristics of the units without allowing them to proliferate until they become impractical to use. This is where the artistry comes in.

There is no simple method for designing these generalized units. The greatest aids in doing so will be knowledge of both the physical characteristics and the land use issues for the region. In areas where there is no conflict, the units can be relatively large and variable. In the Alaska Range portion of the Susitna Plan, for example, some units exceed 100,000 acres in size. In the Bristol Bay plan, some units were larger than a million acres. In areas where the issues, ownership, or distribution of resources is more complex, units will have to be smaller to allow adequate flexibility in designing alternatives. Some units in the Petersville Road area were less than 20 acres in size.

There is some disagreement as to whether analysis units should be purely biological-physical units or whether they should include political and social considerations such as current land use and land status. In ADNR's area plans it was found impractical to ignore these concerns. These factors greatly influence land management, and in order for the alternatives to reflect the issues, they must be incorporated in the units. There is no advantage to keeping status boundaries out of the analysis units when they will certainly show up in the alternatives--it will just result in subdivision of the units. The necessity of ensuring that the analysis units can be used to express the eventual land use designations combined with the need to limit the total number of units used makes it essential to include more than biological and physical data in their design.

2. Application of land management prescriptions

To build the regionwide alternatives, one or more management prescriptions are applied to each unit in keeping with the alternative's theme. These prescriptions may be designations of primary and secondary land uses, management guidelines, and/or levels of intensity of use.

In the past, ADNR plans have used primary and secondary land use designations that parallel the state land classification system. The U.S. Forest Service and U.S. Fish and Wildlife Service use intensity levels instead. In the Kenai N.W.R. Plan, for example, levels of use ranged from "intensive use" to "wilderness management". These levels apply to all types of resource use rather than placing a priority on development of a particular resource or group of resources.

ADNR'S designation system sometimes has led to confusion over how primary and secondary uses are differentiated and managed, whether or not retention lands are under multiple use management, whether uses that are not specifically listed are permitted, and how primary surface designations affect mineral entry. On the other

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hand, the current system has several benefits. First, the connection between the designations and the required implementation task of classifying the land is clear. Second, the primary and secondary designations convey a lot of information about the relative importance of different uses. Finally, the level of intensity system is difficult to apply where there are often many co-equal resource values. For example, the levels of intensity may translate directly to the proportion of timber harvested on the National Forests, but they may not clearly describe more complex combinations of many uses that receive approximately equal emphasis on most state lands.

In general, it is desirable to retain the primary/secondary use designation system for the area plans. However, the problems with the system noted above must be addressed through other means, e.g., better explanation of secondary uses, changes in map keys to clarify the intent to manage most lands for multiple use, and changes in designation maps and charts to clarify the connection between surface and subsurface designations. In tideland areas, and in areas where there already are clear designations, for example, for management plans within existing area plans, an "intensity of use" system merits further consideration. As described by the USFS, the application of management prescriptions is simply a matter of selecting the most appropriate designation(s) from a finite list of possibilities, such as one of four or five possible timber harvesting levels. However, it is desirable to tailor prescriptions to individual units when it will result in more appropriate management. Within the bounds of "realism" described in 3. above, the creativity of the planning team should be the only limitation on the realm of possible solutions offered in the alternatives.

In order to ensure that agency expertise is applied to developing optimal alternatives, planning team members should help design the portions of the alternatives that coincide with their agency objectives. Each team member should write a brief description of the best possible way to allocate and manage the type of lands they are concerned with in order to implement the theme of the alternative. For example, the representative from DOPOR should outline systems of recreation lands to complement the themes. These descriptions should provide a long-term vision of land management that provides an optimum mix of uses rather than simply maximizing production or use of any single resource. For example, an alternative whose theme is the creation of opportunities for private ownership and development of land might best be met by including areas of open space near communities and keeping some valuable lands in contiguous publicly-owned tracts to help provide jobs, rather than simply offering all lands for sale. Conversely, an alternative emphasizing forest development might include areas for communities to house people working on timberlands. Planning team members may want to write a background paper describing their own ideal alternative prior to beginning the alternative development process. This will help to identify agency concerns that should be addressed in the issues and alternatives.

A last note is that alternatives will not describe every land management detail. They will be simpler than a full plan because they are intended to be discussion and education tools rather than final products. They should outline the responses to the list of planning questions and then give a sufficient description of the general management direction to allow people to understand the likely outcome of implementing each alternative and to respond to the alternatives intelligently. The analysis of the alternatives and the public and agency response to them will form the basis for developing the draft and final plans.

E. Estimate effects of alternatives

In order to proceed from a group of alternatives to a preferred alternative or draft plan, each alternative must first be examined to predict the likely outcome of its implementation. The product of this step is a list of attributes for comparing the alternatives to each other.

Where possible, results are described in quantitative terms that show the amount an alternative will contribute to meeting specific objectives. These objectives come from the original goals and objectives defined for the plan (see section ____). The original objectives thus become criteria for evaluating the alternatives. For example, if a goal is to increase per capita income by diversifying the regional economy, and an associated objective is to provide a sustained yield of X mmbf of sawtimber, the analysis of the alternatives should include an estimate of the annual yield of sawtimber that would be produced under each alternative.

The goals and objectives or the planning questions also may include factors that cannot be quantified accurately. An objective of some state plans may be to allow for a diversity of lifestyles or to protect a particular lifestyle. While some portions of lifestyle issues are quantifiable--e.g., adequate supplies of fuelwood--others are better described in qualitative or relative terms. The brochures for the Tanana and Susitna plan alternatives have some examples of this type of analysis. The American Planning Association's booklet Evaluating Alternative Plans also discusses ways of estimating effects.

The final stage in estimating effects is displaying them for public and agency review. It is desirable to prepare a brochure/booklet that shows the alternative themes, management prescriptions--mapped designations where appropriate and a description of major policies, estimates of effects (quantitative and qualitative), and responses to planning questions. Examples of how this can be done are found in the USFS Chugach National Forest Final EIS, the Kenai N.W.R. Plan (USFWS), the Susitna and Tanana Plan alternative brochures, the Bristol Bay EIS, and the American Planning Association booklet Evaluating Alternative Plans. Such a brochure is in addition to the full-length description of the alternatives and their evaluation.

F. Evaluate alternatives relative to each other

Step E describes the way in which the outcome of each alternative is predicted. Step F describes the comparison of the different outcomes to each other. Once the effects of the alternatives have been

visions of this section are applicable shall be entitled to any administrative review other than that provided in this section or to appeal under provisions of Parts 1840 and 1850 of this chapter.

150.6 Effect of final order.

(a) A final order of the Secretary shall continue in full force and effect as long as the lands remain subject to classification under the authorities listed in Subpart 2400 until an authorized officer revokes or modifies it. Until it is so revoked or modified, all applications and petition-applications for the lands not consistent with the classification of the lands will not be allowed. Any payments submitted herewith will be returned. If the order is revoked or modified, the land shall be opened to entry on an equal-opportunity basis after public notice in accordance with applicable regulations or the purpose for which it may be classified.

(b) Nothing in this section, however, shall prevent the Secretary of the Interior, personally and not through a delegate, from vacating or modifying a final order of the Secretary. In the event that the Secretary vacates or modifies a final order within sixty days of the date it became final, any preference right of a petitioner-applicant will be restored.

§ 2450.7 Right to occupy or settle.

The filing of a petition-application gives no right to occupy or settle upon the land. A person shall be entitled to the possession and use of land only after his entry, selection, or location has been allowed, or a lease has been issued. Settlement on the land prior to that time constitutes a trespass.

§ 2450.8 Preference right of petitioner-applicant.

Where public land is classified for entry under section 7 of the Taylor Grazing Act or under the Small Tract Act pursuant to a petition-application filed under this part, the petitioner-applicant is entitled to a preference right of entry, if qualified. If, however, it should be necessary thereafter for any reason to reject the application of the preference right claimant, the

next petitioner-applicant in order of filing shall succeed to the preference right. If there is no other petitioner-applicant the land may be opened to application by all qualified individuals on an equal-opportunity basis after public notice or the classification may be revoked by the authorized officer.

PART 2460—BUREAU INITIATED CLASSIFICATION SYSTEM

Subpart 2461—Multiple-Use Classification Procedures

Sec.

- 2461.0-1 Purpose.
- 2461.1 Proposed classifications.
- 2461.2 Classifications.
- 2461.3 Administrative review.
- 2461.4 Changing classifications.
- 2461.5 Segregative effect.

Subpart 2462—Disposal Classification Procedure—Over 2,560 Acres

- 2462.0-3 Authority.
- 2462.1 Publication of notice of, and public hearings on, proposed classification.
- 2462.2 Publication of notice of classification.
- 2462.3 Administrative review.
- 2462.4 Segregative effect of publication.

Subpart 2461—Multiple-Use Classification Procedures

SOURCE: 35 FR 9564, June 13, 1970, unless otherwise noted.

§ 2461.0-1 Purpose.

Formal action to classify land for retention for multiple use management will be governed by the following procedures

§ 2461.1 Proposed classifications.

(a) Proposed classifications will be clearly set forth on a map by the authorized officer, and on the Land Office records.

(1) Notice of proposed classifications involving more than 2,560 acres will be, and those involving 2,560 acres or less may be, published in the FEDERAL REGISTER and an announcement in a newspaper having general circulation in the area or areas in the vicinity of the affected lands.

(2) Notice of the proposals will be sent to authorized users, licensees, lessees, and permittees, or their selected representatives, the head of the governing body of the political subdivision of the State, if any, having jurisdiction over zoning in the geographic area in which the lands are located, the governor of that State, the BLM multiple use advisory board in that State, and the District advisory board and to any other parties indicating interest in such classifications.

(3) The notice will indicate where and when the map and Land Office records may be examined. The notice will specify the general location of the lands, the acreage involved, and the extent to which the land is proposed to be segregated from settlement, location, sale, selection, entry, lease, or other form of disposal under the public land laws, including the mining and mineral leasing laws. The notice of proposed classification will specify the period during which comments will be received, which will not be less than 60 days from date of publication of the notice.

(4) The authorized officer will hold a public hearing on the proposal if (i) the proposed classification will affect more than 25,000 acres or (ii) he determines that sufficient public interest exists to warrant the time and expense of a hearing.

§ 2461.2 Classifications.

Not less than 60 days after publication of the proposed classification, a classification will be made by the authorized officer, and a notice of classification published in the FEDERAL REGISTER and recorded in the Land Office records and on a map which will be filed in the local BLM District Office. Such map will be available for public inspection.

§ 2461.3 Administrative review.

For a period of 30 days after publication of the classification in the FEDERAL REGISTER, the classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior.

§ 2461.4 Changing classifications.

Classifications may be changed, using the procedures specified in this subpart.

§ 2461.5 Segregative effect.

Segregative effect of classifications and proposed classifications:

(a) Publication in the FEDERAL REGISTER of a notice of proposed classification pursuant to § 2461.1(a) or of a notice of classification pursuant to § 2461.2 will segregate the affected land to the extent indicated in the notice.

(b) The segregative effect of a proposed classification will terminate in one of the following ways:

(1) Classification of the lands within 2 years of publication of the notice of proposed classification in the FEDERAL REGISTER;

(2) Publication in the FEDERAL REGISTER of a notice of termination of the proposed classification;

(3) An Act of Congress;

(4) Expiration of a 2-year period from the date of publication of the notice of proposed classification without continuance as prescribed by the Classification and Multiple Use Act, or expiration of an additional period, not exceeding 2 years, if the required notice of proposed continuance is given.

(c) The segregative effect of a classification for retention will terminate in one of the following ways:

(1) Reclassification of the lands for some form of disposal;

(2) Publication in the FEDERAL REGISTER of a notice of termination of the classification;

(3) An Act of Congress;

(4) Expiration of the classification.

Subpart 2462—Disposal Classification Procedure—Over 2,560 Acres

SOURCE: 35 FR 9564, June 13, 1970, unless otherwise noted.

§ 2462.0-3 Authority.

Section 2 of the Classification and Multiple Use Act of September 19, 1954 (73 Stat. 936, 43 U.S.C. 1412), requires the Secretary of the Interior to take certain actions when he proposes

classification for sale or other disposal under any statute of a tract of land in excess of 2,500 acres.

262.1 Publication of notice of, and public hearings on, proposed classification.

The authorized officer shall publish notice of his proposed classification

in the FEDERAL REGISTER and an announcement in a newspaper having general circulation in the area or areas in the vicinity of the affected land. The notice shall include the legal description of the affected land, the laws under which the lands would be disposed of together with such other information as the authorized officer deems pertinent. Copies of the notice will be sent to the head of the governing body of the political subdivision of the State, if any, having jurisdiction over zoning in the geographical area within which the affected

lands are located, the governor of that State and the BLM multiple use advisory board in that State, the land-use planning officer and land-use planning committees, if any, of the county, in which the affected lands are located, the authorized user or users of the lands or their selected representatives, all petitioner-applicants involved, and any other party the authorized officer determines to have an interest in the proper use of the lands. The authorized officer will hold a public hearing on the proposal if (a) the proposed classification will affect more than 25,000 acres or (b) he determines that sufficient public interest exists to warrant the time and expense of a hearing.

262.2 Publication of notice of classification.

After having considered the comments received as the result of publication, the authorized officer may classify the lands any time after the expiration of 60 days following the publication of the proposed classification in the FEDERAL REGISTER. The authorized officer shall publicize the classification in the same manner as the proposed classification was publicized, indicating in the notice the differences, if any, between the proposed classification and the classification.

262.3 Administrative review.

For a period of 30 days after publication in the FEDERAL REGISTER of a notice of classification for disposal, the classification shall be subject to the exercise of supervisory authority by the Secretary of the Interior for the purpose of administrative review. If, 30 days from date of publication, the Secretary has neither on his own motion, on motion of any protestant or the State Director exercised supervisory authority for review, the classification shall become the final order of the Secretary. The exercise of supervisory authority by the Secretary shall automatically vacate the classification and reinstate the proposed classification together with its segregative effect. In this event the final departmental decision shall be issued by the Secretary and published in the FEDERAL REGISTER.

262.4 Segregative effect of publication.

(a) Publication in the FEDERAL REGISTER of a notice of proposed classification pursuant to § 2462.1 or of a notice of classification pursuant to § 2462.2 will segregate the affected land from all forms of disposal under the public land laws, including the mining laws except the form or forms of disposal for which it is proposed to classify the lands. However, publication will not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral and vegetative resources, other than under the mining laws.

(b) The segregative effect of a proposed classification will terminate in one of the following ways:

(1) Classification of the lands within 2 years of publication of the notice of proposed classification in the FEDERAL REGISTER;

(2) Publication in the FEDERAL REGISTER of a notice of termination of the proposed classification;

(3) An Act of Congress;

(4) Expiration of a 2-year period from the date of publication of the notice of proposed classification without continuance as prescribed by the Classification and Multiple Use Act of September 19, 1964 (78 Stat. 986, 43

U.S.C. 1411-18), or expiration of an additional period, not exceeding 2 years, if the required notice of proposed continuance is given.

(c) The segregative effect of a classification for sale or other disposal will terminate in one of the following ways:

(1) Disposal of the lands;

(2) Publication in the FEDERAL REGISTER of a notice of termination of the classification;

(3) An Act of Congress;

(4) Expiration of 2 years from the date of publication of the proposed classification without disposal of the land and without the notice of proposed continuance as prescribed by the Classification and Multiple Use Act; or

(5) Expiration of an additional period, not exceeding 2 years, if the required notice of proposed continuance is given.

PART 2470—POSTCLASSIFICATION ACTIONS

Subpart 2470—Opening and Allowance

Sec.

2470.1 Opening of lands to disposal.

2470.2 Allowance and entry.

Subpart 2470—Opening and Allowance

2470.1 Opening of lands to disposal.

After lands have been classified for disposal, the authorized officer shall, at the appropriate time, open the lands to those forms of disposal consistent with the classification.

(35 FR 9565 June 13, 1970)

2470.2 Allowance and entry.

(a) After lands are classified pursuant to the regulations of this part, and opened for entry or other disposal, all the laws and regulations governing the particular kind of entry, location, selection, or other disposal must be complied with in order for title to vest or other interests to pass.

(b) After lands are classified for disposal under the regulations of this Subpart, the lands shall be offered for sale or other disposal consistent with

the classification. If a petitioner applicant does not have a preference right under § 2450.9, the lands shall be opened on an equal-opportunity basis.

(35 FR 9565 June 13, 1970)

Group 2500—Disposition; Occupancy and Use

Note: The information collection requirements contained in Parts 2520, 2530, 2540 and 2560 of Group 2500 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004 9094, 1004 1010, 1004 0311, 1004 0023, 1004 0025, 1004 0026, 1004 0029 and 1004 0039. The information is being collected to permit the authorized officer to determine whether certain petitions or applications for use and occupancy of the public lands should be granted. The information will be used to make that determination. A response is required to obtain a benefit.

(48 FR 40889, Sept. 12, 1983)

PART 2510—HOMESTEADS

Subpart 2511—Original Homesteads

Sec.

2511.0-7 Cross references.

2511.0-8 Lands subject to entry.

2511.0-9 Mortgage loans.

2511.1 Applicants.

2511.2 Initiation of claims.

2511.3 Procedures.

2511.3-1 Petitions and applications.

2511.3-2 Showing required of applicant.

2511.3-3 Payments; form of remittance; receipt; notice.

2511.3-4 Fraud.

2511.3-5 Amendments; exercise of equitable powers.

2511.4 Requirements for proof.

2511.4-1 Habitable house.

2511.4-2 Residence.

2511.4-3 Cultivation.

2511.4-4 Agricultural entries of withdrawn coal lands.

2511.4-5 Noncompliance.

2511.5 Rights of widows, heirs, or dependents.

2511.5-1 On death of entryman.

2511.5-2 Heirs of contestants.

Subpart 2512—Additional Entries

2512.1 After proof, on original claim (Act of March 2, 1889).

2512.2 For land contiguous to original entry (Act of April 25, 1904, as amended).

Mashe

Original sponsors: Coghill, Faiks,
Bennett, et al.

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SENATE BILL NO. 136 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to multiple use of state land and
7 water."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 38.04.910(4) is amended to read:
10 (4) "multiple use"
11 (A) means the management of state land and its various
12 resource values so that it is used in the combination that will
13 best meet the present and future needs of the people of Alaska,
14 making the most judicious use of the land for [SOME OR] all of
15 the [THESE] resources or related services over areas large enough
16 to provide sufficient latitude for periodic adjustments in use to
17 conform to changing needs and conditions; [IT]
18 (B) includes
19 (i) [(A)] the use of the [SOME] land for less
20 than all of the resources but does not exclude compatible
21 competing uses; [,] and
22 (ii) [(B)] a combination of balanced and diverse
23 resource uses that takes into account the short-term and
24 long-term needs of present and future generations for renew-
25 able and nonrenewable resources, including, but not limited
26 to, recreation, range, timber, minerals, watershed, wildlife
27 and fish, and natural scenic, scientific, and historic
28 values;
29 * Sec. 2. AS 38.05.300(a) is amended to read:

*if conflicts w/ CSSB 196 (Res)
3/17-18 (where land shall be classified acc. to a plan).*

1 (a) The commissioner shall, where considered necessary and
2 proper, classify land for surface use [CLASSIFY FOR SURFACE USE LAND
3 IN AREAS CONSIDERED NECESSARY AND PROPER]. This section does not
4 prevent reclassification of land where the public interest warrants
5 reclassification, nor does it preclude multiple [PURPOSE] use of land
6 whenever different uses are compatible. An area of state [STATE]
7 land, water, or land and water [AREA] may not, except by act of the
8 state legislature, be closed to multiple [PURPOSE] use if the area
9 involved contains more than 640 acres.

10 * Sec. 3. AS 41.17.950(8) is amended to read:

11 (8) "multiple use" has the meaning given in AS 38.04.910
12 [MEANS

13 (A) THE MANAGEMENT OF ALL THE VARIOUS RESOURCES OF
14 FOREST LAND SO THAT THEY ARE USED IN THE COMBINATION THAT WILL
15 BEST MEET THE NEEDS OF THE CITIZENS OF ALASKA, MAKING THE MOST
16 JUDICIOUS USE OF THE LAND FOR SOME OR ALL OF THESE RESOURCES OR
17 RELATED VALUES, BENEFITS, AND SERVICES OVER AREAS LARGE ENOUGH TO
18 PROVIDE SUFFICIENT LATITUDE FOR PERIODIC ADJUSTMENTS IN USE TO
19 CONFORM TO CHANGING NEEDS AND CONDITIONS;

20 (B) THAT SOME LAND WILL BE USED FOR LESS THAN ALL OF
21 THE RESOURCES; AND

22 (C) HARMONICUS AND COORDINATED MANAGEMENT OF THE
23 VARIOUS RESOURCES, EACH WITH THE OTHER, WITHOUT SIGNIFICANT
24 IMPAIRMENT OF THE PRODUCTIVITY OF THE LAND AND WATER, WITH CON-
25 SIDERATION BEING GIVEN TO THE RELATIVE VALUES OF THE VARIOUS
26 RESOURCES, AND NOT NECESSARILY THE COMBINATION OF USES THAT WILL
27 GIVE THE GREATEST DOLLAR RETURN OR THE GREATEST UNIT OUTPUT];

*falls out
begin.*

*Chiff
renewable*