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HOUSE COMMITTEE REPORT

FILE

(11)

Date Referred: March 8, 1990

FURTHER REFERRALS:

Date of Committee Action: 4/20/90

The FINANCE Committee considered:

HB 290

HOUSE BILL NO. 290

RECREATION FACILITY LEASE OF STATE LAND

"An Act relating to the leasing of state land for recreational facilities development."

RECOMMENDATIONS:

- be replaced with CS HB 290 (FIN) the same title a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- ^{DNR}_{F&G} zero fiscal note
- zero with analysis _____
- fiscal note(s) _____
- zero fiscal note(s) 3/8/90 / H.RES.CM
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

<u>Ronald J. Larson</u> CARSON	<u>Alan Rieger</u> RIEGER		<input checked="" type="checkbox"/>	
<u>Cliff Swackhammer</u> SWACKHAMMER	<u>Bill Shultz</u> SHULTZ		<input checked="" type="checkbox"/>	
<u>Herb Brown</u> BROWN	<u>Rod Phillips</u> PHILLIPS		<input checked="" type="checkbox"/>	
<u>Harold Koponen</u> KOPONEN				
<u>William Wimer</u> WIMER				
<u>Barney Barnes</u> BARNES				

Ronald J. Larson CARSON
Chairman's Signature

FISCAL NOTE

CC

REQUEST:

Revision Date: _____
Title: Recreational Facility Lease of
State Land
Sponsor: Resources Committee
Requestor: House Resources Committee

Agency Affected: All Agencies
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
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	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: House Resources Committee Phone: 4944
Division: Representative Curt Menard Date: 3/7/90
Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by preparer):

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

Adopted

FISCAL NOTE

REQUEST:

Revision Date: 3/6/90 Agency Affected: Department of Fish and Game
 Title: An Act Relating to Leasing of State Land for Recreational Facilities BRU: Habitat
 Sponsor: Resources Committee Components: Habitat
 Requestor: Department of Natural Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0					
TRAVEL	0					
CONTRACTUAL	0					
SUPPLIES	0					
EQUIPMENT	0					
LAND & STRUCTURES	-					
GRANTS, CLAIMS	-					
MISCELLANEOUS	-					
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0					
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REVENUE	0					
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	-					
OTHER	-					
TOTAL	0					

POSITIONS:

FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact on FY 90 Budget

Prepared by: Frank Rue, Director
 Division: Habitat

Phone: 465-4105
 Date: 3/7/90

Approved by Commissioner: [Signature]
 Agency: Department of Fish and Game

Date: 3/8/90

Distribution (by preparer):

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

Adopted

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : CSHB 290 (FIN)
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: 27-Mar-90 Agency Affected: Natural Resources
 Title: An Act relating to the leasing of state
land for recreational facilities development. BRU: Land & Water Mgmt
 Sponsor: House Resources Components: Land & Water Mgmt
 Requestor: House Finance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Larry Ostrovsky Phone: 465-2400
 Division: _____ Date: 27-Mar-90
 Approved by Commissioner: [Signature] Lennie Gorsuch Date: 27-Mar-90
 Agency: Department of Natural Resources

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

Adopted

Original sponsor(s): Resources Committee

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 290 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the leasing of state land for
7 recreational facilities development."

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

9 * Section 1. AS 38.05 is amended by adding a new section to read:

10 Sec. 38.05.073. RECREATIONAL FACILITIES DEVELOPMENT LEASING.

11 (a) To identify land suitable for recreational facilities development
12 leasing, the commissioner shall make the identification through a
13 regional land use plan or a site specific land use plan adopted under
14 AS 38.04.065. If an adopted land use plan specifically allows the
15 type of development under consideration, the commissioner may request
16 proposals from potential lessees under (c) of this section. Consis-
17 tent with AS 38.04.065, the development of a land use plan used to
18 identify land suitable for recreational facilities development leasing
19 must consider the supply of recreational opportunities and alterna-
20 tives, economic and social factors, and fish, wildlife, and other
21 resources affected by the specific type and location of recreational
22 facilities development under consideration.

23 (b) AS 38.05.070(a), 38.05.085(c), 38.05.090, and 38.05.103
24 apply to leasing under this section. The other provisions of AS 38.-
25 05.070 - 38.05.105 do not apply to leasing under this section.

26 (c) If the commissioner identifies land for recreational facili-
27 ties development leasing under (a) of this section, the commissioner
28 shall prepare a written request for proposals that includes

29 (1) the specific type of recreational facilities

1 development for which the land may be leased;

2 (2) the form of compensation that the commissioner intends
3 to require for the lease under (1) of this subsection;

4 (3) the selection criteria that the commissioner will use
5 to determine the eligibility of a developer, including the developer's
6 financial backing and capability, experience in the proposed undertak-
7 ing, ability to meet bonding or insurance requirements, and ability to
8 comply with resource and environmental analysis requirements; and

9 (4) the criteria that the commissioner will use to deter-
10 mine the suitability of proposals.

11 (d) After preparing a request for proposals under (c) of this
12 section, the commissioner may issue the request to solicit proposals
13 from persons who are interested in leasing the land for recreational
14 facilities development. The request for proposals must be advertised
15 at least three times in a newspaper of general circulation in the
16 state. The proposals submitted to the commissioner must include the
17 specific facts on which the potential lessee bases its ability to
18 develop the land, including its ability to comply with the items
19 identified in (c)(1) - (4) of this section.

20 (e) After soliciting proposals under (d) of this section, if the
21 commissioner determines that only one potential lessee is acceptable,
22 the commissioner may begin negotiations with the potential lessee to
23 develop the terms and conditions for the lease.

24 (f) After soliciting proposals under (d) of this section, if the
25 commissioner determines that two or more potential lessees are accept-
26 able, the commissioner may select the potential lessee who submits the
27 highest bid during an auction or by sealed bids, whichever method the
28 commissioner chooses. The minimum bid must equal the amount estab-
29 lished by the commissioner plus the administrative fee established

1 under (j) of this section. The commissioner shall also require the
2 potential lessee to make an earnest money deposit under AS 38.05.-
3 860(b). After the commissioner selects a potential lessee, the com-
4 missioner may begin negotiations with the potential lessee to develop
5 the terms and conditions for the lease.

6 (g) After developing proposed lease terms and conditions with a
7 potential lessee under (e), (f), or (i) of this section, the commis-
8 sioner may issue a preliminary decision under AS 38.05.035(e) that
9 leasing the land to the potential lessee on the proposed terms and
10 conditions serves the best interests of the state. During preparation
11 of the preliminary decision, the commissioner shall consult with
12 affected state agencies regarding issues within the agencies' areas of
13 responsibility and expertise. The commissioner shall give public
14 notice of the preliminary decision under AS 38.05.945 and request
15 comments from the public and state agencies. The preliminary decision
16 must include

17 (1) a statement of the specific type of recreational facil-
18 ities development for which the land will be leased;

19 (2) an analysis of alternative sites;

20 (3) a statement of the terms and conditions to be required
21 in the proposed lease agreement;

22 (4) a statement of the compensation that the state may
23 require under the proposed lease agreement;

24 (5) a statement of the potential economic, social, and
25 environmental effects of the proposed development, including the
26 effect on water quality and the traditional and recreational uses of
27 the land;

28 (6) a statement of the long-term commitments of fish,
29 wildlife, and other natural resources that would be involved in the

1 proposed development;

2 (7) a statement of alternatives to the commitments identi-
3 fied under (6) of this subsection and alternatives or measures that
4 may reduce or eliminate the effects identified under (5) of this
5 subsection;

6 (8) an identification of any studies, including economic
7 feasibility studies, or plans to be required by the commissioner; and

8 (9) for a large project, a preliminary assessment of the
9 project's economic feasibility based on available information.

10 (h) After reviewing the comments received under (g) of this
11 section, the commissioner shall make a final determination whether the
12 proposed lease will serve the best interests of the state. If the
13 commissioner determines that the proposed lease will serve the best
14 interests of the state, the commissioner shall offer the lease to the
15 proposed lessee subject to the terms, conditions, and study require-
16 ments the commissioner determines to be necessary. If a study or plan
17 is required, the potential lessee may be required to provide and pay
18 for the study or plan. For a large project where the commissioner has
19 determined under (g) of this section that there may be significant
20 economic, social, or environmental effects or long-term commitments of
21 fish, wildlife, or other natural resources, the commissioner shall
22 require the potential lessee to prepare and submit a comprehensive
23 economic feasibility study to be completed no later than 18 months
24 after the execution of the lease. State agencies with pertinent
25 expertise or responsibilities shall be involved in the review of
26 required plans and studies. If the plan or study involves fish, game,
27 or customary and traditional use of natural resources, the Department
28 of Fish and Game shall review the aspects of the methodology and scope
29 of the plan or study that deal with fish and game. If the Department

1 of Fish and Game determines that the aspects of the methodology and
2 scope that deal with fish and game are appropriate for the plan or
3 study, the aspects of the methodology and scope that deal with fish
4 and game may be used for the plan or study.

5 (i) If a potential lessee who was selected under (f) of this
6 section declines the lease offer made under (h) of this section, the
7 commissioner may begin negotiations with the potential lessee who
8 provided the next highest bid under (f) of this section to develop
9 under (f) of this section the terms and conditions for a lease.

10 (j) The commissioner shall require the potential lessee awarded
11 the right to negotiate a lease under (e), (f), or (i) of this section
12 to pay a nonrefundable administrative fee of at least \$250.

13 (k) The commissioner shall reject all proposals or bids for a
14 lease when it is in the best interest of the state.

15 (l) The compensation to be paid to the state for a lease issued
16 under this section may include, in the discretion of the commissioner,

17 (1) a percentage of the annual gross receipts as reported
18 to the United States Internal Revenue Service;

19 (2) a guaranteed annual minimum rent or a percentage of
20 gross receipts, whichever is greater;

21 (3) the fair market rental value;

22 (4) a fixed annual rent that is not less than the fair
23 market rental value of the land;

24 (5) a fee for each user;

25 (6) other compensation acceptable to the commissioner; or

26 (7) a combination of the above.

27 (m) The annual compensation paid to the state for a recreational
28 facilities development lease shall be reevaluated and adjusted at
29 five-year intervals. The annual compensation for each five-year

1 period after the initial five years of the lease shall be calculated
2 by the same method used to establish the compensation for the initial
3 five-year period.

4 (n) Before a lease is issued under this section, the land to be
5 covered by the lease shall be surveyed. The survey must be adequate
6 to describe the land to be covered by the lease.

7 (o) Before entering into a lease under this section, the commis-
8 sioner shall require the lessee to post a performance bond or provide
9 other security acceptable to the commissioner to cover the costs to
10 the department of one or more of the following, as determined by the
11 commissioner:

12 (1) completing the development, including site planning,
13 under the terms and conditions of the lease;

14 (2) maintaining the development under the terms and con-
15 ditions of the lease;

16 (3) restoring the lease site if the lease is abandoned or
17 terminated.

18 (p) The term of the lease may not exceed 55 years. At the
19 expiration of the lease, the commissioner may offer the lessee a right
20 of first refusal on a new lease under this section for the same land
21 if the commissioner determines that leasing the land for an additional
22 term serves the best interests of the state.

23 (q) The lessee's violation of a provision of this section or of
24 a term or provision of a lease issued under this section subjects the
25 lessee to appropriate legal action and penalties, including a forfei-
26 ture of the lease.

27 (r) The commissioner of administration shall separately account
28 for all money collected under this section that the department de-
29 posits in the general fund. The annual estimated balance in the

1 account may be used by the legislature to make appropriations to the
2 department to carry out the purposes of this section.

3 (s) In this section, "recreational facilities development"
4 includes the development of lodges, resorts, and other tourism and
5 recreation-related facilities.
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Alaska State Legislature

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: REP. RON LARSON, CO-CHAIR HOUSE FINANCE COMMITTEE
REP. LYMAN HOFFMAN, CO-CHAIR HOUSE FINANCE COMMITTEE

FROM: REP. CURT MENARD, CO-CHAIR HOUSE RESOURCES COMMITTEE

DATE: MARCH 8, 1990

RE: REQUEST FOR HEARING ON CS HB 290 (RESOURCES)

Curt

I would like to request that the House Finance Committee hear HB 290 at the earliest available date. This is a very important piece of legislation which would significantly improve our current recreational facilities leasing program.

~~Also, please find attached two memorandums from Terry Bannister with the Legislative Affairs Agency regarding potential ambiguities in specific language which was added just prior to Committee action on the bill. She has suggested alternative language which removes the ambiguities and successfully accomplishes our intent. I would appreciate your attention to these two items.~~

Thank you for your consideration of my requests.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
707 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 7, 1990

SUBJECT: Ambiguity in CSHB 290 (Resources)

TO: Representative Curt Menard
Co-Chair, House Resources Committee

FROM: Theresa L. Bannister *tb*
Legislative Counsel

This memo accompanies the draft of CSHB 290 (Resources) that you have requested. Please be aware that one part of the draft contains an ambiguity that could defeat what I understand to be your intent. With regard to the first sentence of sec. 38.05.073, it is my understanding that the committee wants to prohibit the commissioner from making the land identification unless the commissioner does it through certain land use plans. However, due to the nature of the word "only", the sentence could be interpreted differently from your intent. The "only" could be read as modifying "recreational facilities development leasing" or as modifying "through a regional land use plan...." If it is read as modifying the development leasing phrase, the sentence would not prohibit the commissioner from making the identification through other approaches than the land use plans.

To eliminate the ambiguity, you may wish to retain the language as it existed in the 3-6-90 draft or you could rephrase it as follows: "To identify land suitable for recreational facilities development leasing, the commissioner shall make the identification through a regional land use plan or a site specific land use plan adopted under AS 38.04.065." If this language is not exactly what you need, I would be happy to assist you to redraft it to achieve your intent.

TLB:lmb
L10/003

Enclosure

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99801
777 465 1800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 7, 1990

SUBJECT: Additional ambiguity in CSHB 290 (Resources)

TO: Representative Curt Menard
Co-Chair, House Resources Committee

FROM: Theresa L. Bannister *TB*
Legislative Counsel

This memo accompanies the final version of CSHB 290 (Resources) that you have requested. In addition to the ambiguity identified in my memo of March 7, 1990, this version contains an additional ambiguity that may thwart the intent of the committee. It is my understanding that the committee wants the Department of Fish and Game to review and perhaps establish the methodology and scope for certain plans and studies. The relevant language begins on page 4, at line 26. Because the sentence uses "shall approve" without any qualification, the sentence could be interpreted to mandate that the department approve the methodology and scope of the plan or study even if it does not believe that the methodology and scope are appropriate. If the sentence were interpreted that way, the committee's intent would not be achieved.

To remove the problem, you could replace "approve" with another verb, such as "establish", or you could rewrite the language. For example, the language could read: "If the plan or study involves fish, game, or the customary and traditional use of natural resources, the Department of Fish and Game shall review the methodology and scope of the plan or study. If the Department of Fish and Game determines that the methodology and scope are appropriate for the plan or study, the methodology and scope may be used for the plan or study."

If I can be of further assistance with this matter, please advise.

TLB:pl
WKP3/025

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. MENARD

TO: CSHB 290 (Resources)

Page 1, lines 11 - 13:

Delete "The commissioner may identify land suitable for recreational facilities development leasing only through a regional land use plan or a site specific land use plan adopted under AS 38.04.065."

Insert "To identify land suitable for recreational facilities development leasing, the commissioner shall make the identification through a regional land use plan or a site specific land use plan adopted under AS 38.04.065."

4/20/90

A M E N D M E N T #2

OFFERED IN THE HOUSE

BY REP. MENARD

TO: CSHB 290 (Resources)

Page 4, line 28, following "shall", through line 29:

Delete all material.

Insert "review the methodology and scope of the plan or study? If the Department of Fish and Game determines that the methodology and scope are appropriate for the plan or study, the methodology and scope may be used for the plan or study."

with respect to the Fish or Game.

If the with...

with...

with respect to the Fish & Game / Adpt. U.S.

Mr. Chairman and members of the committee my name is John Duffy and I am the Planning Director for the Matanuska-Susitna Borough. Thank you for providing me with an opportunity to speak on the House Bill 290. I believe that in order for the State of Alaska to successfully compete in the national and international market place it is vital that our land managers have the necessary tools to market and develop recreational and tourism related projects. I believe House Bill 290 goes a long way in providing the Division of Land and Water with these necessary tools. I have only a few brief comments on the Committee substitute which I think is a substantial improvement on the original legislation. My comments are as follows:

p 3 line 8 A definition of large is needed as well as the identification of who is making the determination. Since what may be considered large is likely to change from area to area it might be possible to allow the land use plan for the area to make the determination on what is considered large. This would allow local input into the decision making process since the plan is developed with local involvement.

p 3 line 9 Prior to submitting a proposal potential developers will complete their own economic feasibility studies since they will want to determine whether or not an expenditure of their

resources is warranted. If a developer is willing to invest funds based upon their own economic analysis why should the State ask for another study and then, I assume, make its own determination on whether or not the developer should be allowed to proceed with spending their money. I do not believe that this requirement is needed and would respectfully recommend that the committee consider dropping it from the legislation.

p 3 lines 27/29 This requirement could cause a proposed project to be eliminated by merely making the study requirements extremely hard to comply with or by making the financial investment in studies quite large. As the legislation is currently written there is no latitude for other agencies to question the appropriateness of the Fish and Games' studies or their scope. Indeed, the present language provides no way of distinguishing between justified or frivolous requests. Since Fish and Game participates in the development of the land use plan which develops the recommendations and constraints on the proposed development I do not believe it is necessary for Fish and Game to have veto power on a development after the plan is adopted and a qualified proposal obtained. I do not believe that this requirement is

needed and would respectfully recommend that the committee consider dropping it be from the legislation.

That concludes my comments on the legislation. Once again thank you for providing me with an opportunity to speak on the legislation.

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

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

March 23, 1990

The Honorable Curt Menard
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Menard:

Thank you for the opportunity to address our concerns on the legislation you have proposed pertaining to the leasing of state land for recreational facilities. I was pleased that you incorporated the amendments jointly proposed by the Departments of Fish and Game (ADF&G) and Natural Resources into the new version of the bill. Accordingly, I want to restate the position that the Department of Fish and Game supports Committee Substitute for House Bill 290 (Resources).

I anticipate that as the bill continues to move through the Legislature, many questions will be raised about the amendments incorporated in your bill and the concerns the Department of Fish and Game has had with the bill. We will be restating our position before the House Finance committee on Wednesday, March 28, and for your convenience I wanted to take the time to reiterate in writing the nature of our concerns that serve as the basis for our support.

The bill addresses two distinct purposes. First, the bill proposes changes to the current statute to allow the state to receive a better financial return for leasing state land for recreational development. In the wake of the recent experience with the proposed Mitsui ski area in Hatcher Pass, these changes are fully warranted and fiscally responsible.

Secondly, the bill proposes revisions to the procedure for identifying and leasing state land for recreational facilities.

In order to ensure the success of recreation development and to generate the maximum economic benefits from recreation facilities, it is crucial to ensure protection of fish, wildlife, and other resources that serve as the primary attraction of visitors, tourists, and the Alaskan public seeking recreation opportunities.

We believe that recreation facilities development can occur compatibly with fish and wildlife resources, and in turn support long-term economic benefits, provided the conditions now in the bill and discussed below are adequately addressed.

March 23, 1990


1. ADF&G has an appropriate role in the identification and leasing process.
2. The public is involved as much, or more so, than is currently provided.
3. User conflicts are taken into account.
4. Proper planning and management tools are in place.
5. Sites are selected, taking into account the ability of the resource to sustain increased pressure and use.
6. Mitigating measures are allowed.

I believe these concerns have been addressed in CSHB 290 (Resources) and will allow for long-term economic benefits by protecting fish and wildlife resources of concern to the public.

Because the long-term benefits depend on adequate protection for fish and wildlife resources, the list of concerns discussed above will continue to serve as a basis for evaluating any amendments that may be proposed to the bill.

Your continued support for these provisions is most appreciated. If any additional information would helpful, please do not hesitate to contact me or my staff.

Sincerely,



Don W. Collinsworth
Commissioner

cc: Senator Fahrenkamp, Chairman, Senate Resources Committee
Senator Binkley, Co-chair, Senate Finance Committee
Senator Uehling, Co-chair, Senate Finance Committee
Senator Kerttula, Vice-chair, Senate Resources Committee
Senator Eliason, Senate Resources Committee
Senator Frank, Senate Resources Committee
Senator Halford, Senate Resources Committee
Senator Sturgulewski, Senate Resources Committee
Senator Zharoff, Senate Resources Committee
Representative Davidson, Co-chair, House Resources Committee
Representative Hoffman, Co-chair, House Finance Committee
Representative Larson, Co-chair, House Finance Committee
Senate Sponsor of Companion Bill
Commissioner Lennie Gorsuch

The Honorable Curt Menard

- 3 -

March 23, 1990

Norman A. Cohen
Warren W. Wiley
Denby Lloyd
Bob Evans
Larry Ostrovsky
Gary Gustafson
Deborah Greenberg
Molly McCammon
Frank Rue
Lance Trasky
Steve Behnke
Lew Pamplin

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

February 28, 1990

The Honorable Ron Larson
Alaska State Representative
P.O. Box V
Juneau, AK 99811

Dear Representative Larson:

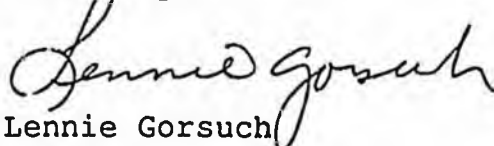
Thank you for your gracious comments following the unfortunate news of Mitsui & Co.'s lease termination. Mitsui's exit may be considered a temporary setback, but it will by no means set the tone for the future of the magnificent Hatcher Pass area.

You are correct, the recreational development potential of the Hatcher Pass area is now well documented. Mitsui representatives have repeatedly indicated to us that their decision to terminate was linked directly to timing and immature market conditions. Actual site development potential does not appear to have been a significant factor.

As you know, I have placed a great deal of importance on the ability to incorporate flexibility and achieve realistic objectives in our leasing process. Passage of the commercial recreation leasing bill, HB 290, currently under legislative consideration could help us meet those goals. The practical effect of amended statutes guiding our leasing procedures will be felt statewide. It will greatly increase our chances of success with the next Hatcher Pass leasing package. Your support of this bill is appreciated.

With the experience gained administering the Mitsui lease, the department looks forward to renewed opportunities for the Hatcher Pass area.

Sincerely,



Lennie Gorsuch
Commissioner

Representative Larson

-2-

February 28, 1990

cc: Senator Kerttula
Representative Menard
Gary Gustafson, Director
Division of Land and Water Management
Veronica Gilbert, Division of Land and Water Management

February 22, 1990

Rep. Curt Menard, Co-Chair
House Resources Committee
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, AK 99811

Re: Recreational Facilities Development Leasing (HB 290)

Dear Representative Menard:

We appreciate the opportunities your committee is providing for public testimony on proposed legislation regulating recreational facilities development leasing. We thought it might be useful to clarify and expand somewhat the oral testimony ACE offered at the February 1 hearing.

We very much support the goal of the committee and DNR to ensure that the state receives a reasonable financial return from the leasing for private benefit of its most valuable long-term public resource, its land. Historically, on both state and federal lands, within and outside of Alaska, compensation to the public landholder has generally at best been adequate to manage impacts generated by the project, that is, impacts that would not have occurred but for the project, providing no net benefits to the landholder's coffers.

Furthermore, we strongly support focusing our commercial facility development efforts on the state's unreserved multiple use lands, the lands managed by the Division of Land and Water Management. With a large unreserved state land base, we have no excuse for making the serious mistake made Outside, where commercial development on park lands has in far too many instances destroyed or substantially degraded the very natural resources which were the basis for the establishment of the park. Unfortunately, and totally unnecessarily, we seem to be headed in that direction at Denali State Park.

And we have seen how extremely controversial commercial facility development leasing proposals can be, especially those for major facilities, like the ones proposed for Eagle River, Hatcher Pass, and Denali State Park, and those that could pose substantial conflicts to subsistence uses, like lodge proposals in rural Alaska. Attractive sites for commercial recreational facilities will generally have long ago been recognized and widely used for a variety of other purposes. An orderly, comprehensive procedure can benefit everyone--the agencies, the possible developers, and the public--by weeding out speculative or inappropriate projects, preventing wasteful expenditures of time and money, and avoiding litigation.

If this bill is to address concerns other than ensuring a reasonable financial return to the state, we would like to address a few of those issues.

1. Initial Land Allocation Decision. The initial land allocation decision is critical and deserves very careful consideration. The decision should be an interagency one and should require full public involvement. We feel uncomfortable relying totally on regional land use plans and believe that in every case the public should have some opportunity to comment before the process has proceeded all the way to the approval of lease terms and conditions phase. Regional plans deal with millions of acres of land. The decisions are necessarily somewhat abstract. In those situations where a site-specific plan or an amendment would be required (see subsection (b)), we feel fairly comfortable with the initial public participation opportunity. However, we have two concerns regarding the third situation (where a regional plan "specifically allows" the type of development under consideration).

Recommendations:

a. It should be made very clear that the mere fact that a land use designation or classification (such as "Resource Management") in the regional plan allows commercial development doesn't qualify as a specific allowance. The Management Intent or Management Guidelines narrative should have to specifically mention, and authorize, the type of development under consideration.

b. Even if a plan specifically mentions and authorizes the development, some minimal opportunity to comment should be provided at this initial stage, when the reality of a specific, focused proposal on a specific piece of land is first concretely proposed to the public without the distraction of hundreds of other competing issues affecting millions of acres of land. We suggest the following at the end of subsection (b): "If an adopted regional land use plan specifically allows the type of development under consideration, the commissioner shall nevertheless, before issuing a request for proposals, provide the public and other interested agencies with an opportunity to offer scoping comments regarding the proposed development and the issues which should be addressed in the Preliminary Decision required under (g) of this section."

2. Lands Available for Lease. This bill appears to allow DNR to lease lands regardless of any legislative or other designation they might have received. This is clearly inappropriate.

Recommendation: For legislatively designated lands entrusted to the management of an agency other than the Division of Land and Water Management (such as ADF&G), DNR should be allowed to proceed only with the concurrence of that agency.

3. Agency Involvement. Other interested agencies should be closely involved throughout the process. Their involvement should not be limited to commenting on a preliminary decision at the same time the public is commenting; when that happens the public does not have the benefit of the other agencies' perspectives and

concerns prior to commenting.

Recommendation:

a. Insert at the end of subsection (b): "In preparing a site-specific plan or proposing a plan amendment, the commissioner shall consult with other interested state agencies."

b. In subsection (g), insert the language proposed by Gary Gustafson.

4. Economic Feasibility. At least for major projects, economic feasibility, not environmental or social feasibility, generally determines whether or not the projects go forward. This was true for Eagle River and Hatcher Pass, and it appears that it will also be the case for South Denali. Unfortunately, there is no requirement, and to date we have not decided administratively to require, that a determination of likely economic feasibility be made prior to the expenditure of thousands of agency hours and thousands of public dollars. When, for varying reasons, economic feasibility determinations were finally made for Eagle River and Hatcher Pass, the conclusion reached was that the projects were not feasible. We don't know what will happen at South Denali, since after about 2 1/2 years of agency work attempting to justify the most recent proposal, an economic feasibility determination acceptable to the Division of Parks has yet to be made public.

In all three of these cases, we believe enough was known about the projects to do a determination long before one was actually done. For example, what did Mitsui learn a couple of weeks ago about the nature or scope of its proposed project from the phone calls it made to a few travel agents and airlines (after which it pulled out) that it did not know more than a year ago when it submitted its concept development plan--or even earlier? The relatively little money Mitsui spent doing low quality work on a prospective multi-million dollar project was for it a drop in the bucket. For state resource agencies with far too few individuals to do an adequate job of on-the-ground management of state lands, and budgets stretched about as thin as they can get, the waste of hours and dollars was substantial (please also see Tim Bradner's Feb 11, 1990 column in the Anchorage Daily News, which we have enclosed).

Recommendations:

a. For large projects, a preliminary determination of economic feasibility, based on available information, should be made either by the state before it requests proposals, or by the companies submitting proposals.

b. Within six months after a lease is signed the lessee should be required to submit a more detailed determination.

We appreciate Gary Gustafson's proposals addressing this issue, and

support authorizing the commissioner in subsection (g) to require lessees to prepare an economic feasibility study. This flexibility is probably appropriate in most situations. For large projects, however, which Gary would address in subsection (h), we believe that waiting 18 months for such a study is far too long and unnecessarily puts at risk too many hours and dollars of public resources.

5. State Subsidies. Another economic issue that is of great interest to the public, and to many decision-makers, is the amount of public subsidies a project is likely to require. For example, only when it became apparent that Mr. Rogner wanted millions of dollars worth of state loan guarantees did we decide to put a halt to lease processing pending the completion of an economic feasibility study, and require him to fund 1/2 of it (it's unfortunate that we aren't as protective of our public lands as we sometimes are of our public monies). The South Denali Preliminary Decision circulated for public comment contained no discussion of possible public subsidies. It was only after a direct question was asked at the Anchorage public meeting that DNR said that a \$6-10 million state subsidy for resort roads and utilities was likely. In the relatively short time since that meeting the estimate has risen to some \$14 million. At the Preliminary Decision stage, DNR should be required to estimate the likely amount of public dollars that will be needed (we know that would have been possible, at least roughly, for South Denali).

Recommendation: Insert a new (c)(3): "the estimated capital and operating costs to the state;"

6. Social, Economic and Environmental Studies. It is not unusual, at the federal level, for those who wish to profit from public resources to be required to bear the costs of any social, economic or environmental studies that are needed by the decision-makers and the public to arrive at a sound decision about the best use of public lands or resources. We agree with Mr. Bradner that, for large resource development projects, the state should follow the federal lead and require the developer to pay for necessary studies. The state should be a prudent steward of its lands and natural resources, not a pushover. Will such a requirement really discourage serious developers who have done their homework? We doubt it. What it might do is prevent the public waste of precious agency time and money, and weed out the speculators and the flakes.

Recommendation: In subsection (h) change "may" to "shall".

7. Adequate Financial Return to State. We understand that one of the primary reasons for this bill is DNR's desire to ensure that the public receives a reasonable return for the use of public land for profit making purposes by private individuals or businesses. As we said earlier, we fully support that goal. However, why shouldn't this goal apply to all leases, not just those for recreational facilities? And why is Gary proposing to delete the requirement that the state receive at least fair market rental

value for its lease? Although a dollar figure might not be able to be calculated until an appraisal is done, the ultimate requirement should remain.

Recommendations:

- a. Apply the financial return provisions to all leases.
- b. At subsection (l), page 4, line 21, insert between "section" and "may" the phrase "must at a minimum equal the fair market rental value of the land to be leased and".

8. Evaluation of Alternative Sites. After a general area for possible leasing has been identified in subsection (b), it is still critical that several potential specific locations be evaluated. The environmental impacts at, or the political acceptability of, different specific locations can vary tremendously, as our experience at South Denali has demonstrated.

Recommendation: Insert at subsection (g) the language suggested by Gary Gustafson.

9. Bonding. At subsection (o), why shouldn't the bond cover all three possible needs: completing the development, maintaining the development, and restoring the lease site?

Recommendation: Rewrite lines 14 and 15 at page 5 to read "the department of the following:".

Thank you again for all your work on this bill. We would be happy to answer any questions you might have or to help in any way we can.

Sincerely,

Cliff Eames

Cliff Eames
Issues Director

cc: Committee Members
Senator Kerttula
Gary Gustafson

State can learn from the failure of ambitious resort plans

Mitsui's cancellation of its Hatcher Pass ski resort was a real disappointment. But coming not long after Austrian developer Robert Rogner shelved his ambitious Eagle River ski resort plan, it should have been no surprise.

In terms of winter tourism development, we're now left with Selbu's planned expansion at Mount Alyeska, which fortunately is moving ahead. Selbu Alaska told state officials last week.

All this seems to confirm the cynic's view that these ambitious plans were spawned by Anchorage's

Anch. Daily News
Feb 11, 1990

tim bradner



Winter Olympics bid. That having failed, for now at least, the "world-scale" resort projects faded away fast.

What have we learned from this? Two things are striking about Mitsui's plan, not that of Rogner's as well.

First is that neither seemed to have their project really thought out in terms of markets and problems like getting seats on international air carriers coming into Anchorage, both pretty basic. The second is that both projects required a considerable

investment of public dollars in dealing with their applications.

Let me first deal with this second issue: State agencies and local governments put a lot of time and money, including contracted consulting studies, into dealing with projects that in retrospect seemed highly speculative. Rogner and Mitsui also put up money, but I'll wager the public expenditure exceeded that private investment.

I'll admit the counter-argument that public agencies may spend too much money on planning and studies. But

I don't really buy that, in these cases.

Another argument. The planning work may not be wasted if it can be used by others someday proposing resorts in Hatcher Pass or Eagle River. That, however, just reminds me of the huge public expenditure we blew on environmental and feasibility studies for the Susitna River hydro project, now abandoned, that are still sitting around on shelves.

I'm a believer in the idea of public-private partnership in economic development, and that, at a certain point, it makes sense for public

investment to help a private project that generates public benefits move along.

But having seen two "world-scale" international tourism projects fade away, I would suggest federal and state governments require developers of these large resource-development projects to pay for an environmental impact statement (or an environmental assessment, in the case of state agencies) that also includes social and economic components. This work is actually done by private contractors working

Please see Page E-3, BRADNER

BRADNER: Alaskans can learn from disappointment after resort plans fall through

Continued from Page E-1

for the agencies involved, but with considerable involvement by the developer.

If this has the effect of increasing a developer's front-end investment in the conceptual stage, that's not all bad. If we up the entry fee a bit, it might make entrepreneurs and developers look more carefully, and perhaps do their homework

more thoroughly, before launching a process that costs us all money, arouses our expectations and then leads to disappointment.

Going to the first point made earlier: I was surprised at the evident lack of basic market research by Rogner and Mitsui. Rogner hadn't done a real market study until the legislature, as a condition to discussions of state investment, required

him to foot half the bill for a study done through Alaska Industrial Development and Export Authority. Rogner's project didn't look very good in the assessment, possibly a factor in his shelving the project.

With Rogner, we can accept, even admire, a certain amount of entrepreneurial seat-of-the-pants venturing, even if it costs us money. But we hold Mitsui, which is

a major Japanese world trading company, to a different standard.

We assumed Mitsui had its project thought-out and knew its own market in Japan. Turns out, it didn't. As far as state officials involved with the project could determine, Mitsui never did do a real market study. It did make inquiries of tour agencies and airlines,

the company told state officials.

In fairness, Mitsui always candidly said that its project was contingent on markets and feasibility. If Alaskans allowed their expectations to soar, that was their problem, not Mitsui's.

But all this has left a bit of a sour taste for me. We desperately need new tourism facilities in Alaska, and a winter resort, properly

planned, could help ease the overcrowding during summer. I just hope our disappointment with the Rogner and Mitsui projects doesn't hurt public acceptance of other tourism proposals.

Tim Bradner is editor of an Alaska economic reporting service, and does research and writing for private clients, including petroleum companies.

Tanana Chiefs Conference, Inc.

122 First Avenue
Fairbanks, Alaska 99701-4897
(907) 452-8251
Fax (907) 451-8936

February 2, 1990

Representative Curt Menard
Alaska State Legislation
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Dear Representative Menard:

The Tanana Chiefs Conference, Inc. would like to comment on HB 290, "an Act relating to the leasing of State land for recreational facilities development". The implications of this legislation greatly concerns us. As you can imagine, a commercially leased hunting lodge on a river can have as much impact in terms of competition for Natural Resources as a state subdivision could have.


With the history of problems surrounding land disposals in our region in the past, we must insist on a through review of this legislation by your committee complete with public hearing.

Our region has 2 area plans and a large part of the region is not covered by an area plan. The area plans are not nearly site specific enough to base a decision to lease a commercial facility on. We are not comfortable with the public participation process outlined in the site specific planning process for areas not covered by area plans.

We appreciate your consideration of our concerns and look forward to working with you on this in the future.

Sincerely,

TANANA CHIEFS CONFERENCE, INC.


Mitch Demientieff
President

CC: Members of House Resource Committee

Tanana Chiefs Conference, Inc.

122 First Avenue
Fairbanks, Alaska 99701-4897
(907) 452-8251
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February 27, 1990

Representative Curt Menard
Alaska State Legislature
P.O. Box 7 (MS 3100)
Juneau, Alaska 99811

Dear Representative Menard:

Enclosed is a resolution passed by the Tanana Chiefs Conference Executive Board on February 21, concerning the State Land Leasing Bill, HB 290. Our region is about the size of France and has an abundance of State land mixed with Federal and Native land. The potential effects of this bill are very serious for the region.

We have had a great deal of experience with state land disposal activity. The 100,000 acre mandate of the early 80's left a wake of outrage in the region with proposals made by the state in extremely sensitive areas. One lawsuit over a disposal still remains and the future of state land disposal activity in the region is unclear. The biggest potential threat of land disposal or lease is increased competition for natural resources. The land is already at human carrying capacity for the most part.

The course of the bill is very unsettling. The attempts of the original bill to involve the public and Fish and Game early in the process were removed in the current working draft adding insult to injury.

The Tanana Chiefs Conference supports the adjustment to the statutes allowing the state to receive fair compensation for leases it presently does. But, as the resolution states, we do not support authorizing the Commissioner of Natural Resources to identify lands for leasing.

Sincerely,

TANANA CHIEFS CONFERENCE, INC.

Teel Charles for

Mitch Demientieff
President

TANANA CHIEFS CONFERENCE, INC.
Executive Board
Resolution No. 90-20

LEASING OF STATE LAND

WHEREAS the uses of State land can profoundly affect the availability of natural resources for the TCC villages, and;

WHEREAS a program by the Department of Natural Resources to actively go out and identify new lands to offer to the general public for leasing could result in unmitigated competition for resources the villages depend on, and;

WHEREAS the public in-put process and Alaska Department of Fish and Game in-put process is not adequate in the proposed version of House Bill 290.

NOW THEREFORE BE IT RESOLVED that the Tanana Chiefs Conference opposes the provisions of House Bill 290 that allow the Commissioner of Natural Resources to identified land for leasing.

C E R T I F I C A T I O N

I hereby certify that this resolution was duly passed by the Tanana Chiefs Conference, Inc. Board of Directors on February 21, 1990 at Juneau, Alaska and a quorum was duly established.

Daisy Northway / R.L.T.
Daisy Northway
Secretary-Treasurer
Tanana Chiefs Conference, Inc.

Submitted by: VGS



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

P.O. Box Y, State Capitol
Juneau, Alaska 99811-3100
Mail Stop 3100
(907) 465-3991

March 27, 1989

MEMORANDUM

TO: Representative Curt Menard

ATTN: Johanna Munson

FROM: Gretchen Keiser *G. Keiser*
Legislative Analyst

RE: Leasing State Lands for Commercial Development
Research Request 89.329

You asked us to obtain information on the provisions other states make for the leasing of state lands for commercial development. You were specifically interested in provisions for land-use planning, solicitation of bids, compensation to the state and other lease terms and conditions, and public notice, as proposed under Senate Bill No 213 (Attachment A). You asked us to consider commercial development in general and specifically development of recreational facilities, as elaborated in SB 213.

In the time available, I was able to obtain information for Colorado, Montana, Vermont, and Washington. Since many commercial recreational facilities, particularly ski resorts, in the western states are located on National Forest lands, I also contacted the U.S. Forest Service (USFS) in order to determine how it allows for commercial development of federal lands. This memorandum summarizes the main points, and several attachments provide more details for your review.

Summary

The other states and the USFS follow a different sequence for the leasing of public lands for commercial development than is proposed in SB 213. They determine the minimum acceptable compensation to the state or federal government prior to requesting proposals and do not restrict the award of leases to the highest bidder. In cases where one developer approaches the states or USFS with a commercial proposal and no other interest exists, the public agency still conducts sufficient market analysis to determine fair market value of the proposed lands for that type of commercial development.

Representative Menard
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Land-use Planning

States' approaches vary with respect to the extent of state land-use planning that specifically identifies potential sites for commercial development. Montana classifies and reclassifies state lands for grazing, timber, agricultural, and "other" (including commercial activities) purposes (Attachment B). According to Reed Lommen, land management specialist, Montana Department of State Lands, the state--rather than initiate development proposals itself--often responds to a proposal by a private developer who wishes to lease state lands for commercial activities (e.g., apple orchards, Christmas tree farms, or industrial buildings).

During the 1980s, Washington has begun to designate more of its state "resource" lands--traditionally managed for their timber, oil/gas, or agricultural value--as "transition" lands available for leasing for commercial development. To date, most of the commercial leasing has been highly urban in nature (i.e., buildings, supermarkets, etc.) although the state is investigating the potential for land exchanges with the U.S. Forest Service in order to obtain title to existing ski developments and adjacent federal land in order to expand into overnight accommodations and encourage tourism. Attachment C provides considerable detail on Washington's Transition Lands program and policy.

In Vermont, there has been considerable public sentiment since the 1970s against further recreational skiing developments because of the rapid development and urbanization of formerly rural areas since ski resorts blossomed in the early 1960s. As a result, the state has had a policy that there will be no new leasing of state lands for ski developments.¹ The Colorado State Board of Lands, as a general rule, contracts for land-use planning services and requests the consultant to identify potential recreation sites.

On the other hand, the U.S. Forest Service undertakes an in-house land management planning process and has been in the mode of identifying sites and permitting ski developments on federal lands since the 1930s. The USFS planning process includes a survey of state and local officials and the public to get a sense of the public need and marketability of a new recreational development.

All individuals noted that their agencies react to a private developer's specific proposal as much as actively designate specific sites for potential commercial or recreational development. Proposals are examined in light of existing land-use plans for serious conflicts which would preclude further consideration. The USFS conducts an in-house public need/marketability analysis as part of its preliminary review of unsolicited proposals. It does not appear to be unusual for states to have the flexibility to modify existing

¹Rod Barber, Assistant Director of State Lands, Vermont Department of Forests, Parks, and Recreation, personal communication, March 22, 1989.

Representative Menard
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land-use plans or to reclassify state lands for other purposes. Senate Bill 213 appears to provide for this flexibility and also references AS 38.04.065, which specifies several factors that must be taken into consideration by the commissioner of the Department of Natural Resources (DNR) in land-use planning decisions.

Solicitation of Proposals for Commercial Development

Without exception, the individuals I contacted indicated that their agency identifies the minimum acceptable state compensation and other major elements of the lease document prior to the solicitation of proposals or bids for commercial development of state lands.² In general, the solicitation requires information on a developer's financial backing/capability, experience in the proposed commercial undertaking, development idea/project, and what the developer is willing to pay (at or above the state's minimum)--all of which constitute selection criteria. Although the bid is an important criteria, the other factors are given serious consideration, and the various states contacted apparently do not specify the automatic selection of the highest bidder.

Although the USFS issues long-term special use permits instead of leases, they also define conditions and require detailed information from respondents to their prospectus. For your information, Attachment D provides USFS regulations governing special use applications and Attachment E presents a 1987 USFS prospectus seeking interest in a tour boat operation on Portage Lake south of Anchorage. Even in the case where a developer approaches an agency regarding a specific development proposal, the state or USFS will, at a minimum, issue a public notice regarding the proposal/application and seek other potential competitors. Several individuals noted that the public solicitation ensures that competitors have an opportunity and that the state receives fair market value.

Under SB 213, the DNR would provide the public an opportunity to comment on the agency's intent to seek proposals for commercial development of specific state lands. Following public review, the DNR would issue a written decision that is in the state's best interest to solicit development proposals. Senate Bill 213 specifies that 1) the written decision would present eligibility criteria for "potential lessees," 2) the Commissioner would select the highest bid if two or more potential lessees were acceptable, and 3) the department would then begin negotiations on the terms and conditions of the lease. It is unclear to me what potential lessees would bid on if the lease terms and conditions--particularly the minimum acceptable compensation to the state--are not in hand at the time proposals or bids are solicited.

²Alaska's procedures for leasing of state lands for oil and gas activities involve detailed specification of the lease terms and conditions at the time of a lease sale. Companies offer bids on the basis of these lease specifications.

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State Compensation and Other Lease Terms and Conditions

Unlike Alaska, much of the state lands in western states is trust land received from the federal government at statehood. These lands are to be managed for the maximum benefits to the designated trust beneficiaries (e.g., public school, universities, mental hospitals, etc.) Montana, Colorado and Washington are required to obtain fair market value for state lands which they lease for commercial development. Larned Waterman, of the Colorado State Board of Lands, suggested that Alaska has to determine what is a minimum acceptable rate of return for private use of state land; Colorado and Washington seek returns of ten and 11 percent, respectively. Today, these states lease lands under varying combinations of up to ten to 11 percent fair market annual rental (typically reappraised every five years) and 3.0 to 5.0 percent of the annual gross receipts. Vermont's leases for state lands in several of its well known ski areas of Killington, Stowe, Jay Peak, Smuggler's Notch and Okemo require five percent of gross receipts. A percentage of gross receipts is preferred because it allows for a development stage and also encourages efficiency in operations by not basing the state's share on net receipts.

Unlike the states--which are more oriented toward economic development--the Forest Service approaches commercial recreational development from a perspective of seeking private partners who are willing to provide a recreation opportunity for the general public on federal lands. The Forest Service employs a fairly complicated, graduated rate fee system which generally translates to about three percent of gross receipts.³

Several individuals offered caution regarding commercial development leasing, noting that commercial real estate experience is a crucial requirement for state staff. Rod Hilden, real estate manager in the Washington Department of Natural Resources, said that states cannot expect foresters or recreation planners to have the in-house expertise needed to conduct preliminary market studies, determine fair market values, and negotiate successfully with private developers. Attachment F provides a copy of a sample commercial lease from the Washington Department of Natural Resources.

Lease terms are typically 30 to 55 years, depending upon the type of commercial development. The USFS is operating under recent federal legislation which extended the maximum term for special use permits for winter sports from 30 years to 40 years.

³Jim Cochran, director, Recreation, Subsistence and Cultural Resources Section, U.S. Forest Service, Alaska Regional Office, personal communication, March 23, 1989.

Representative Menard
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Public Notice

All the states contacted and the USFS generally provide for public notice and public participation throughout the land-use planning and commercial leasing process. Likewise, requests for development proposals are widely advertised. In general, previous research that I have conducted regarding various states' public process with respect to the leasing or sale of public resources suggests that Alaska's statutes (Title 38: Public Lands) provide comparatively greater opportunities for public participation.

Please contact me if you have any questions regarding this information.

Attachments