

HB

193

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 6, 1991

FURTHER REFERRALS:

Resources
Finance

Date of Committee Action: 4-29-91

The COMMUNITY AND REGIONAL AFFAIRS Committee considered:

HB 193

HOUSE BILL NO. 193

DISPOSALS OF STATE LAND & MINERALS

"An Act relating to disposals of state land, materials, and minerals and of interests in state land."

RECOMMENDATIONS: [] the same title
 be replaced with _____ [] a new title
 [] have attached amendments(s)
 [] do pass
 [] do not pass
 [X] no recommendations
 [] individual recommendations
 [] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 [] fiscal impact _____ [] fiscal note(s) _____
 [X] zero fiscal note DNR [] zero fiscal note(s) _____

| SIGNING DO PASS | DP | OTHER RECOMMENDATIONS | DNP | NR | AM |
|---------------------------|----|-----------------------|-----|----|----|
| Richard Stokes | | J. E. Longaker | | ✓ | |
| Richard Stokes | * | J. M. | | ✓ | |
| Betty Davis | X | Cheri Davis | | ✓ | |
| Gail Phillips | X | Gary White | | ✓ | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |



 CHAIRMAN'S SIGNATURE



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

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

TO: Representative Jerry Mackie, Chair
House Community and Regional Affairs Committee

FROM: Representative Kay Brown

DATE: March 25, 1991

SUBJ: HB 193 — State Land Disposal Program

In anticipation of the House Community and Regional Affairs hearing on HB 193 next Wednesday, March 27, please find attached the following materials:

1. Sponsor Statement
2. Sectional Analysis
3. Copy of HB 193

It is my understanding that the Department of Natural Resources will be providing you with a fiscal note for this legislation under separate cover.

If you have any questions concerning this legislation, please let me know or contact Mary Owen of my staff at 465-4998.

attachments

SPONSOR STATEMENT

HB 193 — State Land Lottery Program Amendments

House Bill 193 would make amendments to the state land disposal procedures. At the request of the Department of Natural Resources, I have introduced this legislation to make two basic changes to the state land disposal program.

First, HB 193 expands an existing legal authority of the Commissioner of the Department of Natural Resources to extend state land contract payment deadlines for homesites, homesteads, and pipeline right-of-way leases, and deadlines for obligations such as the requirement to build a habitable dwelling where needed due to war, riot, or acts of God.

Second, in response to a court ruling, the bill deletes a requirement that applicants must attend a state land auction, lottery, homesite offering, or homestead drawing in person in order to acquire state land. The Superior Court (Chambers v. State) ruled that the local attendance requirement is unconstitutional because it discriminates against non-local applicants for state land. The state did not appeal to the Supreme Court. The Attorney General advises that the state is bound to abide by the court judgment.

To prevent confusing applicants about state program requirements, and in order to respect the constitutional rights of all lottery applicants, the requirement should be repealed.

Sectional Analysis

HB 193 — State Land Lottery Program Amendments

Section 1

Amends AS 38.05.020(b)(5), the general authority of the Commissioner of the Department of Natural Resources to extend payment deadlines for a lease or sale of state land, minerals, or materials, because of war, riot, or acts of God. Expands this power by allowing such payment extensions for pipeline right-of-way leases (AS 38.35).

HB 193 would also allow the commissioner to extend a homesite or homestead requirement (AS 38.08 and AS 38.09), such as the requirement to build a habitable dwelling, for the same reasons.

This section also removes an obsolete date referenced in AS 38.05.020(b)(1) and modernizes AS 38.05.020(b)(6) by inserting a reference to an existing agricultural land lottery statute (AS 38.05.057(c)) in place of a law that was repealed in 1979.

Section 2

Amends AS 38.05.050 by repealing the requirement that a state land auction, lottery, or homesite disposal be held in a community near the land being offered. Together with sections 3-4, the effect is to give all state land applicants an equal opportunity to compete for the land, even if they live at a distance.

Section 3

Amends AS 38.05.055 by deleting the requirement that bidders for state land auctions personally attend the auction. Allows the bidder to be represented by an attorney or agent, regardless of the type of land being sold. Either the bidder or the bidder's representative may accept the receipt for the purchase deposit.

This section also corrects the list of state land offering methods that do not require a high-bid public auction by adding a statutory reference to the state homesteading program (AS 38.09).

Section 4

Amends AS 38.05.057(a) by deleting the requirement that applicants for most state land lotteries personally attend the lottery. (The same procedure is also used for homesite offerings.) Deletes the requirement that the winning applicant deposit a down payment on the day of the lottery.

Section 5

Amends AS 38.05.057(g) to require that the winning lottery applicant be notified and be given 30 days to make the down payment. The effect is to replace the former means of payment, which required applicants to appear personally at the lottery and to make down payments on the spot.

Section 6

Amends AS 38.05.057(j) to allow representation by an agent at a special type of agricultural land lottery. Also, inserts a cross-reference to AS 38.05.057(c), which allows special qualifications to be used for certain agricultural land lotteries in lieu of the general lottery qualifications set out in AS 38.05.056(b), and deletes a reference to an Agricultural Action Council statute that was repealed in 1979.

Section 7

Amends AS 38.05.059 by referring to the existing AS 38.05.057(c) rather than to the Agricultural Action Council statute that was repealed in 1979. Carries out legislative intent that applicants for special-qualification agricultural lotteries be limited to purchasing only one such parcel every eight years.

Section 8

Amends AS 38.09.010(g) by deleting the commissioner's discretion to require that homestead entry permit applicants personally attend the homestead drawing.

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FACSIMILE: (907) 586-2754

March 25, 1991

The Honorable Jerry Mackie, Chair
House Community and Regional Affairs Committee
P.O. Box V
Juneau, AK 99811

Dear Representative Mackie:

Subject: HB 193, which relates to disposals of state land, materials, minerals, and interests in state land.

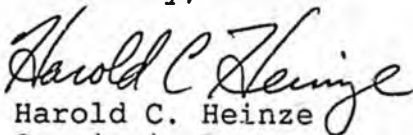
Position: The Department of Natural Resources supports this bill.

Background: The bill makes several changes in the department's land disposal procedures. It deletes the requirement that state land auction or lottery applicants must attend the disposal in person. The Superior Court recently determined that this requirement was unconstitutional because it discriminates against non-local applicants (Chambers v. State). In addition, the bill deletes the requirement that disposals be held in a community located near the land to be sold.

The bill also allows the department to extend payment and some other deadlines for homesites and homesteads, in case of war, riot or acts of God.

I have enclosed a sectional analysis of this bill that details the changes in statute. Please let me know if you need additional information.

Sincerely,



Harold C. Heinze
Commissioner

enclosures

cc: Committee Members
Representative Brown
Bruce Kendall, Legislative Liaison, Office of the Governor

HB 193 Analysis of Bill

Section 1 expands AS 38.05.020(b)(5) (DNR's general authority to extend payment deadlines for a lease or sale of state land, minerals, or materials in case of war, riot, or acts of God) to apply under same limited circumstances to payment deadlines for homesites, homesteads, and pipeline right-of-way leases, and other homesite and homestead deadlines (such as dwelling construction requirement). Removes an obsolete date from (b)(1); modernizes (b)(6) by referring to an existing agricultural land lottery statute in place of a law repealed in 1979.

Section 2 repeals requirement in AS 38.05.050 that a state land auction, lottery, or homesite disposal be held in a community near the land being offered. The combined effect of sections 2, 3 and 4 is to give all state land applicants an equal opportunity to compete for the land, even if they live at a distance.

Section 3 deletes requirement in AS 38.05.055 that bidders at most state land auctions personally attend the auction. Allows the bidder to be represented by an attorney or agent, regardless of the type of land being sold. Either the bidder or the bidder's representative may accept the receipt for the purchase deposit (cont. on p. 2). Also corrects the list of state land offering methods that do not require a high-bid public auction by adding homesteading, AS 38.09.

Section 4 deletes requirement in AS 38.05.057(a) that applicants for most state land lotteries personally attend the lottery. (Same procedure is used for homesites.) Deletes requirement that the winning applicant deposit a down payment on the day of the lottery.

Section 5 amends AS 38.05.057(g) to require that the winning lottery applicant be notified and be given 30 days to make the down payment. The effect is to replace the former means of payment, which assumed that applicants appeared personally at the lottery and made down payments on the spot.

Section 6 amends AS 38.05.057(j) to allow representation by an agent at a special type of agricultural land lottery. Also, inserts a cross-reference to AS 38.05.057(c), which allows special qualifications to be used for certain agricultural land lotteries in lieu of the general lottery qualifications set out in AS 38.05.057(b), and deletes a reference to an Agricultural Action Council statute that was repealed in 1979.

Section 7 amends AS 38.05.059 by referring to the existing AS 38.05.057(c) rather than to Agricultural Action Council statute that was repealed in 1979. Restores original legislative intent that applicants for special-qualification agricultural lotteries be limited to purchasing only one such parcel every eight years.

Section 8 amends AS 38.09.010(g) by deleting the commissioner's discretion to require that homestead entry permit applicants personally attend the homestead drawing.

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 193

Revision Date: 19-Mar-91 Department Affected: Natural Resources
 Title: Disposal of State Land BRU: Land & Water
 Components: Land & Water
 Sponsor: Rep. Brown
 Requestor: House Community & Regional Affairs COMPONENT SERIAL NO. 431

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 | FY 97 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND&STRUCTURES | | | | | | |
| GRANTS,CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPEFATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

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 | | | | | | |

Estimate of Current year impact:

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Gary Gustafson Phone: 762-2672
 Division: Land & Water Date: 19-Mar-91
 Approved by Commissioner: Harold Heinze Date: 19-Mar-91
 Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

RECEIVED
Department of Law

IN THE SUPERIOR COURT OF THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

JUN 15 1989

Office of the Attorney General
Anchorage Branch
Anchorage, Alaska

HAROLD CHAMBERS, THOMAS CRESAP,)
JUDITH MATHERSON, SAMUEL)
NELSON III, and JOHN RINGLAND,)

Plaintiffs,)

vs.)

Case No. 88-4634 Civil

STATE OF ALASKA, Department of)
Natural Resources, Division of)
Land and Water Management, and)
JUDITH BRADY, Commissioner of)
Department of Natural)
Resources,)

Defendants.)

ORDER

This case comes on with Plaintiffs' motion for summary judgment seeking a ruling that AS 38.05.057(a) is unconstitutional and permanently enjoining the state from enforcing it. Plaintiffs also request that the court find them to be "public interest litigants" under civil rule 82(a) as defined in Alaska Survival v. State, 723 P.2d 1281, 1292 (Alaska 1986).

This court having considered the pleadings, affidavits, memoranda of the parties, and arguments of counsel, and otherwise being fully informed;

IT IS HEREBY ORDERED that Plaintiffs' motion for summary judgment is GRANTED, and Plaintiffs are declared to be Public Interest Litigants.

STATEMENT OF FACTS

Under current law, the lottery system generally works as

follows: To be eligible an applicant must be 18 years of age, have been an Alaska resident for 12 months, and have not purchased land by lottery sale within the preceding eight years, except for certain lottery lands. AS 38.05.057(b), 11 AAC 67.060(c). An applicant at a lottery drawing may only file one application per parcel. 11 AAC 67.060(a). When an applicant's name is drawn, the applicant must immediately identify himself and elect whether or not to accept the parcel. 11 AAC 67.069. A parcel is awarded to the first applicant chosen who has not been awarded another parcel. 11 AAC 67.060(b). Once a parcel has been accepted and the drawing for the next parcel has begun, the accepting applicant is then ineligible to obtain another parcel of the same type by lottery during the current offering. If the applicant is not present, is not excused, or fails to accept the parcel, he or she is deemed to have declined the parcel and another name will be drawn, and so on, until the parcel is awarded. 11 AAC 67.069. The physical presence of an applicant for a homesite parcel is required. AS 38.05.057(a), 11 AAC 67.068. This final requirement is the one which has given rise to this lawsuit.

In pertinent part, AS 38.05.057(a) provides:

An applicant may not be selected to purchase land unless the applicant is present on the date and at the place that the lottery is conducted unless medical reasons, attendance at school, or military service outside the state prevent attendance. An applicant may be represented by an agent on the date of the lottery if the land offered for sale is commercial, industrial, or agricultural land.

11 AAC 67.068 implements the statute and provides with more

specificity the conditions under which a person may be excused from attendance at a lottery.

The five plaintiffs in this case are residents of Anchorage and are employed by the Anchorage School District. Each applied to participate in the lottery for a ~~homesite parcel of land in~~ the Naukati Bay West disposal in southeast Alaska. Plaintiffs Nelson and Ringland also applied to participate in the lottery for homesite land in the Coffman Cove disposal. Both lotteries were to have been held in Coffman Cove at the school gymnasium on May 17, 1988. Coffman Cove is located on Prince of Wales Island in southeast Alaska.

Plaintiffs either could not get time off from work or could not afford to pay the cost of a trip to Coffman Cove, or both, and therefore could not attend the May 17, 1988 lotteries.

The lotteries have been postponed pending resolution of this case by a stipulation of the parties dated May 10, 1988.

Plaintiffs have standing to maintain this action. Johns v. Commercial Fishing Entry Commission, 699 P.2d 334, 336-8 (Alaska 1985), Trustees for Alaska v. State, 736 P.2d 324 (Alaska 1987). The State does not contest Plaintiffs' standing to challenge AS 38.05.057(a).

It is undisputed that a primary purpose of the physical presence requirement is to give a preference to people who reside in the vicinity of the land being sold, reducing without eliminating land sales to non-local residents.

Plaintiffs challenge the constitutionality of the physical

presence requirement of AS 38.05.057(a). This requirement violates the equal protection clause of the Alaska Constitution by discriminating against Alaskans who reside in areas remote to the land being sold. This discrimination is found in the form of unfair additional hardship and application costs of traveling to far distant areas to apply for a chance to buy state land.

DISCUSSION

First the Standard of Proof must be established under Alaska's sliding scale equal protection clause, found in Article I, section 1 of the Alaska Constitution. Unlike the federal Constitution where the analysis is forced to fit one of three discrete levels of scrutiny (strict scrutiny, intermediate scrutiny, or rational basis), the Alaska Constitution has a "sliding scale" where the substantiality of the ends/means relationship of the questioned law together with the legitimacy of the state interest are weighed against the importance of the right being infringed upon. Alaska Pacific Assurance Co. v. Brown, 687 P.2d 264 (Alaska 1984). Also, unlike the federal courts, the Alaska court will not hypothesize facts which will sustain otherwise questionable legislation. Herrick's Aero-Auto-Aqua Repair Service v. State, 754 P.2d 1111, 1114 (ALASKA 1988).

This court must determine the level of scrutiny to be applied, the legitimacy of the state purpose, and the closeness of the relationship between the ends AS 38.05.057(a) achieves and the means by which it achieves them.

Level of Scrutiny: Strict scrutiny should be applied here

because a fundamental right is implicated. That right is for equal access to state resources found in article VIII, section 17 of the Alaska Constitution. That section reads as follows:

Section 17. Uniform Application. Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the suspect matter and purpose to be served by the law or regulation.

State v. Ostrosky, 667 P.2d 184, 1193-1194 (Alaska 1983)

where the court applied a low level of scrutiny to an equal protection claim involving access to natural resources does not apply here. That case struck a claim that a law mandating that limited entry fishing permits could only be transferred by purchase or inheritance discriminated on the basis of wealth and lineage. Article VIII, section 15 of the Alaska Constitution specifically removes the fundamental right of equal access to natural resources granted by article VIII, section 17 to allow limited entry fishing.

Legitimacy of State Purpose: Legislative history and the state's own admission indicate that a primary purpose for the physical presence requirement was to prefer residents who live near the land being sold. Some discussion in the legislative history indicates that the legislature did consider the discriminatory impact of the physical presence rule. To determine the statutory purpose, the court may consider the act's legislative history and the statement of purpose contained in the act, if any. Isakson v. Rickay, 550 P.2d 359, 363 (Alaska 1976).

Giving preference to local residents over non-local

residents is not a valid purpose. Other purposes advanced by the state are: To increase the likelihood that the land offered would be used by the purchaser, to lessen the adverse impact of the land disposal program on local communities and governments, to encourage settlement and development of state land, to reduce local opposition to land disposals, to reduce adverse impacts of land disposals on rural communities, to increase involvement of local residents, to discourage the purchase of state land for speculative purposes, and to reduce disappointment and the consequent termination of purchase contracts of people who purchase land they have never seen. In light of evidence presented by the state, these purposes standing alone are not compelling.

Ends/Means Relationship: The ends/means relationship in the challenged statute is very close since the physical presence requirement severely limits (without terminating) participation by non-local residents. Plaintiffs have made no showing that the law does not achieve its primary desired result. However there is no evidence that AS 38.05.057(a) achieved its secondary purposes stated above.

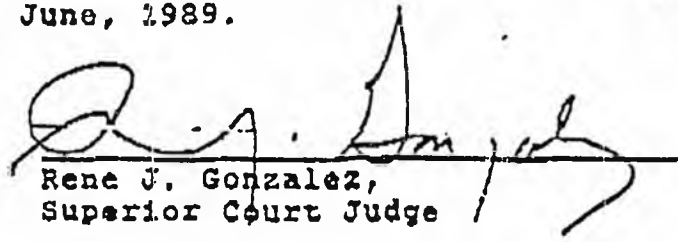
CONCLUSION


The equal protection clause of the Alaska Constitution requires that all similarly situated Alaskans be treated equally by any state action. This court finds that all Alaska residents are similarly situated for purposes of applying for state homestead land disposal lottery sales.

AS 38.05.057(a) unfairly discriminates between local and non-local residents at each land lottery held; the discriminated against class varying with each lottery depending on location. This discrimination is in violation of the equal protection clause of the Alaska Constitution. Therefore Plaintiffs' motion for summary judgment is GRANTED and the physical presence requirement of AS 38.05 075(a) is stricken.

Further, Plaintiffs are found to be Public Interest Litigants as defined in Alaska Survival v. State, 733 P.2d 1281, 1292 (Alaska 1986) and Thomas v. Bailey, 611 P.2d 536 (Alaska 1980).

DATED this 13th day of June, 1989.


Rene J. Gonzalez,
Superior Court Judge

I certify that on 6-14-89
a copy of the above was mailed to each
of the following at their addresses of
record:

Secretary/Dep. City Clerk

J. Bamberger
M. Deville



Alaska State Legislature

House of Representatives Community & Regional Affairs

Land Disposal Issues and HB 193

- 1) History of State Land Disposals
 - a) data
- 2) State Land Classification/Land Disposal Bank
- 3) Impacts on state & municipal services
- 4) Municipal land entitlement, land disposals and mental health lands
- 5) Recommendations

Ten Year History of Demand for State Settlement Land Disposals

| YEAR | APPLICATIONS* | NOTE |
|------|---------------|-----------------------------|
| 1981 | 32,000 | |
| 1982 | 22,200 | |
| 1983 | 13,000 | |
| 1984 | 28,900 | |
| 1985 | 21,200 | |
| 1986 | 41,200 | |
| 1987 | -0- | = no offering |
| 1988 | 7,900 | |
| 1989 | n/a | = Over-the-Counter Offering |
| 1990 | 6,200 | |

Total 172,600
Average 17,260

* Figures are total applications received for all programs. Data on number of applicants by program unavailable. \$10 filing fee for homestead applications imposed in 1988 resulted in a substantial drop in the number of applications filed.

TEN YEAR HISTORY OF STATE SETTLEMENT LAND DISPOSALS BY PROGRAM

| PROGRAM | | OFFERED | | TAKEN | |
|-------------|----------------------------|---------|-----------|-------------|---------|
| | | Parcels | Acres | Parcels | Acres |
| 1981 | Subdivisions | 2,202 | 11,288 | 916 | 7,970 |
| | Homesite | 625 | 2,893 | 342 | 2,022 |
| | Limited Remote Parcel | 1,075 | 51,600 | 708 | 18,460 |
| | Agricultural | 24 | 6,771 | 24 | 6,771 |
| | Subtotal | 3,926 | 72,332 | 1,990 | 35,223 |
| 1982 | Subdivisions | 3,745 | 18,900 | 1,601 | 9,178 |
| | Homesites | 874 | 4,527 | 579 | 2,581 |
| | Limited Remote Parcels | 2,667 | 70,400 | 2,198 | 6,406 |
| | Unlimited Remote Parcel(1) | | (122,800) | 607 | 10,493 |
| | Agricultural | 17 | 4,285 | 17 | 4,265 |
| Subtotal | 7,303 | 18,092 | 5,002 | 32,903 | |
| 1983 | Subdivision | 3,052 | 11,444 | 1,342 | 8,946 |
| | Homesite | 515 | 2,917 | 428 | 2,331 |
| | Limited Remote Parcels | 153 | 5,020 | 87 | 1,583 |
| | Unlimited Remote Parcel(1) | | (70,500) | 506 | 8,270 |
| | Agricultural | 82 | 9,043 | 61 | 8,827 |
| Subtotal | 3,782 | 18,424 | 2,424 | 21,757 | |
| 1984 | Subdivision | 699 | 5,781 | 383 | 3,083 |
| | Homesite | 172 | 748 | 156 | 671 |
| | Limited Remote Parcels | | | | |
| | Unlimited Remote Parcel(1) | | (228,080) | 1,569 | 19,323 |
| | Agricultural | 16 | 5,975 | 10 | 5,975 |
| | Homestead-Residential | 163 | 11,020 | 69 | 2,008 |
| | Homestead-Agricultural | 32 | 3,766 | 26 | 2,620 |
| Subtotal | 1,082 | 27,288 | 2,214 | 33,690 | |
| 1985 | Subdivision | 289 | 1,187 | 194 | 792 |
| | Homesite | 62 | 193 | 62 | 193 |
| | Agricultural | 8 | 2,514 | 8 | 2,514 |
| | Homestead-Residential (3) | 724 | 24,560 | 680 | 22,116 |
| | Homestead-Agricultural | 2 | 320 | 2 | 320 |
| Subtotal | 1,085 | 28,774 | 926 | 25,935 | |
| 1986 | Subdivision | 232 | 1,844 | 119 | 698 |
| | Homesite | 67 | 433 | 45 | 338 |
| | Agricultural | 0 | 0 | 0 | 0 |
| | Homestead-Residential (3) | 173 | 20,581 | 165 | 4,781 |
| | Homestead-Agricultural | 28 | 2,778 | 28 | 2,778 |
| Subtotal | 500 | 25,436 | 357 | 8,671 | |
| 1987 | NO OFFERINGS | | | | |
| 1988 | Subdivision (4) | 426 | 2,093 | 0 | |
| | Homesite | 63 | 155 | 0 | |
| | Agricultural | 0 | | 0 | |
| | Homestead-Residential | 118 | 3,282 | 114 | 3,192 |
| | Homestead-Agricultural | 1 | 72 | 1 | 72 |
| Subtotal | 608 | 3,334 | 115 | 3,264 | |
| 1989 | Subdivision | 141 | 570 | untabulated | |
| | Homesite | 81 | 343 | untabulated | |
| | Agricultural | 10 | 7,321 | untabulated | |
| | Homestead-Residential | 100 | 2,285 | untabulated | |
| | Homestead-Agricultural | 11 | 1,745 | | |
| Subtotal | 343 | 12,270 | | | |
| 1990 | Subdivision | 601 | 2,900 | untabulated | |
| | Homesite | 105 | 334 | untabulated | |
| | Agricultural | 3 | 756 | 3 | 756 |
| | Homestead-Residential | 0 | | 0 | |
| | Homestead-Agricultural | 0 | | 0 | |
| Subtotal | 609 | 3,990 | 3 | 756 | |
| GRAND TOTAL | | 18,806 | 304,946 | 13,035 | 170,099 |

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NOTES:

(1) "Acreage offered" is gross, not net, and therefore is not included in totals.

(2) Acreage taken is estimated as the maximum acreage allowed.

(3) Does not include acreage staked in areas where an unlimited number of stakings is allowed.

(4) Subdivision and Homesite disposals postponed by Chambers lawsuit. Parcels later included in 1990 disposal.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FACSIMILE: (907) 586-2754

January 24, 1991

RECEIVED
JAN 30 1991

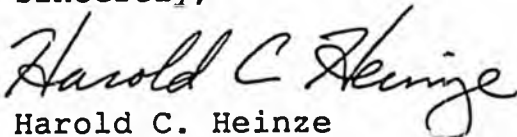
The Honorable Ben Grussendorf
Speaker of the House
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

The enclosed report fulfills three requirements: (1) a report to the Legislature on the status of land in the disposal bank [AS 38.04.020(d)]; a report to the Legislature which describes and shows the location of all classifications of state land made during the preceding year [AS 38.05.300(b)]; and a report to the Legislature reflecting all money deposited in the state land disposal income account during the prior fiscal year [AS 38.04.022(b)].

Copies of this document are being distributed to all members of the Legislature.

Sincerely,



Harold C. Heinze
Commissioner

cc: w/enclosure members of the House

1990 REPORT TO THE LEGISLATURE

State Land Classification Land Disposal Bank Land Disposal Income Account

January 1991

Prepared by
Division of Land & Water
Gary Gustafson, Director

Walter J. Hickel, Governor
State of Alaska

Harold C. Heinze, Commissioner
Department of Natural Resources

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**REPORT:
STATE LAND CLASSIFICATION
LAND DISPOSAL BANK
LAND DISPOSAL INCOME ACCOUNT**

Executive Summary

1990 REPORT TO THE LEGISLATURE

This report fulfills three requirements:

1. A report to the legislature on the status of land in the disposal bank, due on January 15 of each year.[AS 38.04.020(d)]
2. A report to the legislature which describes and shows the location of all classifications of state land made during the preceding year, due by February 1 of each year.[AS 38.05.300(b)]
3. A report to the legislature reflecting all money deposited in the state land disposal income account during the prior fiscal year.[AS 38.04.022(b)]

SUMMARY

1. Land classification identifies the purposes for which state land is to be managed. All land classification actions are based on a land use plan prepared by the Department of Natural Resources. All classification categories are for multiple use, although a particular use may be considered primary. Land may be given a total of three classifications in combination.

Adopted plans cover over 82 million acres (50%) of all state land; or 70 million acres (82%) of state uplands. Other plans are now in progress. In 1990, the department classified 4,910,022 acres of state land, bringing the net total amount of classified land to 87,064,573 acres. Most of the 1990 classifications were the result of the Tanana Basin Area Plan update.

2. The Land Disposal Bank contains land classified for disposal. The total amount of land in the disposal bank as of December 31, 1990, equals approximately 571,343 acres: 212,650 acres for homesteads; 14,181 acres for subdivisions; 344,512 acres for agricultural disposal and 1,640 acres for commercial and industrial disposal. (30,878 acres of agricultural lands are included in both homesteads and agricultural disposal and are therefore subtracted to avoid double counting.)
3. The Land Disposal Income Account was established in the state general fund to receive revenue from the sale of state land. The legislature may appropriate money for implementation of state land disposal programs from this account. During the 1990 fiscal year, approximately 6.3 million dollars were deposited in this account.

¹ Note: This total is slightly different from the total reflected in Table 3, 1990 Statewide Classification Statewide Total. This difference is due recently discovered classification category acreage discrepancies in the original Tanana Basin and the Prince of Wales Island Area Plans. Therefore, we can reflect total gross acreage here, but cannot yet include correct acreage in Table 3. The corrected figures will be calculated and shown in the 1991 legislative report.

I. STATE LAND CLASSIFICATION PLANNING, CLASSIFICATION, AND MANAGEMENT

LAND AND RESOURCE PLANNING

All land classification actions are based on a land use plan prepared by the Department of Natural Resources. The planning process is described in Figure 1, below. Land use plans provide guidance for the use and development of state land and resources. State law requires that these plans be consistent with local governmental land use plans to the maximum extent determined to be consistent with state interests. The department prepares three types of land use plans: area plans, management plans, and site-specific plans.

Area plans, such as the 15.5-million acre Bristol Bay Area Plan, cover relatively large regions of the state. With participation by agencies and the public, resources are identified and land use values are determined. Area plans allocate state land for primary and secondary uses. To ensure multiple use and avoid conflicts, the allocations are accompanied by management intent statements which give direction to land managers and guidelines for applying specific land classifications. About 70 million acres of state land are now covered by adopted area plans in populated as well as rural regions of the state. (See Figures 2 and 3.)

The table below shows ten completed area plans. Two previously completed area plans, Delta-Salcha (1982) was encompassed in the Tanana Basin Plan when it was recently updated. The Willow Sub-basin Area Plan will also be encompassed in the upcoming Susitna Area Plan update.

Completed area plans listed below show approximate state acreage within their planning areas. This acreage includes not only patented, tentatively approved, and selected state land which have come to the state under various federal land entitlements, but also shore, tide and submerged land granted under the federal Submerged Lands Act of 1953.

| Table 1A: | ADOPTED AREA PLANS | ACRES | COMPLETION DATE |
|-----------|------------------------|-------------------------|-----------------|
| | Bristol Bay | 15,500,000 acres | 1984 |
| | Copper River Basin | 3,300,000 acres | 1986 |
| | Haines-Skagway | 400,000 acres | 1979 |
| | Kuskokwim | 16,000,000 acres | 1988 |
| | Northwest | 16,000,000 acres | 1989 |
| | Prince William Sound | 5,300,000 acres | 1988 |
| | Prince of Wales Island | 1,035,000 acres | 1990 |
| | Susitna | 9,500,000 acres | 1985 |
| | Tanana Basin (updated) | 14,804,000 acres | 1990 |
| | Willow Sub-basin | <u>460,000 acres</u> | 1982 |
| | TOTAL | 82,049,000 acres | |

| Table 1B: | AREA PLANS IN PROGRESS | PROJECTED COMPLETION DATE |
|-----------|-----------------------------|---------------------------|
| | Kenai Area Plan | December, 1993 |
| | Central Southeast Area Plan | December, 1993 |
| | Yakataga Area Plan | June, 1993 |

Management plans, such as the 115,000-acre Matanuska Valley Moose Range Management Plan, are more detailed than area plans and usually cover smaller areas. The process for preparing a management plan is similar to that of an area plan.

Management Plans are written to resolve issues in more detail than the land use decisions resulting from an area plan. Management plans may consider a smaller area in greater detail or provide direction for a specific resource decision within a larger area.

Table 1C: MANAGEMENT PLANS IN PROGRESS PROJECTED COMPLETION DATE

| | |
|---|----------------|
| Susitna Forest Management Guidelines | February, 1991 |
| Susitna Recreation Rivers | January, 1991 |
| Shorelands of Togiak National Wildlife Refuge | May, 1991 |

Site-specific plans are more detailed than area or management plans and usually cover a relatively small area. Site-specific plans ordinarily address a specific land use such as would be necessary to properly classify an area for a timber sale, lease, material sale, etc. The process for preparing a site-specific plan is similar in some aspects to the preparation of an area or management plan.

CLASSIFICATION

Land classification is an integral step in the process of making Alaska's land available for public and private use. It serves to identify the purposes for which the land has been allocated.

All classification categories are for multiple use, although a particular use may be considered primary. In some cases, land may be assigned three classifications in combination. Uses are presumed to be compatible until proven otherwise. All of the categories also allow surface leasing, mineral locations, sale of materials and oil and gas leasing unless restricted by law, through a land use plan or mineral order. The settlement classification category provides for the sale of land and the agricultural classification provides for the sale of rights in the land for agricultural purposes. Public notice must be given prior to classifying or reclassifying land (AS 38.05.945).

State land and water may not be administratively closed to multiple use if the area involved contains more than 640 acres (AS 38.05.300). Larger, single purpose areas such as parks and critical habitat areas must be established by the legislature. State land classifications now total about 82.7 million acres. Please refer to Figure 6 on page 11 which shows the progress of land classification over the ten years that this reporting has been required by the legislature.

In 1987, in the wake of the Supreme Court's decision in Alaska Survival, the legislature made major changes in the land use planning statute, AS 38.04.065. In August, 1989, the land planning and classification regulations (11 AAC 55) were amended to conform with the new law. These amendments dealt with procedures for revising land use plans, preparing a site-specific plan, and dealing with classification proposals such as a proposed addition to the land bank. The amendments also included a new classification category, waterfront development land, to distinguish tidelands suitable for commercial or industrial uses from land needed for residential uses.

Any land classified since September 1983 is open to locatable mineral entry unless the land is closed by law or a mineral closing order. Land classified in certain categories before September 1983 was automatically closed to mineral entry or required a mining lease before mining could begin. Such land retains its mineral entry restrictions or closure until it is reclassified.

LAND AND WATER MANAGEMENT

Land use plans and the classifications that result from them are fundamental tools in achieving the department's basic goals of sound land and resource stewardship, responsible decision-making, and greater economic vitality and quality of life for Alaskans. The decisions made through planning and reflected in land classification help achieve these goals by ensuring that suitable land is acquired by the state, managed for the overall welfare and satisfaction of present and future generations, and made available for private development of resources where doing so benefits the state.

Plans recommend lands to select to fill the remainder of our 105 million acre land entitlement and lands to be relinquished. The state's land base is increasing annually through the transfer of land under federal land entitlements. As the state's entitlement nears fulfillment, the remaining selections become particularly important. Please refer to Figure 4, "Alaska Land Status" (P.7), which illustrates Alaska's land entitlement and land classification status.

As Alaska's land base and population grow and stabilize, and as development in the state expands, demand for public and private use of state land increases tremendously. Planning is a primary mechanism used by the department to resolve competing demands, decide the best use, and minimize conflicts between coexisting multiple uses.

A basic decision the department must make is which lands will remain in state ownership and which should be offered for sale. Land use plans ensure that a sufficient amount of good quality land is offered for sale, and assists in the decision of which land to offer. Classification for settlement follows the plan and is the initial step in the formal process of land disposal.

Most land retained by the state is managed for public use. The department's plans give land managers guidance on such actions as granting permits, leases, material sales (i.e., sand and gravel) and rights-of-way. Statements of management intent for each area determine whether a proposed action should take place and guidelines specify how actions will be managed to protect other resources and minimize conflicts. Classification for retained land reflects the primary uses designated in area plans. Classification by itself does not give guidance for managing lands. Plans must be referred to for this guidance.

Water management by the state is also affected by the department's land use plans and their resulting classifications. Land allocation of water rights must be consistent with the plan's land management intent and guidelines. Land allocations consider water quality and quantity; its value for human consumption, recreation, fish and wildlife habitat, land transportation; and its use in various kinds of resource development, such as mining or agriculture.

Water management decisions such as the allocation of water rights must be consistent with the plan's land management intent and guidelines. Plans also may give some guidance directly to water management, for example, by setting priorities for studying rivers in a region for possible instream flow reservations to protect important resource areas.

FIGURE 1.

PLANNING PROCESS

1. Identify Issues

Hold public meetings to identify issues and concerns in the area.

2. Gather Information

Throughout the planning process collect information about natural resources, present and past land use, land ownership, and the local economy.

3. Prepare and Evaluate Land Use Alternatives

Describe possible choices for managing state land based on public interests, local resources, and state policies. Describe the effects of each choice on goals for the management of an area.

4. Public Reviews Alternatives

Hold public meetings to review the land use choices and identify those that people prefer.

5. Prepare Draft Plan

The planning team and advisory board create a draft plan using public and agency comments. The agencies review the first draft and settle any land use conflicts that remain.

6. Public Reviews Draft Plan

Hold public meetings to provide the public the opportunity to comment on the draft plan and identify parts that need to be changed.

7. Prepare Final Plan

Review agency and public comments and revise the plan. The plan is prepared for publication.

8. Approve Plan

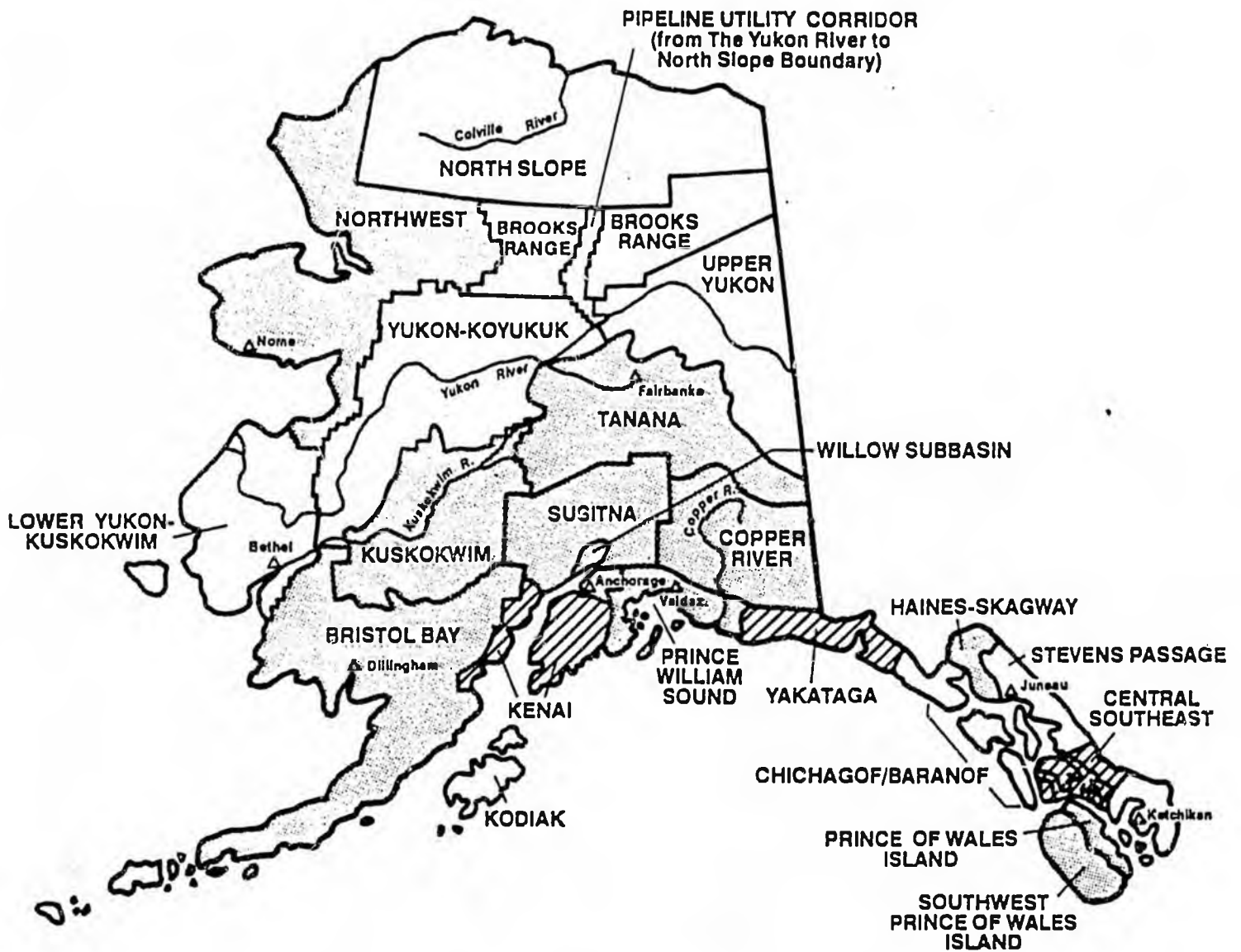
The Commissioner of the Department of Natural Resources approves and signs the plan.

9. Adopt and Implement Plan

The plan guides land management decisions in the planning area.

FIGURE 2.

Alaska Department of Natural Resources AREA PLANS



January 1991



Alaska Department of
**NATURAL
RESOURCES**

AREA PLANNING STATUS




-  Completed area plans
-  Area plans in progress
-  Not scheduled for area plans at this time

FIGURE 3. Area Plan Status

TOTAL = 165 Million Acres (uplands, and tide, shore & submerged lands)

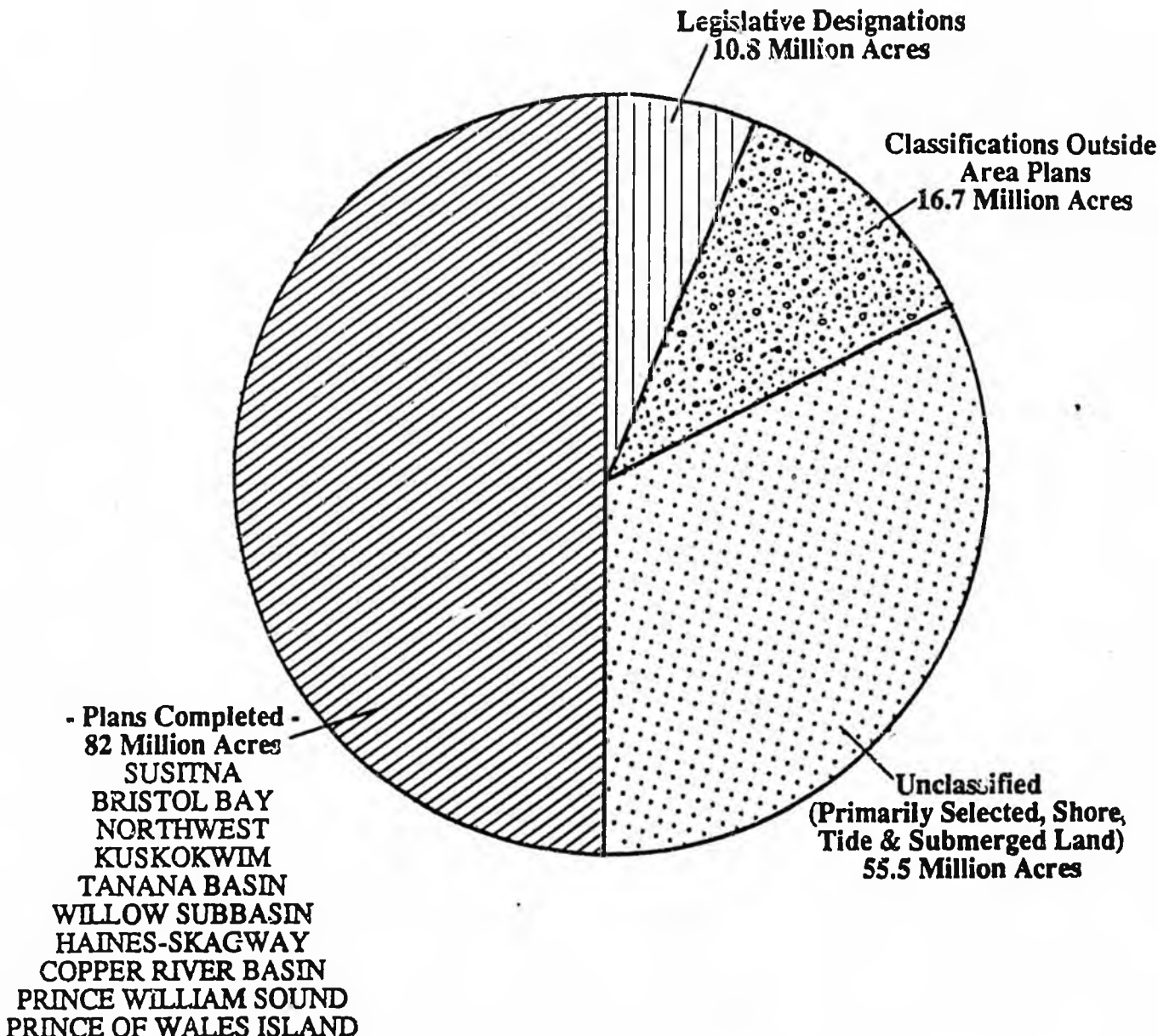
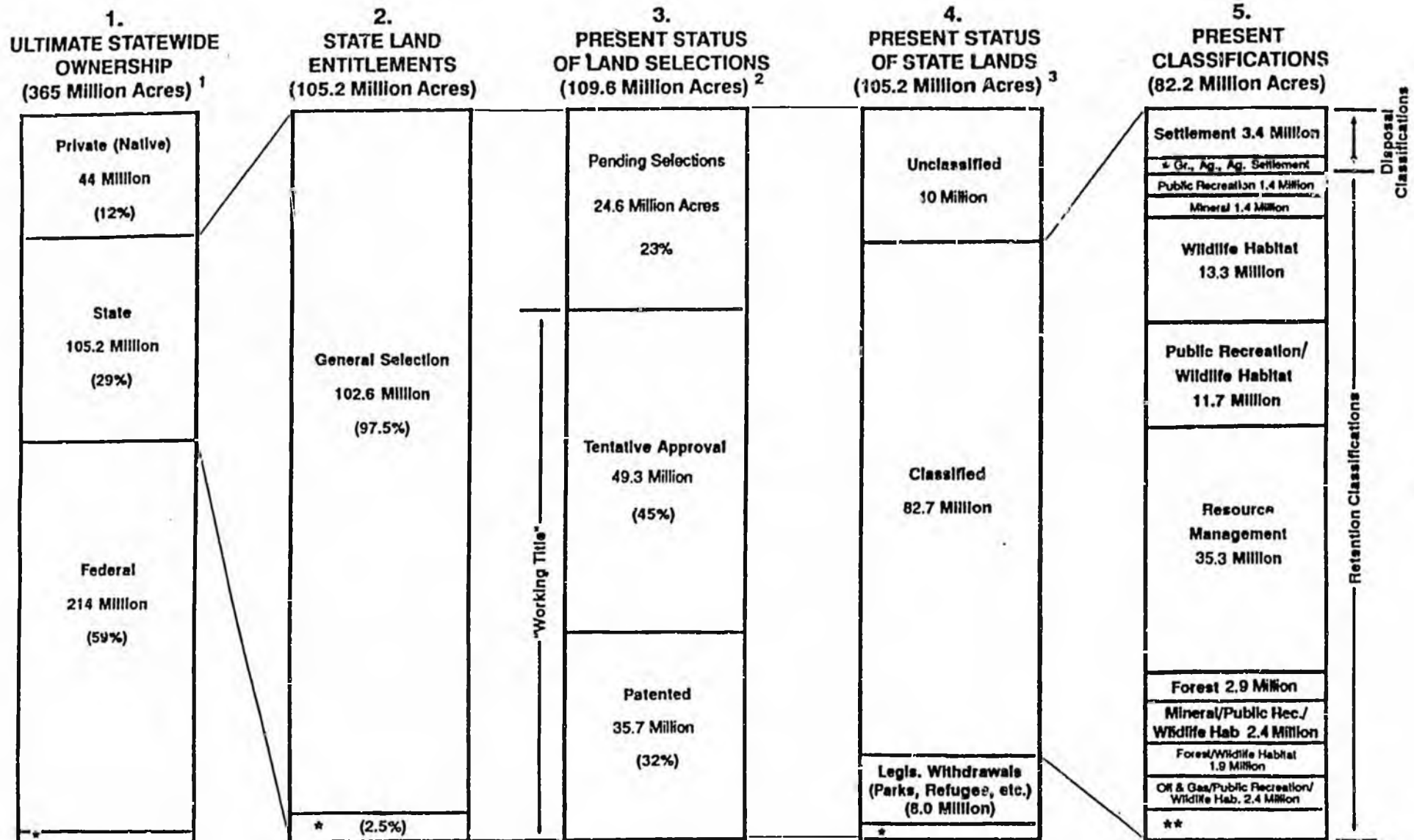


FIGURE 4. ALASKA LAND ENTITLEMENT STATUS

December, 1990



* Private (non-Native) 1.1 Million (<1%)

* Cook Inlet Land Exchange 500,000
 School 175,000
 University 100,000
 Mental Health 1 Million
 Community Grant 400,000
 National Forest Community Grant 400,000

* Disposals (Lease or Sale) 1.3 Million

* Grazing 153,000
 Agricultural 600,000
 Agricultural/Settlement 23,000

** Other specific and multiple classifications of less than 1 million acres each - 4.9 million

¹ Represents ultimate ownership if land entitlements and land ownership had remained static at the time of passage of the Alaska Native Claims Settlement Act. In reality, proportions have and will continue to change as a result of public land sales, Native land sales and land exchanges.

² Includes 4.4 million acres of over-selection.

³ Does not reflect submerged, tide or shoreland ownership.

Disposal Classifications

Retention Classifications

FIGURE 5. Progress of Area Plans

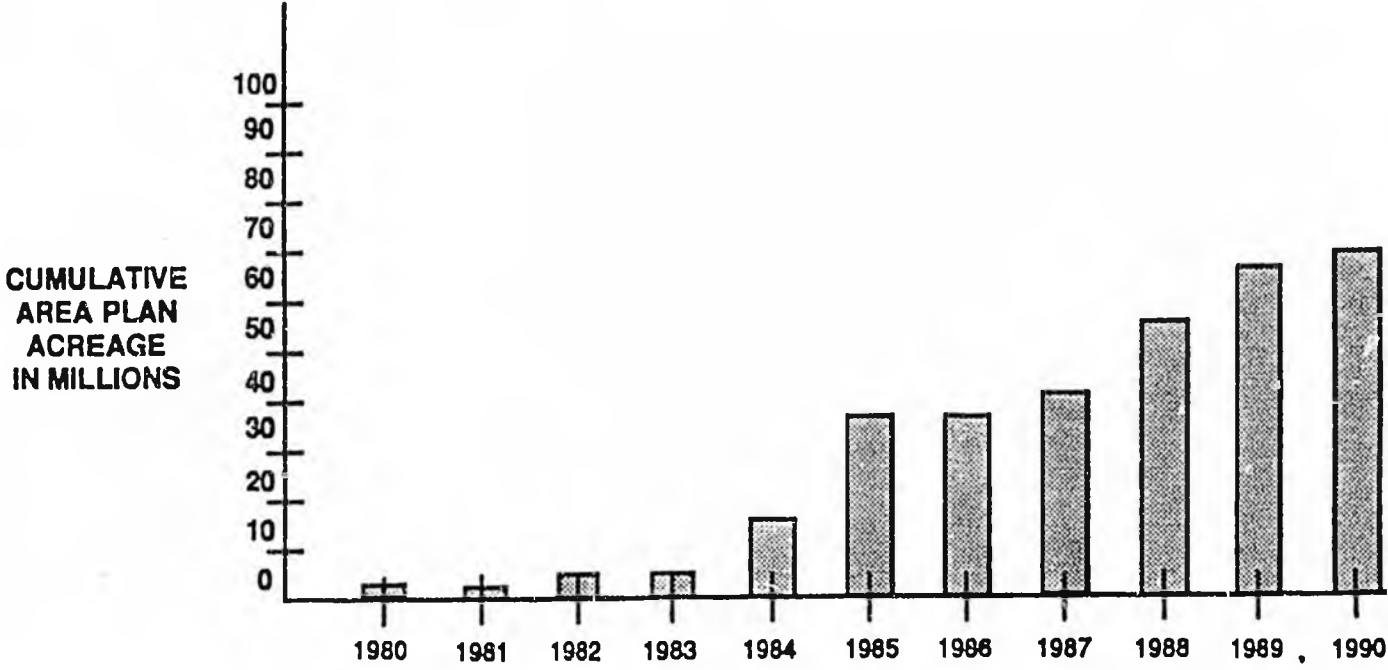
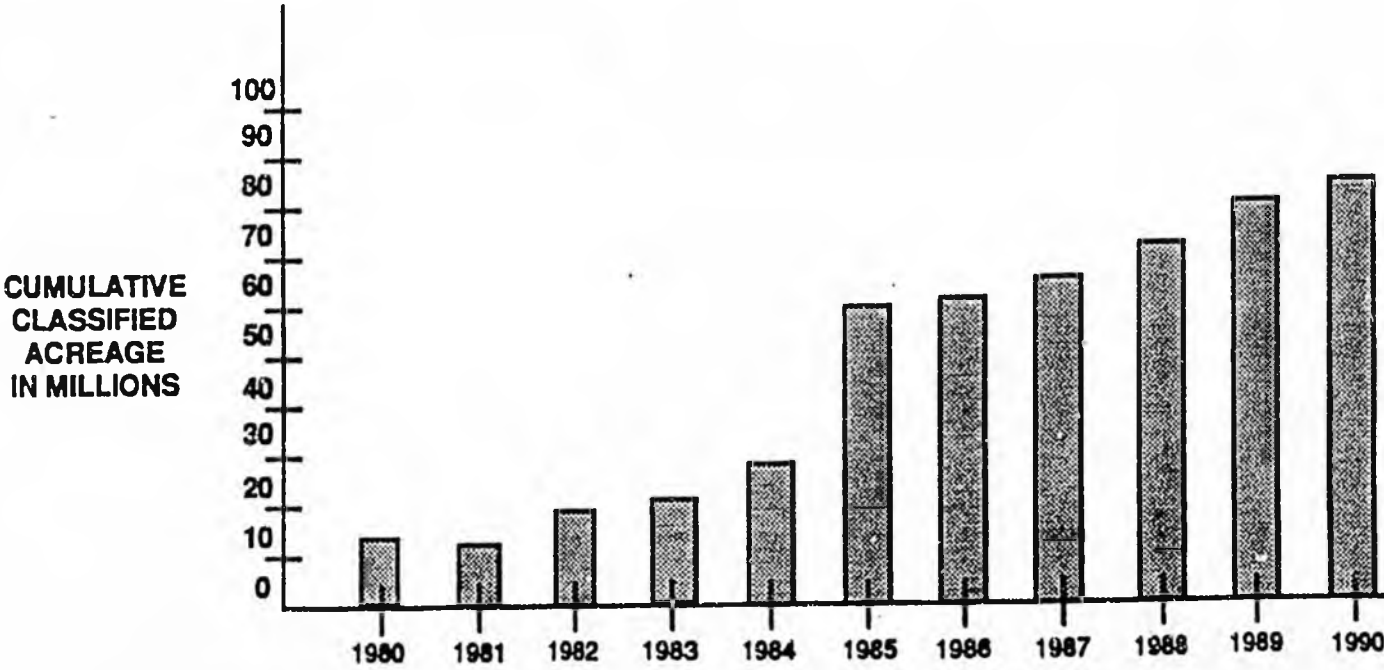


FIGURE 6. Progress of Land Classifications



Summary of 1990 Land Classification Actions

UPDATED TANANA BASIN AREA PLAN

The Tanana Basin Area Plan was adopted by the Department of Natural Resources on April 4, 1985. The plan has since been updated and revised. The updated plan, which encompasses 14.8 million acres, was signed by the Commissioner of the Department of Natural Resources on November 30, 1990.

Table 2. Tanana Basin Update Classification Acreage

| CLASSIFICATION | ACREAGE |
|--|-------------------|
| Agriculture | 164,840 |
| Agriculture/Settlement | 75,992 |
| Forest | 168,340 |
| Forest/Public Recreation | 19,040 |
| Forest/Wildlife Habitat | 631,026 |
| Forest/Minerals/Public Recreation | 25,920 |
| Forest/Minerals/Wildlife Habitat | 227,339 |
| Forest/Public Recreation/Wildlife Habitat | 291,568 |
| Materials | 15,740 |
| Minerals | 17,400 |
| Minerals/Public Recreation | 59,312 |
| Minerals/Wildlife Habitat | 1,282,520 |
| Minerals/Public Recreation/Wildlife Habitat | 700,433 |
| Public Recreation | 71,696 |
| Public Recreation/Wildlife Habitat | 3,513,574 |
| Public Recreation/Transportation Corridor/Wildlife | 10,880 |
| Public Recreation/Water Resources/Wildlife Habitat | 19,200 |
| Reserved Use | 1,920 |
| Resource Management | 1,831,050 |
| Settlement | 826,008 |
| Water Resources | 28,640 |
| Wildlife Habitat | 4,821,815 |
| TOTAL | 14,804,253 |

KASHWITNA MANAGEMENT PLAN

The Kashwitna Management Plan was adopted by the Department of Natural Resources on October 24, 1990. The Commissioner of the Department of Fish and Game signed the plan November 15, 1990. The plan amends the 1982 Willow Sub-Basin Area Plan (WSAP), in the Kashwitna Unit. The Kashwitna Management Plan also amends the WSAP in the Iron Creek and Little Willow Creek subunits to consolidate agricultural homestead areas and to provide a wider habitat and recreation buffer along Little Willow Creek.

Reclassification of state lands to implement the Kashwitna Management Plan resulted in 655 acres of Water Resources/Wildlife Habitat Land previously classified Agricultural/Settlement; 1275 acres of Public Recreation/Wildlife Habitat Land previously classified Agricultural; and 2050 acres of Agricultural Land previously classified Reserved Use.

CAPE YAKATAGA SITE-SPECIFIC LAND USE PLAN

Approximately 534,577 acres were classified in the Yakataga area in 1990 under Classification Number SC-90-002. The site-specific plan prepared as the supporting document for the classification action determines management intent, guidelines, and classification for state lands, tidelands, and submerged lands stretching from Icy Bay to Cape Suckling. Most of the land was reclassified from "Forest Land" (classified in 1980) to Resource Management Land in response to public comment on the draft site-specific plan. Most of the unclassified lands were also classified as Resource Management. The two main classifications to Resource Management approximates 520,000 acres. Of that total, about 265,517 acres were previously unclassified lands and about 254,333 acres were previously classified as Forest Land.

The management plan stated that the state would complete an area-wide land use plan prior to further timber harvest. In addition, the 1990 legislature passed HB 346, creating the Yakataga State Game Refuge and directing the department to complete the Yakataga Area Plan by July 1, 1993. As indicated earlier in this report, the Yakataga Area Plan is now in progress.

KAMISHAK SPECIAL USE AREA

Approximately 102,846 acres were classified as Wildlife Habitat during 1990 for lands located within the recently established Kamishak Special Use Area situated in the Kamishak Bay/River area in the vicinity of the McNeil River State Game Sanctuary and the Katmai National Park and Preserve.

CLASSIFICATION OF TIDE AND SUBMERGED LANDS

The state may classify tide, shore and submerged lands into any appropriate state land classification. Preference is granted to the upland owner for the use of a tract of tideland, or tideland and contiguous submerged land which is seaward from the owner's upland property as long as the use is consistent with state interests. (AS.38.05.850)

The largest amount of tide and submerged lands classified in 1990 was the tide and submerged lands within the Bristol Bay Area Plan (BBAP) stretching from Unimak Pass to the Kanektok River, excluding legislatively designated areas. Although BBAP was adopted in 1984, classification of those lands did not occur until 1990. Classification Order SC-90-005 encompassing approximately 2,250,000 acres, was signed by the Commissioner of the Department of Natural Resources on October 22, 1990. These tide and submerged lands had been previously unclassified, except for the Walrus Islands which had been classified Reserved Use in 1962 to for the legislatively established Walrus Island State Game Sanctuary. All of the tide and submerged lands were classified Wildlife Habitat, as specified in the BBAP.

Over 5,000 acres of tide and submerged lands were classified as part of the department's aquatic farming or mariculture program. These were the first plans and classifications done under the program which was established by the legislature in 1988.

TABLE 3. 1990 Land Classification Statewide Total

| Classification | Acres | Acres Added | Acres Removed | Net Acreage Change | Total Acres 12/31/89 | Total Acres 12/31/90 |
|---|-------|-------------|---------------|--------------------|----------------------|----------------------|
| Agricultural Land | | 775 | 0 | 775 | 598,273 | 599,048 |
| Agricultural/Settlement Land | | 0 | 0 | 0 | 22,754 | 22,754 |
| Coal Land | | 0 | 0 | 0 | 2,560 | 2,560 |
| Coal/Forest/Wildlife Habitat Land | | 0 | 0 | 0 | 89,573 | 89,573 |
| Coal/Oil and Gas/Wildlife Habitat Land | | 0 | 0 | 0 | 52,010 | 52,010 |
| Coal/Wildlife Habitat Land | | 0 | 0 | 0 | 69,750 | 69,750 |
| Forest/Grazing/Public Recreation Land | | 0 | 0 | 0 | 618 | 618 |
| Forest Land | | 0 | (258,040) | (258,040) | 3,174,113 | 2,916,073 |
| Forest/Oil & Gas/Wildlife Habitat Land | | 0 | 0 | 0 | 37,330 | 37,330 |
| Forest/Public Recreation/Water Resource Land | | 0 | 0 | 0 | 110,036 | 110,036 |
| Forest/Public Recreation/Wildlife Habitat Land | | 63 | 0 | 63 | 833,282 | 833,345 |
| Forest/Settlement Land | | 0 | 0 | 0 | 11,011 | 11,011 |
| Forest/Transportation Corridor Land | | 0 | 0 | 0 | 6,280 | 6,280 |
| Forest/Transportation Corridor/Settlement | | 0 | 0 | 0 | 46,296 | 46,296 |
| Forest/Water Resource/Wildlife Habitat Land | | 0 | 0 | 0 | 3,040 | 3,040 |
| Forest/Wildlife Habitat Land | | 13,798 | 0 | 13,798 | 1,939,878 | 1,953,576 |
| Grazing | | 0 | 0 | 0 | 151,420 | 151,420 |
| Grazing/Public Recreation/Water Resources Land | | 0 | 0 | 0 | 16,830 | 16,830 |
| Grazing/Public Recreation/Wildlife Habitat Land | | 0 | 0 | 0 | 3,858 | 3,858 |
| Heritage Resources | | 0 | 0 | 0 | 40 | 40 |
| Heritage Resources/Public Recreation/Wildlife Habitat | | 0 | 0 | 0 | 5,165 | 5,165 |
| Heritage Res/Water Development | | 12 | 0 | 12 | 0 | 12 |
| Material Land | | 0 | 0 | 0 | 5,088 | 5,088 |
| Material/Wildlife Habitat Land | | 0 | 0 | 0 | 0 | 680 |
| Mineral Land | | 320 | 0 | 320 | 1,389,429 | 1,389,749 |
| Mineral/Public Recreation Land | | 0 | 0 | 0 | 13,170 | 13,170 |
| Mineral/Public Recreation/Wildlife Habitat Land | | 3,523 | 0 | 3,523 | 2,407,428 | 2,410,951 |
| Mineral/Settlement Land | | 0 | 0 | 0 | 1,040 | 1,040 |
| Mineral/Transportation/Wildlife Habitat Land | | 0 | 0 | 0 | 153,541 | 153,541 |
| Mineral/Wildlife Habitat Land | | 0 | 0 | 0 | 1,820,985 | 1,820,985 |

1990 Land Classification Statewide Total Table 3 (continued)

| Classification | Acres | Acres Added | Acres Removed | Net Acreage Change | Total Acres 12/31/89 | Total Acres 12/31/90 |
|---|-------|------------------|----------------|--------------------|----------------------|-------------------------------|
| Oil & Gas/Public Recreation/ Wildlife Habitat Land | | 0 | 0 | 0 | 2,396,537 | 2,396,537 |
| Oil & Gas/Settlement Land | | 0 | 0 | 0 | 1,520 | 1,520 |
| Oil and Gas/Wildlife Habitat Land | | 0 | 0 | 0 | 226,192 | 226,192 |
| Public Recreation Land | | 0 | 0 | 0 | 1,445,682 | 1,445,682 |
| Public Recreation/Resource Management Land | | 0 | 0 | 0 | 890 | 890 |
| Public Recreation/Settlement Land | | 0 | 0 | 0 | 4,400 | 4,400 |
| Public Recreation/ Settlement/Wildlife Habitat Land | | 0 | 0 | 0 | 18,575 | 18,575 |
| Public Recreation/Transportation Corridor Land | | 0 | 0 | 0 | 4,480 | 4,480 |
| Public Recreation/ Water Resources Land | | 0 | 0 | 0 | 9,890 | 9,890 |
| Public Recreation/Water Resources/Wildlife Habitat Land | | 0 | 0 | 640 | 108,779 | 108,779 |
| Public Recreation/ Wildlife Habitat Land | | 1,275 | 0 | 1,275 | 11,714,697 | 11,715,972 |
| Reserved Use Land | | 12 | (2,050) | (2,038) | 537,555 | 535,512 |
| Resource Assessment Land | | 0 | 0 | 0 | 150,000 | 150,000 |
| Resource Management Land | | 520,298 | (3,585) | 516,713 | 34,853,582 | 35,370,295 |
| Settlement Land | | 141 | 0 | 141 | 3,380,585 | 3,380,726 |
| Settlement/Public Recreation | | 2,340 | 0 | 2,340 | 0 | 2,340 |
| Settlement/Wildlife Habitat Land | | 495 | 0 | 495 | 560 | 1,055 |
| Transportation Corridor | | 0 | 0 | 0 | 6,880 | 6,880 |
| Transportation Corridor/ Wildlife Habitat Land | | 0 | 0 | 62,432 | 62,432 | 62,432 |
| Waterfront Development | | 3,042 | 0 | 3,042 | 0 | 3,042 |
| Water Resources Land | | 0 | 0 | 0 | 108,455 | 108,455 |
| Wildlife Habitat Land | | 2,354,399 | 0 | 2,354,399 | 13,213,582 | 15,567,981 |
| Wildlife Habitat/Waterfront Development | | 860 | 0 | 860 | 0 | 860 |
| Wildlife Habitat/Public Recreation/Water Development | | 5,684 | 0 | 5,684 | 0 | 5,684 |
| Wildlife Habitat/Water Resources Land | | 655 | 0 | 655 | 943,800 | 944,455 |
| Total | | 2,907,692 | 263,675 | 2,644,017 | 82,154,551 | 84,798,568² |

² Acreages for specific classification categories were not available for the Prince of Wales Islands Area Plan or for new acreage within the Tanana Basin Area Plan. These acreage figures will be included in the 1991 State Land Classification Report.

Appendix

DESCRIPTION OF CLASSIFICATION CATEGORIES - 11 AAC 55

Agricultural Land. Land classified agricultural is, by reason of climate, physical features, and location, suitable for present or future agricultural cultivation or development and is intended for present or future agricultural use. When agricultural land is disposed of, only an agricultural interest may be conveyed.

Coal Land. Land classified coal is where known coal resources exist and development is occurring or is reasonably likely to occur, or where the coal potential has been determined to be high or moderate under 11 AAC 58.010.

Forest Land. Land classified forest is, or has been, forested and is suited for forest management because of its physical, climatic, and vegetative conditions.

Geothermal Land. Land classified geothermal is where known geothermal resources exist and where development is occurring or is reasonably likely to occur, or where there is reason to believe commercial quantities of geothermal resources exist.

Grazing Land. Land classified grazing is suitable in the cultivated or uncultivated state for supporting domestic livestock or reindeer.

Heritage Resources Land. Land classified heritage resources is where there is active preservation of, or research for, significant historical, prehistorical, paleontological, or other cultural values, or where there is reason to believe that these values exist.

Material Land. Land classified material is land suitable for the extraction of common varieties of sand, gravel, stone, peat, clay, and similar materials.

Mineral Land. Land classified mineral is where known mineral resources exist and where development is occurring, or is reasonably likely to occur, or where there is reason to believe that commercial quantities of minerals exist.

Oil and Gas Land. Land classified oil and gas is where known oil and gas resources exist and where development is occurring, or is reasonably likely to occur, or where there is reason to believe that commercial quantities of oil and gas exist.

Public Recreation Land. Land classified public recreation is suitable for recreation uses, waysides, parks, campsites, scenic overlooks, hunting, fishing or boating access sites, trail corridors, or greenbelts along bodies of water or roadways.

Reserved Use Land.

(1) Land classified reserved use is:

- (a) reserved for transfer to another governmental or nongovernmental agency that is performing a public service;
- (b) reserved for transfer through land exchange; or
- (c) designated for a public facility.

(2) Nothing in this section requires classification of land identified for a future land exchange under AS 38.50.

Resource Management Land. Land classified resource management is either:

- (1) land that might have a number of important resources but for which a specific resource allocation decision is not possible because of a lack of adequate resource, economic, or other relevant information, or is not necessary because the land is presently inaccessible and remote and development is not likely to occur within the next 10 years; or
- (2) land that contains one or more resource values, none of which is of sufficiently high value to merit designation as a primary use.

Settlement Land. An upland area classified settlement is land that is, by reason of its physical qualities and location, suitable for year-round or seasonal residential or private recreational use or for commercial or industrial development. Tideland, submerged land, or shoreland classified settlement is land that is suitable for floathomes, or land that is immediately adjacent to upland areas with existing or proposed settlement and that will be managed to support those existing or proposed upland settlement uses.

Transportation Corridor Land. Land classified transportation corridor is identified for the location of easements and rights-of-way under AS 38.04.065(f), including transportation, pipeline, or utility corridor purposes, or is under consideration for a right-of-way lease.

Waterfront Development Land. Land classified waterfront development is tideland, submerged land, or shoreland that is suitable to be used for commercial or industrial activities such as fish processing, aquatic farming, mineral and log transfer facilities, or commercial recreation.

Water Resources Land. Land classified water resources encompasses watersheds or portions of watersheds and is suitable for such uses as water supply, watershed protection, or hydropower sites.

Wildlife Habitat Land. Land classified wildlife habitat is primarily valuable for:

- (1) fish and wildlife resource production, whether existing or through habitat manipulation, to supply sufficient numbers or a diversity of species to support commercial, recreational, or traditional uses on an optimum sustained yield basis; or
- (2) a unique or rare assemblage of a single or multiple species of regional, state, or national significance.

II. LAND DISPOSAL BANK

The Land Disposal Bank contains land classified for disposal. AS 38.04.020(d) requires that on January 15th of each year, the commissioner report to the legislature the status of state land suitable for the following purposes within the land disposal bank.

Homestead Disposal

A total of 212,650 acres are identified for homestead disposal and considered suitable for staking in the homestead program. Homestead land is classified as Agricultural Land for agricultural homesteads and as Settlement Land for non-agricultural homesteading.

Subdivision Disposal

An estimated 14,181 acres of parcels foreclosed upon, relinquished or previously offered and not yet sold, are classified and suitable for disposal as subdivision parcels. These subdivision parcels include both surveyed homesite parcels and subdivisions available over-the-counter or in future lottery or auction sales.

Agricultural, Commercial and Industrial Disposal

A total of 344,512 acres are classified for agricultural purposes. Commercial and industrial land has been converted to the settlement classification. The bank contained about 1,640 acres of land designated for commercial and industrial use as of January 1, 1983.

Other Purposes

Most land is made available through the categories mentioned above. Certain land, however, is sold by auction in odd lots or for other special purposes. There is currently no land identified for other purposes.

Total Land in Disposal Bank

The total amount of land in the disposal bank as of December 31, 1990, is estimated to be 571,343 acres. This represents a decrease of 8291 acres over 1989.

³ Lands must be classified into a disposal category before they are actually included in the Land Bank (AS 38.04.020(c)).

⁴ Portions of the land disposal records are manually maintained. Therefore, while actual figures have been used in this report when available, conservative estimates are used in cases where they are reasonably accurate and actual data collection time would substantially outweigh the marginal benefit which might be derived from more precise figures.

⁵ The total reflects the subtraction of 30,878 acres of agriculturally classified land which are identified under both homestead disposal and agricultural, commercial and industrial disposal above.

III. LAND DISPOSAL INCOME ACCOUNT

The revenue from the sale of state land is deposited a special state Land Disposal Income Account within the state General Fund. The legislature may appropriate money for implementation of state land disposal programs form this account. Under AS 38.04.022(b), the Department of Natural Resources is required to submit a report reflecting all money deposited in the fund during the prior fiscal year 30 days after the legislature convenes. During fiscal year 1990, approximately 6.3 million dollars were deposited in this account.

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
P.O. BOX WF
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

Date: December 5, 1990

To: Senator Jay Kerttula, Chairman
Legislative Budget and Audit

From: Roger LaVine, Fiscal Analyst *RL 12/5/90*
Legislative Finance

Subject: Department's response to legislative intent for land
disposals.

Attached is the department's response to legislative intent that requires them to annually inform the legislature about the cost of state land disposals.

Part of the legislative intent requires the department to include in the sale price or capital budget the full cost of providing roads, road maintenance, and school facilities to disposals areas. The department in their response states that they have not complied with this part of the intent, because of the difficulty of estimating the cost of roads and schools before they have been constructed. In addition the department states it can not charge for schools or roads before they have been constructed. Further, the department states that it attempts to keep disposal densities low so that a large infrastructure will not be necessary.

The department appears to be in compliance with other parts of the intent requiring land disposals to comply with local zoning regulations and provide a survey of new school facilities need as a result of land disposal.

If I can be of further help please contact me.

Attachments:

MEMORANDUM

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

TO: Mike Greany, Director
Legislative Finance Division

DATE: November 21, 1990

FILE NO.:


FROM: Rod Swope
Commissioner

TELEPHONE: 465-2400

SUBJECT: Legislative Intent
State Land Disposals

The following information is provided to comply with the Legislature's intent that the Department of Natural Resources annually report on the costs associated with state land disposals.

Legislative Intent Statement:

That all future land disposal subdivisions, including small agricultural disposals of forty acres or less, meet borough zoning regulations, and the full cost of providing roads, road maintenance, and school facilities to these disposal areas be included in the sale price or the Department of Natural Resources' capital budget.

Department Response For FY 90:

The Department of Natural Resources complies with AS 38.04.045 (b) and AS 38.04.050 for survey and subdivision, as well as for access to private use areas. Under these statutes, when land is located within a municipality with platting, planning and zoning powers, plats for state subdivisions must comply with local ordinances and regulations. The state must meet the same requirements as other landowners.

Many municipalities will not approve survey plats without required roads or easements actually being constructed. If roads are constructed in advance of a disposal, the full cost of the service provided is prorated amongst the disposal parcels. The purchaser then reimburses the state for the parcel's share of expenses. When roads and other services are constructed or provided after a disposal, the new land owner, not the department, bears the full cost of the projects.

Estimating the cost of future roads and schools and including these costs in the purchase price for state land is an extremely difficult task. The department is required by law to sell land at fair market value. We cannot charge for something (such as a future road) that is not there. It is also very difficult to estimate and allocate fairly the costs of roads and schools that are not yet needed or constructed. We cannot predict accurately who will buy the land or what services the purchasers will need or want. We do, however, attempt to keep disposal densities low so that a large infrastructure will not be necessary. We also consult with local

Mike Greany, Director
Legislative Finance Division

-2-

November 21, 1990

governments to determine the disposal locations and densities that best complement local plans for expanding services and facilities.

In FY 90, \$660.0 in CIP funding was provided for general land surveys. This money is being used to complete two subdivision plans and surveys, and six cadastral surveys that are necessary for future homestead (some will be agricultural) disposals. No other funds related to land disposals were made available to the department in FY 90.

The demand for state land is highest near existing communities. To the extent the supply of state land allows, the department's land offerings are concentrated in or near areas that are already settled. This allows new land owners to use existing services and facilities. The density and, to some extent, the amount of land offered in remote areas is limited. This minimizes the need for new services and facilities.

Overall, the near term fiscal consequences of state land offerings are very small. Because state land offerings are rarely located where employment opportunities are available, few purchasers live on their parcels year-round.

Legislative Intent Statement:

That the Department of Natural Resources provide an annual survey of new school facilities that must be provided as a result of new land disposals so that the Legislature may evaluate this cost to local and state governments.

Department Response For FY 90:

The department does not believe that the FY 90 land disposals, which are largely homestead projects, will result in a need for new school facilities. In addition, because the department is subject to local government planning, platting and zoning powers, affected local governments are responsible for assessing service impacts (including schools) prior to plat approval.

cc: Legislative Budget and Audit Committee

Date: March 10, 1989

To: Senator Jay Kerttula, Chairman
Legislative Budget and Audit

From: Roger LaVine, Fiscal Analyst
Legislative Finance

Subject: Department's response to legislative intent for land disposals.

Attached is the Department of Natural Resources response to Legislative intent that requires them to annually inform the legislature about the cost of state land disposals.

Part of the Legislative intent requires the department to include in the sale price or capital budget the full cost of providing roads, road maintenance, and school facilities to disposals areas. The department in their response states that they have not complied with this part of the intent, because of the difficulty of estimating the cost of roads and schools before they have been constructed. In addition, the department states it can not charge for schools or roads before they have been constructed.

The department appears to be in compliance with other parts of the intent. requiring land disposals to comply with local zoning regulations and provide a survey of new school facilities need as a result of land disposal.

If I can be of further help please contact me.

MEMORANDUM
DEPARTMENT OF NATURAL RESOURCES

State of Alaska
Commissioner's Office

TO: Mike Greany, Director
Legislative Finance Division

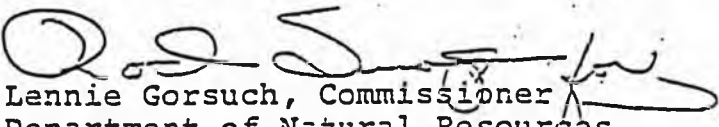
DATE: March 1, 1989

FILE NO:

TELEPHONE NO: 465-2400

THRU:

SUBJECT: Legislative Intent
For Land Disposals

FROM: 
Lannie Gorsuch, Commissioner
Department of Natural Resources

The following is provided to comply with the Legislature's stated intent that the Department of Natural Resources annually inform the Legislature about the cost of state land disposals. This report is for Fiscal Year 1989.

STATEMENT OF LEGISLATIVE INTENT:

That all future land disposal subdivisions, including small agricultural disposals of forty acres or less, meet borough zoning regulations, and the full cost of providing roads, road maintenance, and school facilities to these disposal areas be included in the sale price or the Department of Natural Resources' capital budget.

DEPARTMENT RESPONSE:

The department complies with AS 38.04.045(b) & .050 for survey and subdivision, and access to private use areas. Under this statute, where land is located within a municipality with platting, planning and zoning powers, plats for state subdivisions must comply with local ordinances and regulations in the same manner as required for other landowners.

Estimating the cost of future roads and schools and including these costs in the purchase price of land sold by the state is an extremely difficult task. The department is required by statute to sell land at fair market value (it cannot charge for what is not there). In addition, it is very difficult to estimate and allocate fairly the costs of roads and schools before they have been constructed. We cannot accurately predict who will buy the land or the services purchasers will need or want.

No new CIP funding for land disposals was authorized for FY89.

The demand for state land is highest near communities. To the extent the supply of state land allows, land offerings are concentrated in or near areas that are already settled. This permits new land owners to use existing services and facilities.

Mike Greany, Director
Legislative Finance Division

-2-

March 1, 1989

The density and, to some extent, the amount of land offered in remote areas is limited. This minimizes the need for new services and facilities. We determine the location and density of land offerings in consultation with local governments to complement their plans for expanding public services and facilities.

Overall, the near term fiscal consequences of state land offerings are very small. Because state land offerings are rarely located where employment opportunities are available, few people live on their parcels year-round.

STATEMENT OF LEGISLATIVE INTENT:

That the Department of Natural Resources provide an annual survey of new school facilities that must be provided as a result of new land disposals so that the Legislature may evaluate this cost to local and state governments.

DEPARTMENT RESPONSE:

The department does not anticipate that the FY89 land disposal offerings, composed largely of homestead projects, will necessitate new school facilities. Furthermore, because the department is already subject to local government planning, platting, and zoning powers, the affected local governments are responsible for assessing service impacts (including schools) prior to plat approval (AS 38.04.050).

Included with this report is the department's publication Annual Report on State Land Offerings; FY87 and 20 Year Forecast. This publication sets forth the department's philosophy of land disposals and gives a statewide perspective over the next 20 years.

cc: Senator Jay Kerttula, Chairman
Legislative Budget and Audit Committee

STATE OF ALASKA

THE LEGISLATURE

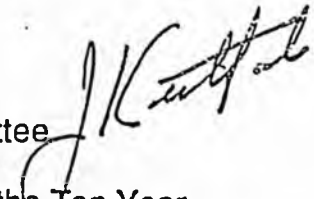
BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF-STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

MEMORANDUM

DATE: January 13, 1987

TO: All Legislators

FROM: Senator Jay Kerttula, Chairman
Legislative Budget and Audit Committee 

SUBJ: Transmittal of Report - Addendum to the Ten Year
Cost Projection of Roads, Road Maintenance, and
Educational Costs Related to State Land Disposals

The Legislative Budget and Audit Committee, at the December 17, 1986 meeting, approved the attached report prepared by Legislative Finance to be distributed to all Legislators.

This addendum provides an update of the ten year cost projection which identified service costs related to the State Land Disposal Program. Based on the assumptions used in this report, projected service costs for the ten year period total \$526,297,000.

Legislative concern about service costs to land disposals is not new. Intent placed in both the FY 86 and FY 87 operating budgets of the Department of Natural Resources (DNR), required the department to ".....provide an annual survey of new school facilities that must be provided as a result of new land disposals so that the Legislature may evaluate this cost to local and state government". For FY 86 no such survey was provided. For FY 87 to date, the department's response is not clear on whether a survey of new school facilities will be provided to the Legislature or not.

By copy of this memorandum, DNR is requested to fully address compliance with this intent.

cc: Judith M. Brady, Commissioner
Department of Natural Resources

Marshall Lind, Commissioner
Department of Education

Rocky Gutierrez, Commissioner
Department of Transportation and Public Facilities

ADDENDUM
TO
THE TEN YEAR COST PROJECTION OF ROADS, ROAD MAINTENANCE, AND
EDUCATIONAL COSTS RELATED TO STATE LAND DISPOSALS

Background

This brief addendum, prepared at the request of the Legislative Budget and Audit Committee, provides an update of the cost estimates provided in the September 4, 1985 report entitled The Ten Year Cost Projection of Roads, Road Maintenance, and Educational Costs Related to State Land Disposals. A copy of the original report is attached. This report was presented to the Legislative Budget and Audit Committee and sent to Department of Natural Resource's Commissioner Esther Wunnicke.

Original cost projections were based on a number of detailed assumptions set forth within the body of the report which estimated for a ten year period the (1.) amount of gross acreage disposed, (2.) the amount of acreage disposed in terms of subdivisions, homesteads, or agriculture, (3.) the average size of each disposal, (4.) the amount of road construction required per year, (5.) construction costs for interior and access roads, (6.) occupancy rate, (7.) number of school aged children, (8.) the cost of providing school facilities, and finally, (9.) the state's operational contribution per student. These assumptions were based on the best available data available from the Department of Natural Resources (DNR), Department of Transportation and Public Facilities, the Department of Education, and a municipal planning department. These assumptions remain unchanged.

DNR officials, in reviewing the original report, agreed with a majority of the assumptions made, but strongly disagreed with the amount of road construction required, the occupancy rate, and number of school age children. These three assumptions are the key elements in projecting the costs associated with future land disposals. Although in disagreement, DNR failed to provide any new data on which to base a reduction in the amount of road construction or in the projected occupancy rates. As for new information on the cost of schools, Legislative intent, placed in the DNR operating budget for Fiscal Year 1986, required the DNR to ".....provide an annual survey of new school facilities that must be provided as a result of new land disposals so that the legislature may evaluate this cost to local and state government". The Division of Land and Water Management, officially responded that no staff existed to perform such a survey, but prior to the end of Fiscal Year 1986, the Department of Education would be contacted to see how to best meet the requirements of this intent. At the date of this addendum, no effort has been made to comply with this intent

and no new information concerning the cost of school facilities is available for consideration.

There is one new assumption, which at this date, must be considered. Governor Sheffield's final budget for Fiscal Year 1988 eliminates the Land Disposal Program. A one-time offering of 5,000 acres of relinquished parcels will be conducted. Although it is unknown if the elimination of this program will be approved by the new administration and the legislature, it is fair to say the status of the program is very uncertain. Therefore, the assumption is made for the purpose of this addendum, that the Land Disposal Program will continue to be funded at continuation level and that changes in this level of funding will have a direct effect on yearly land disposal acreages and consequently, all cost projections.

The Summary of Projected Costs, included in the original report as appendix C., has been revised as follows:

(1.) Certain costs of the Department of Fish and Game, Divisions of Habitat and Subsistence have been included. These rough estimates account for the comprehensive review of land disposals, including providing comment, and developing recommendations. These efforts, related to land disposals alone, represent a small portion of these agencies' overall budgets.

(2.) The costs for archaeology work performed by the Department of Natural Resources in relation to land disposals has been added. These costs currently represent a small portion of the budget for archaeological surveys. For calendar year 1987 and beyond, archaeological survey costs are based on DNR estimates which set funding at a level necessary to comply with A.S. 41.35.

There are no other revisions to the Summary of Projected Costs, however it is noted that there are additional costs attributable to land disposals incurred by the Division of Fish and Wildlife Protection for extended enforcement in these areas. Because these costs are extremely difficult to estimate, they have not been included.

Finally, it is important to note that the land disposal program produces substantial revenues to the general fund. In FY 86, over \$8,599,000.00 was generated from land sale contracts from all previous sales. The cost of contract administration for FY 86 was approximately \$950,000.00. Revenues from land disposals are estimated to increase to \$9,868,000.00 in FY 88.

Attachments: (2) Ten Year Cost Projection
Appendix C, Revised

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF-STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

December 6, 1985

Commissioner Esther Wunnicke
Department of Natural Resources
Pouch M
Juneau, Ak. 99811

Commissioner:

At the request of the Legislative Budget and Audit Committee, a report has been prepared which provides a ten year cost projection of roads, road maintenance, and educational costs attributable to State land disposals. This report was prepared by Legislative Finance and was presented at the November meeting of the L.B. & A. Committee. A copy is enclosed for your information.

For the ten year period, the estimated cost of road construction and road maintenance is \$307,982,000, while the estimated cost of schools and the State's operational contribution for their operation is \$215,250,000. The total "service liability" for this ten year period, without adjustments for inflation, is estimated to exceed one half billion dollars.

One may disagree with some of the assumptions contained in this report, but one thing is clear: the disposal of State land creates a large liability for providing services to a relatively small number of people. This concern is not new. In fact, these concerns were expressed in the enabling legislation for land disposals. A.S. 38.04.010 (a) states "In making state land available for private use, the director shall seek to guide year-round settlement to areas where public services already exist, or can be extended with reasonable economy.....". Also, Legislative intent, placed in the department's FY 86 operating budget, requires an annual survey of new school facility costs and the inclusion of road and school facility costs within the selling price of the disposal or the capital budget.

Comissioner Esther Wunnicke

(2)

December 6, 1985

i am hopeful that this report, coupled with Legislative intent, will provide the necessary impetus for the department to more carefully examine the costs created by land disposals and consider these costs not only in selecting land for disposal, but in the sales price as well.

Sincerely,

Senator Jay Kerttula, Chairman
Legislative Budget and Audit Committee

enclosure

A Ten Year Cost Projection of Roads,
Road Maintenance, and Educational Costs Related to
State Land Disposals

This report responds to a May 20, 1985 Legislative Budget and Audit Committee request for a ten year estimate of the cost to the State for providing necessary and legally required services to new land disposals. This report provides estimates for the primary costs attributable to land disposals: road construction, road maintenance, school construction and the State's contribution for school operation. Water and Sewer facility cost estimates are not included because individual land owners are originally required to provide their own on-site systems and no basis could be found for predicting where state funded facilities might ultimately be necessary.

As with any projected estimate of this nature, a number of assumptions had to be developed and relied on in order to provide these estimates. These detailed assumptions are set forth in the body of this report. It is important to note that these assumptions may or may not prove to be accurate.

The ten year cost estimate for road construction and maintenance is presented in Appendix A, on page 4. The projected number of students, new school construction costs and the State's contribution for school operations is presented in Appendix B, on page 5. The projected costs for all items are summarized in Appendix C, on page 6.

Assumptions for this Report

1. Yearly land disposal amount will be 20,000 net acres per year which excludes land set aside for right-of-ways, drainage, etc. This is based on the State Land Area Plans, and recent Department of Natural Resources (draft) projections. This level would provide a stable disposal program for about the next twenty years. Actual draft department estimates range from 15,700-21,300 net acres per year.

2. Yearly disposal amount by disposal type will be determined as follows:

| | | | | | | |
|---------|------|----|--------|-------|-----|--------------|
| | 10% | or | 2,000 | acres | for | Subdivisions |
| | 60% | or | 12,000 | acres | for | Homesteads |
| | 30% | or | 6,000 | acres | for | Agriculture |
| Totals: | 100% | | 20,000 | acres | | |

The calculation of disposal type is a necessary element in ultimately estimating the cost of roads and schools. The percentages used here reflect the fact that due to a decrease in the amount of capital monies available in the next ten years, the Department of Natural Resources will offer more Homestead disposals which are generally less costly to prepare for sale.

3. The average size of each disposal will be as follows:

Subdivisions - 400 acres per disposal - 100 parcels at 4 acres each
 Homesteads - 2000 acres per disposal - 50 parcels at 40 acres each
 Agricultural - 3000 acres per disposal - 10 parcels at 300 acres each

The figure for Subdivision and Homesteads are similar to those used by the Division of Land and Water Management in a draft projection of FY87 costs. Agricultural figures are the writer's estimate based on Land Area Plans.

4. The total amount of road construction required each year will be based on the following schedule. This report assumes that all land disposals will be provided with minimal interior and access roads. It is important to note that in actuality an undetermined number of remote disposals will not require roads because of prohibitive construction cost and the fact that many land owners are opposed to outside access.

| | <u>Interior Road</u> | <u>Access Road</u> |
|--------------|----------------------|--------------------|
| Subdivision | 2.25 miles | 3.00 miles |
| Homesteads | 15.00 miles | 5.00 miles |
| Agricultural | 5.00 miles | 15.00 miles |

5. Construction costs for interior roads will be \$125,000 per mile and for access roads \$150,000 per mile. Road maintenance will be calculated at \$5,500 per mile. These rough estimates come from the Department of Transportation and Public Facilities and are representative of costs used in 1984 for road maintenance service area estimates.

6. The occupancy rate for all disposals will be calculated as 0% in year one and increase by 10% per year to a maximum of 90% in year 10. (A recent case history of three disposal sites done by a consultant for the department showed roughly a 13% occupancy rate. However, these three sites were not representative of the overall disposals as two of the sites were solely recreational. State census data contains some disposal areas or "clusters", but it is impossible to distinguish the owners of State disposed land from other residents).

7. Per each occupied Subdivision unit, Homestead unit, and Agricultural unit, there will be one school age child. According to the Macanaska Susitna Borough Planning Department, a 1984 census concentrating on the rural East portion of the borough found average household size to be 2.63 persons. A borough wide census puts 23.5% of the population at school age or .6 students per household. As this .6 student per household figure does not consider pre-school age children, it is considered low. Using the estimate of one school age child per occupied unit will help account for pre-school age children.

8. The cost of providing school facilities to these disposal sites will be calculated at two portable school units per 10 students. Two portable units have been recently installed at Point MacKenzie on borough land for \$385,400. Although these two units will house some 38 students, borough officials report the cost would be almost the same for as few students as 8. For this report the cost of providing school facilities will be \$400,000 for every ten students, or \$40,000 per student. It is interesting to note that using square footage estimates and average construction costs from the Department of Education; the cost per 10 students would be \$962,500 or \$96,250 per student for permanent facilities. It is most likely that at some undetermined point, existing portable facilities will be replaced by permanent facilities at a much higher cost.

9. The State's operational contribution to the operational cost of education will be \$5,000 yearly per student based on the average FY86 foundation program contribution.

APPENDIX A

10 Year Cost Estimate
for
Road Construction and Road Maintenance for Subdivisions,
Homesteads and Agricultural disposals

(dollar amounts presented in thousands with no adjustment for inflation)

| Cal. Year | <u>Interior Roads</u> | | <u>Access Roads</u> | | <u>Road Maintenance</u> | |
|--------------|---------------------------|--------------------------|---------------------------|--------------------------|---------------------------|--------------------------|
| | <u>Miles</u> ¹ | <u>Cost</u> ² | <u>Miles</u> ³ | <u>Cost</u> ⁴ | <u>Miles</u> ⁵ | <u>Cost</u> ⁶ |
| 1986 | 111.3 | \$13,912.0 | 75.0 | \$11,250.0 | 186.3 | \$1024.6 |
| 1987 | 111.3 | \$13,912.0 | 75.0 | \$11,250.0 | 372.6 | \$2,049.2 |
| 1988 | 111.3 | \$13,912.0 | 75.0 | \$11,250.0 | 558.9 | \$3,073.8 |
| 1989 | 111.3 | \$13,912.0 | 75.0 | \$11,250.0 | 745.2 | \$4,098.4 |
| 1990 | 111.3 | \$13,921.0 | 75.0 | \$11,250.0 | 931.5 | \$5,123.0 |
| 1991 | 111.3 | \$13,912.0 | 75.0 | \$11,250.0 | 1,117.8 | \$6,147.6 |
| 1992 | 111.3 | \$13,912.0 | 75.0 | \$11,250.0 | 1,304.1 | \$7,172.2 |
| 1993 | 111.3 | \$13,912.0 | 75.0 | \$11,250.0 | 1,490.4 | \$8,196.8 |
| 1994 | 111.3 | \$13,912.0 | 75.0 | \$11,250.0 | 1,676.7 | \$9,221.4 |
| 1995 | 111.3 | \$13,912.0 | 75.0 | \$11,250.0 | 1,863.0 | \$10,246.0 |
| TOTALS | 1,113.0 | \$139,120.0 | 750.0 | \$112,500.0 | 1,863.0 | \$56,353.0 |

¹ 111.3 interior road miles represents yearly disposal amounts (assumption #2), divided by the average size of each type of disposal (assumption #3), and multiplied by required road construction mileage (assumption #4).

² Cost determined by multiplying miles by \$125,000 (assumption #5)

³ 75.0 access road miles represent yearly disposal amounts (assumption #2), divided by the average size of each type of disposal (assumption #3), and multiplied by required road construction mileage (assumption #4).

⁴ cost determined by multiplying miles by \$150,000 (assumption #5)

⁵ maintenance miles are cumulative total of interior and access roads

⁶ cost determined by multiplying miles by maintenance cost of \$5,500 per mile (assumption #5).

APPENDIX B

10 Year Estimate of the Number of Students, New School Construction Costs
and the State's Contribution to Operational Costs for Education

(in thousands of dollars with no inflation factor)

| Cal. Year | <u>Year of Disposal</u> | | | | | | | | | | <u>Total Students</u> | <u>New Students Per Year</u> | <u>New School Const.</u> | <u>Oper. Costs</u> | |
|--------------|-------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|---------------------------|--------------------------------------|----------------------------------|------------------------|------------|
| | <u>1986</u> | <u>1987</u> | <u>1988</u> | <u>1989</u> | <u>1990</u> | <u>1991</u> | <u>1992</u> | <u>1993</u> | <u>1994</u> | <u>1995</u> | | | | | |
| <u>1986</u> | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| <u>1987</u> | 82 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 82 | 82 | \$ 3,280.0 | \$ 410.0 | |
| <u>1988</u> | 164 | 82 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 246 | 164 | \$ 6,560.0 | \$ 1,230.0 | |
| <u>1989</u> | 246 | 164 | 82 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 492 | 246 | \$ 9,840.0 | \$ 2,460.0 | |
| <u>1990</u> | 328 | 246 | 164 | 82 | 0 | 0 | 0 | 0 | 0 | 0 | 820 | 328 | \$ 13,120.0 | \$ 4,100.0 | |
| <u>1991</u> | 410 | 328 | 246 | 164 | 82 | 0 | 0 | 0 | 0 | 0 | 1,230 | 410 | \$ 16,400.0 | \$ 6,150.0 | |
| <u>1992</u> | 492 | 410 | 328 | 246 | 164 | 82 | 0 | 0 | 0 | 0 | 1,722 | 492 | \$ 19,680.0 | \$ 8,610.0 | |
| <u>1993</u> | 574 | 492 | 410 | 328 | 246 | 164 | 82 | 0 | 0 | 0 | 2,296 | 574 | \$ 22,960.0 | \$11,480.0 | |
| <u>1994</u> | 656 | 574 | 492 | 410 | 328 | 246 | 164 | 82 | 0 | 0 | 2,952 | 656 | \$ 26,240.0 | \$14,760.0 | |
| <u>1995</u> | 738 | 656 | 574 | 492 | 410 | 328 | 246 | 164 | 82 | 0 | 3,690 | 738 | \$ 29,520.0 | \$18,450.0 | |
| | | | | | | | | | | | | | <u>\$ 147,600.0</u> | <u>\$ 67,650.0</u> | |
| | | | | | | | | | | | | | TOTALS | \$147,600.0 | \$67,650.0 |

APPENDIX C

Summary of Projected Costs

(in thousands with no inflation factor)

| <u>Cal. Year</u> | <u>Road Const. & Maintenance</u> | <u>School Const. & State Oper.</u> | <u>Cal. Year Total</u> |
|----------------------|--|--|----------------------------|
| 1986 | \$ 26,186.6 | \$ 0 | \$ 26,186.6 |
| 1987 | \$ 27,211.2 | \$ 3,690.0 | \$ 30,901.2 |
| 1988 | \$ 28,235.8 | \$ 7,790.0 | \$ 36,025.8 |
| 1989 | \$ 29,260.4 | \$ 12,300.0 | \$ 41,560.4 |
| 1990 | \$ 30,294.0 | \$ 17,220.0 | \$ 47,514.0 |
| 1991 | \$ 31,309.6 | \$ 22,550.0 | \$ 53,859.6 |
| 1992 | \$ 32,334.2 | \$ 28,290.0 | \$ 60,624.2 |
| 1993 | \$ 33,358.8 | \$ 34,440.0 | \$ 67,798.8 |
| 1994 | \$ 34,383.4 | \$ 41,000.0 | \$ 75,383.4 |
| 1995 | <u>\$ 35,408.0</u> | <u>\$ 47,970.0</u> | <u>\$ 83,378.0</u> |
| TOTALS | \$307,982.0 | \$ 215,250.0 | \$523,232.0 |

APPENDIX C - REVISED
 Summary of Projected Costs
 (in thousands with no inflation factor)

| CAL Year | Road Const. & Maintenance | School Const. & State Oper. | F & G Habitat | F & G Subsistence | Archaeological Surveys | Cal. Year Total |
|-------------|------------------------------|--------------------------------|------------------|----------------------|---------------------------|--------------------|
| 1986 | \$ 26,186.6 | \$ 0 | \$ 50.0 | \$ 75.0 | \$ 15.0 | \$ 26,326.6 |
| 1987 | \$ 27,211.2 | \$ 3,690.0 | \$ 50.0 | \$ 75.0 | \$ 200.0 (1) | \$ 31,226.2 |
| 1988 | \$ 28,235.8 | \$ 7,790.0 | \$ 50.0 | \$ 75.0 | \$ 200.0 | \$ 36,350.8 |
| 1989 | \$ 29,260.4 | \$ 12,300.0 | \$ 50.0 | \$ 75.0 | \$ 200.0 | \$ 41,885.4 |
| 1990 | \$ 30,294.0 | \$ 17,220.0 | \$ 50.0 | \$ 75.0 | \$ 200.0 | \$ 47,839.0 |
| 1991 | \$ 31,309.6 | \$ 22,550.0 | \$ 50.0 | \$ 75.0 | \$ 200.0 | \$ 54,184.6 |
| 1992 | \$ 32,334.2 | \$ 28,290.0 | \$ 50.0 | \$ 75.0 | \$ 200.0 | \$ 60,949.2 |
| 1993 | \$ 33,358.8 | \$ 34,440.0 | \$ 50.0 | \$ 75.0 | \$ 200.0 | \$ 68,123.8 |
| 1994 | \$ 34,383.4 | \$ 41,000.0 | \$ 50.0 | \$ 75.0 | \$ 200.0 | \$ 75,708.4 |
| 1995 | \$ 35,408.0 | \$ 47,970.0 | \$ 50.0 | \$ 75.0 | \$ 200.0 | \$ 83,703.0 |
| TOTALS | \$ 307,982.0 | \$ 215,250.0 | \$ 500.0 | \$ 750.0 | \$ 1,815.0 | \$ 526,297.0 |

(1) Archaeological Survey costs projected for calendar year 1987 and beyond are based on D.N.R. estimates which increase archeological survey funding to a level necessary to comply with A.S. 41.35.

A SPECIAL REPORT

**MUNICIPAL GENERAL GRANT
LAND ENTITLEMENTS**

A State-Municipal Partnership

**DEPARTMENT OF NATURAL RESOURCES
Division of Land and Water Management**

January 1990

Prepared by Dennis P. Daigger

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INTRODUCTION

Decades of neglect by the federal government, resource exploitation by corporations and individuals outside Alaska and a lack of control of their destiny instilled in the fifty-five drafters of the Alaska Constitution a unique vision of what would become America's 49th state. The observations and experiences of the residents of the territory who were self-reliant and independent would manifest themselves throughout the constitution. Nowhere are these concepts more evident than in Article X of the constitution where the relationship between state government and local government are unselfishly defined.

SECTION 1. The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

SECTION 3. The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

The delegates having been deprived of the right of self determination, thoughtfully remembered territorial governance and conferred autonomy and broad powers on municipalities of Alaska through the constitution. By offering incentives to encourage municipal incorporations, the State of Alaska furthers the goal of maximum local self-government contained in Article X.

Since 1962, one of these incentives has been receipt of state general grant land within the boundaries of the local government thereby providing a means of creating or expanding a tax base, a means to generate revenue through land sales and leases, a land base for community expansion and a land base for other public purposes.

In addition to these general grant land entitlements, municipalities can acquire otherwise unavailable state land under the public and charitable use statute (AS 38.05.810). Land acquired under this statute must be used for a public purpose that is available to the public at large. However, if the

municipality receiving the land has an outstanding municipal land grant entitlement, the acreage of the conveyance is subtracted from this balance.

Tide and submerged lands are the last category of state land made available to cities who were incorporated on or before the date of statehood. Under rigid guidelines established in the Alaska Land Act, cities could acquire tidelands adjacent their boundaries. This provision was codified AS 38.05.320.

BACKGROUND: MUNICIPAL LAND GRANTS

Legislative History

Alaska's first municipal land entitlement was created in 1962 when a new section was added to the Alaska Land Act. This section stated:

Any city of the first class may apply in the manner prescribed by the director, within five years from the effective date of this Act, for a conveyance to the city of all surplus state lands located within the present boundaries of the city. "Surplus state lands" means all land owned by the state which is not presently used or for which there is no anticipated use by the state for governmental purposes.

This act, codified AS 38.05.347, although containing scant procedural guidance, resulted in the conveyance of thousands of acres of state land to a small number of municipalities throughout the state. This law was repealed June 21, 1976.

In 1963 the state legislature enacted the "Mandatory Borough Act". This act was unrelated to the Alaska Land Act but, like AS 38.05.347, created opportunities for municipalities to acquire state land for their local use. The intent of this act (ch 52, SLA 1963) was "to provide maximum local self-government" and caused the creation of numerous boroughs statewide. These boroughs encompassed the populated areas of the state. Although boroughs could not opt out of organizing, some local options existed in the law, such as final location of the municipal boundaries. The act, additionally, provided incentives in the form of cash grants and grants of state land.

Unlike the 1962 act, the "Mandatory Borough Act" (codified AS 07.10.150) provided a formula for the amount of the state land grant entitlement.

This act provided:

(that) "an organized borough may select 10 per cent of the vacant, unappropriated, unreserved state lands located within its boundaries within five years after the date of

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availability of state lands in the borough."

The act also provided certain necessary procedural guidance for the selection, survey and conveyance of these entitlement lands.

Several changes to the law were eventually enacted. In 1970 Chapter 213, SLA 1970 removed the five year selection deadline, and extended general grant land entitlements to first and second class cities by adding AS 07.05.040. In 1972 AS 07.10 was renumbered to AS 29.18.

Fifteen years of disputes between municipalities and the state over interpretation of the law culminated in the first major amendment to AS 29.18 in 1978. Some of the more important disputes illustrate the range of problems faced by the program.

-Land selections by municipalities had no time frames for adjudication and conveyance. Municipalities felt that the state deliberately dragged its feet on selections that it wanted to retain and that after approving selections that the conveyances were unnecessarily delayed.

-Southeast boroughs believed that getting concurrence of the land trust boards for conveyance of university, mental health and school trust lands was an unduly cumbersome process.

-The North Slope Borough had selected resource management and industrial lands at Prudoe Bay which were rejected in the state's interests.

-When municipalities selected agricultural lands they received only the agricultural interest. These lands often were more valuable for subdivisions and other uses than as agricultural land and municipalities wanted more than just the agricultural interest.

-Municipal land selections occurred on an ad hoc basis, often before the state could evaluate resources and perform its mandated land planning functions.

-Contention by the North Slope Borough that they have an absolute right to select 10 percent of the state land within their boundaries, irrespective the land classification.

Features of the new law were:

- 1) Unified home rule municipalities and all boroughs were granted acreage specific entitlements;
- 2) "vacant, unappropriated, unreserved" (VUU) land was now statutorily defined based on a two part test: 1) the grant type

under which the state acquired the land from the federal government and 2) the state's land classification system;

3) General grant land entitlements were limited to general grant land that the state acquired under sections 6(a) and 6(b) of the Statehood Act;

4) Entitlements were fixed as of July 1, 1978, based on the state's VUU land base on that date;

5) Entitlements were extended to municipalities incorporated after July 1, 1978, and a method of computing these entitlements was established;

6) Entitlements became vested property rights and could be fulfilled at any time before two years after the state's right to select federal land under 6(a) or 6(b) of the Statehood Act expired;

7) Selections must be approved or disapproved within nine months of selection and further patent issuance must occur within three months of survey plat approval;

8) Municipalities with an entitlement of less than one and one-half acre per capita could select vacant school, university or mental health trust lands;

9) Deficiency payments were established for municipalities whose entitlement land bases were unsuitable for residential, commercial or industrial purposes;

10) Authority for land exchanges between municipalities and the state when in the public interest was established;

11) Municipalities in litigation with the state over general grant land entitlements had to elect to benefit under the new law or receive the fruits of the litigation, but not both; and;

12) A comprehensive and detailed definitions section was added.

For the first time, a detailed and clear law existed, specifying important policies and procedures, under which general grant land entitlements would be administered.

In 1979, AS 29.18 was amended so that entitlements could no longer be fulfilled by selections filed up to two years after the state's selection rights with the federal government expired, but now must be made prior to October 1, 1980.

In 1981, to ensure that all entitlements were fulfilled, amendments gave municipalities 90 days to re-select new land upon rejection of a previous selection. This was necessary because in law a selection deadline had been established.

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In 1985 university trust land was removed from the group of lands available to a municipality with a per capita entitlement of less than one and one-half acres. This resulted from successful litigation by the University Board of Regents against the state over management of its land trust corpus.

In 1985 AS 29.18.201 - 29.18.205 were repealed effective January 1, 1986. These sections were the major provisions of the general grant land entitlement law. They were, however, replaced with the same provisions that were renumbered AS 29.65.010 - 29.65.140.

In 1987 the most recent amendments to the law occurred. The major provisions of the new law are:

1) Expands general grant entitlements to capture all state VUU land within the municipal boundaries between September 16, 1970 and January 1, 1988;

2) Bases entitlements of cities and boroughs incorporated after July 1, 1978, on the maximum amount of VUU land within their boundaries between incorporation and two years thereafter;

3) Establishes upper limit of entitlements to newly incorporated municipalities not to exceed 20 acres per capita based on the population of the municipality on the date of incorporation;

4) Extends selection deadline of boroughs and unified home rule municipalities listed in AS 29.65.010 to October 1, 1990.

5) Invalidates all selections of school or mental health trust lands occurring after October 4, 1985 the date of the mental health land trust litigation decision;

6) Prohibits a municipality from trading entitlement land for federal subsurface rights or any interest in the Arctic National Wildlife Refuge;

7) Categorizes material and public recreation classified land as VUU;

8) Categorizes resource management classified land as VUU if the classification occurred on or after September 1, 1983;

9) Specifies that the new entitlement for the Northwest Arctic Borough is a partial entitlement. Additional entitlement for the Northwest Arctic Borough and municipalities incorporating after the Northwest Arctic Borough depends upon the governor's recommendation to the legislature, after completion of the Northwest Area Plan, for additional entitlement consistent with

his general grant land entitlement policy.

10) Reinstates the 89,850 acre entitlement to the North Slope Borough lost through litigation in 1978.

A brief discussion of Alaska's statehood land grant entitlement will help focus the parallel municipal general grant land entitlements. The Alaska Statehood Act granted land entitlements to the state under sections 6(a) and 6(b) totaling 103,350,000 acres to be selected from the federal public domain. In 1962, when the state enacted the first municipal entitlement law, less than eight million acres of the statehood entitlement had been received from the federal government. There were less than 40 municipalities in the state at that time. Up until the 1978 law, a municipality was entitled to select 10% of the VUU land within the municipality without a date final for fulfilling that entitlement. This appears to have been intended as an ongoing process so that as the state received more of its entitlement, the municipality could continue to select 10% of that which was VUU.

The 1978 law, for the first time established date certain time lines. The pool of land from which to compute the 10% of VUU entitlement was limited to land within the municipal boundaries between the first date of eligibility for each municipality (September 16, 1970, or date of incorporation which ever came later) and July 1, 1978. The deadline for selection was, however, set two years after expiration of the state's selection rights from the federal public domain. The state's selection deadline was 25 years from statehood (1984). The Alaska National Interest Lands Conservation Act (ANILCA) extended this by ten years to 1994.

In 1978 the state had received about 35 million acres of its entitlement. The 1978 city certifications resulted in an allocation of 7,727 acres to 19 qualifying cities and 861,608 acres to 11 unified home rule municipalities and boroughs. A total of 869,335 acres of state land were granted to municipalities under the 1978 law.

Entitlement acreages for unified home rule municipalities and boroughs contained in AS 29.18.201, as amended in 1978, did not always represent fulfillable entitlements. When the state legislature was considering provisions to be incorporated into the AS 29.18 amendments, they established acreage entitlements for each of the unified home rule municipalities and boroughs based on a complicated scheme that considered population, areal extent and availability of state land within the municipal boundaries. The Municipality of Anchorage and the Kodiak Island Borough had considerably less state VUU land within their boundaries than was needed to meet the statutory entitlement.

The Municipality of Anchorage received \$4,000,000 as deficiency payment under AS 29.18.208 for 4,000 acres of entitlement land and in 1985 entered into an agreement with the state to zero out

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a yet unfulfillable entitlement with 4,628 designated acres of state land within the municipal boundaries. Prior to the agreement, 20,671 acres of land had been approved or patented to the municipality. Under the settlement Anchorage can also receive up to 1,000 acres of National Forest Community Grant land at Girdwood if land is ever conveyed to the state.

The Kodiak Island Borough likewise entered into an agreement with the state to zero out its entitlement with 48,700 designated acres of state land within their boundaries. As part of the agreement the borough would return to the state 3,069 acres of the 13,960 acres of land that had been patented or approved for patent prior to the agreement. The borough would also receive up to 17,800 acres of land under selection by ANCSA corporations if the land was ever available to the state.

The amount of additional state land granted to cities by the 1987 amendments is 11,892.3 acres. The state had about 80 million acres of its entitlement in 1987. The major affect of the new law, however, is re-establishing a 1978, 89,850 acre entitlement to the North Slope Borough and increasing the 13,000 acre entitlement certified under the old statute to the new Northwest Arctic Borough to 133,920 acres. In round figures about 236,000 acres of state VUU land will be conveyed to two boroughs and nine cities under the 1987 law.

VUU Land Definitions History

Between 1963 and 1978, municipal entitlement selections were limited to "vacant, unappropriated, unreserved land". It appears, by extension of application, that state administrators conceptually adopted the similar guidelines used by federal administrators when statehood land selections were being adjudicated. Neither statutory nor policy definitions existed for VUU land and as a result municipalities and the state disagreed about whether specific parcels of land were VUU.

In 1978, the amended law adopted specific definitions for VUU land.

Following were the limitations placed on this definition:

- 1) Land must be Statehood Act section 6(a) or 6(b) land that has been patented or tentatively approved to the state and excludes the mineral estate;
- 2) Land cannot have been set aside by statute for one or more particular uses or purposes;
- 3) Land must be unclassified or if classified is classified agricultural, grazing, commercial, industrial, private recreational, residential, utility or open-to-entry.

The definition of VUU land specifically excluded minerals citing section 6(i) of the Statehood Act. Section 6(i) was incorporated into the Alaska Land Act as AS 38.05.125.

Thus, "VUU" was defined clearing the way to settling many of the disputes between the state and municipalities. All of the classifications that are defined VUU are categories which the state was already allowed to dispose of by law. In 1983 the state's land classification regulations were changed so that commercial, industrial, open-to-entry, private recreation, residential and utility classifications were subsumed by a new 'settlement' classification. The effect was that unclassified land, settlement land, grazing land and the agricultural interest in agricultural land were available to municipalities for fulfillment of entitlement.

In 1987 three additional categories were added to the list of VUU classifications: 1) material; 2) public recreation; 3) resource management if classified as such on or after September 1, 1983.

1978 Entitlement Status

On July 1, 1978, there were 139 cities incorporated under state law. Certifications of entitlement under ch 180, SLA 1978, resulted in 19 cities receiving entitlements totalling 7,727 acres.

In 1978 the legislature redesignated university and mental health trust land state general grant land (Chap 182, SLA 1978). Based on what they believed to be representations by DNR that these lands would now be, not only general grant land, but also VUU available for entitlement computation as well as available for fulfillment of entitlement. Three cities in Southeast Alaska certified as "zero entitlement" believed that the department erred in the certifications because redesignated mental health trust land as general land statewide was not included as part of the land base within their corporate boundaries for the certification process. Petersburg filed suit in State Superior Court (1JU-78-1109 civ) and Kupreanof and Wrangell administratively appealed their zero entitlement certifications. The state reached an agreement with Petersburg and granted 10% of the mental health lands within their boundaries to the city. This amounted to 461.27 acres of land. The conveyances were under the authority of AS38.05.315(a) [renumbered AS 38.05.810].

As resolution of the other two appeals, the department extended the terms of the Petersburg settlement. Kupreanof received 180.82 acres of mental health land and Wrangell received 310 acres of mental health land.

Although all land selections for municipalities with entitlements from the 1978 law are in place, somewhat less than half of the

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land has been patented to them. The state cannot convey land to a municipality until the federal government has patented the land to the state. However, all 1978 municipal selections have, with few exceptions, been approved or rejected. When the state approves a selection, the municipality assumes management responsibility as if it owned the land. By statute municipalities can create third party interests on approved selections prior to patent with the approval of the director. The director generally confers broad management authority to a municipality on an approved selection unless there is an overriding public interest requiring continued involvement by the state.

1988 Entitlement Certification Results

Between the 1978 round of certifications and the 1987 amendments to AS 29.65, eight cities incorporated under state law. Only Thorne Bay had state general grant land within its boundaries that was VUU and in 1982 their entitlement was established at 612 acres. This was in error and was corrected to the proper figure of 675 acres in the 1988 certification.

Three other cities received land from the state during the period July 1, 1978, to January 1, 1988. Tenakee Springs had entered into an agreement in 1977 with Alaska Lumber and Pulp Company (AL&P) and the Department of Natural Resources. The purpose of the agreement was to "permit the proposed operations [AL&P timber contract with the USFS on Chichagof Island] to proceed in a climate of consensus and cooperation". The state's obligation in the agreement was:

"The state will convey to the City title to any selected lands conveyed to the State by the Bureau of Land Management, except that the State may retain title to those sites necessary for present or anticipated essential public purposes. The State will convey to the City all tidelands and submerged lands within or adjacent to the Sunny Cove dump, and will expeditiously consider the City's application for conveyance of other tidelands and submerged lands adjacent to any selected lands conveyed to the State by the Bureau of Land Management."

The state's part of the agreement was not carried out and in 1980 Tenakee Springs filed suit against the state in State Superior Court (1JU-80-1666). An out of court settlement resulted in a split of the state lands within the city boundaries, granting the city 2,958 acres and leaving in state ownership 1,027 acres.

Whittier sought and received a legislative grant of state land. Under chap 73, SLA 1984 Whittier received 600 acres of state general grant land within its boundaries.

Pelican sought and received a legislative grant of 8.863 acres of state land under Ch 53, SLA 1985.

The amendments to AS 29.65 in 1987 resulted in certifications of new or enhanced entitlements to nine cities of the 147 cities in existence on January 1, 1988. Kupreanof, Petersburg, Pelican, Tenakee Springs, Whittier and Wrangell each had state general grant land within their boundaries that were VUU. The previous agreements, settlements and legislation, however, resulted in the entitlements being certified at zero acres. The conveyances to Kupreanof, Petersburg and Wrangell were done under the authority of AS 38.05.810 and as provided in AS 29.65 _____ if a municipality with an entitlement is conveyed and under .810 it may be charged against the entitlement. Wrangell administratively appealed this certification because the amount of land that they received in 1978 was less than 10% of the VUU land that was available for the 1988 certification. The director reconsidered the facts and agreed with the City of Wrangell that their entitlement should be the full 10 percent of the VUU land within the city boundaries.

BACKGROUND: TIDELAND CONVEYANCES TO MUNICIPALITIES

Legislative History

In addition to the general grant land entitlements, qualified cities within Alaska have been conveyed tide and submerged land. To understand the purpose of these conveyances of public trust land it is necessary to review federal mandates for management of tide and submerged land prior to Alaska's admission into the Union.

By act of Congress, on May 17, 1884, Alaska was established as a judicial district with a governor and district court system. The general law of Oregon was applied to the district under this act.

On May 14, 1898, Congress passed an act extending the homestead laws to the District of Alaska and providing for right of way for railroads within the district. The act declared that "all such rights to [tide lands and beds of any navigable waters] shall continue to be held by the United States in trust for the people of any state or states which may hereafter be erected out of said District [Alaska]."

The Organic Act, approved by Congress August 24, 1912, created the Territory of Alaska and granted the new territory legislative powers through an elected legislative assembly. The Organic Act further extended the Constitution of the United States and all laws not locally inapplicable, to the Territory of Alaska.

Thus territorial tidelands constituted a federal trust early in Alaska's history and as such could not be disposed of through

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lease or sale. Additionally, permanent improvements were not authorized to be constructed upon tide and submerged land.

The importance of improved tidelands to the vitality of the territory's economy and the health of its people is readily apparent. It was a territory whose economy, mobility and recreation were intimately tied to the sea. Log transfer facilities, seafood processors, municipal docks, private boat ways and even residences were partially or wholly constructed on tidelands with no method for individuals or businesses to acquire proper authorization for use. The need for these activities was readily recognized by the federal managers. However, the mechanism for authorizing such use was non-existent.

In full recognition of these shortcomings, Congress enacted a law on September 7, 1957 (P.L. 85-303), that conveyed tidelands adjacent surveyed townsites to the territory. The conveyance was for tidelands and all improvements and natural resources between the line of mean high tide and the pierhead line. The pierhead line was defined as a "line parallel to the existing line of mean low tide at such distance offshore from the line of mean low tide that encompasses to the landward all stationary, manmade structures in existence as of February 1, 1957". Under this law acceptance by the Secretary of Interior of new townsite surveys effected conveyances of attendant tidelands to the territory.

The act authorized the territory to manage and dispose of any tract of tidelands acquired under the act for municipal, business, residential or other beneficial purposes. A tidelands occupant or the occupant's successor in interest had a preference right to acquire an improved tract if a disposal occurred. These improved tracts could be conveyed to the incorporated town or school district. However, if this occurred, the town or school district must accord any occupant a preference right in any disposals contemplated in the future.

The Army Corps of Engineers was given the authority to establish pierhead lines for all surveyed townsites to enable conveyances to the territory. This process was initiated soon after passage of the act. Alaska's statehood interrupted this process with the conveyance of all tide and submerged land under section 6(m) of the statehood act to the new state.

The Alaska Legislature incorporated specific language in the Alaska Land Act to recognize and implement the provisions of the September 7, 1957, federal law. The provisions were soon codified AS 38.05.320(b).

The Alaska Land Act (ch 169, SLA 1959) section 5(c) enabled the conveyances of tidelands to municipal corporations. Qualifications in the act were:

- 1) The corporation must have been incorporated on or before January 3, 1959;
- 2) Tidelands subject to conveyance lay between the mean high tide line and the pierhead line, the harbor line or in their absence, a line subject to the approval of the director;
- 3) The corporation had to prepare a plat of the area conveyed showing all structures and improvements thereon and each tract that was occupied or developed with the owner or claimant noted; and,
- 4) The corporation had to recognize preference rights for occupied and developed tracts.

The tidelands conveyances to municipal corporations were mandatory and gave the department few discretionary powers over the process.

An amendment to AS 38.05.320(b) occurred in 1964 (ch 81, SLA 1964) when "municipal corporation" was changed to "(h)ome rule cities and cities of the first class." These cities had to have been incorporated on or before April 1, 1964, in order to qualify.

Another amendment to AS 38.05, although unrelated to AS 38.05.320(b), did provide for another type of tidelands conveyance to municipalities. Chapter 108, SLA 1974 (codified AS 38.05.323) allowed home rule and general law municipalities to apply for tidelands between mean high tide and mean low tide adjacent public recreation area facilities if the facility was developed under the terms of P.L. 507 (70 Stat. 130) and it was conveyed from the state to the municipality.

Under AS 38.05.320(b) 25,224.3 acres of tidelands were conveyed to 28 cities from Barrow to Saxman. Apparently no tidelands have been conveyed under AS 38.05.323.

GENERAL GRANT LAND ENTITLEMENT DISCUSSION

There are three categories of general grant land entitlements under AS 29.65:

- 1) A specified statutory entitlement (AS 29.65.010) for unified home rule municipalities and organized boroughs;
- 2) 10% of the maximum total acreage of vacant, unappropriated, unreserved (VUU) land within the boundaries between September 16, 1970 and January 1, 1988 for cities incorporated as of July 1, 1978 (AS 29.65.020); and
- 3) 10% of the maximum total acreage of VUU land within the boundaries between date of incorporation and two years after that

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date for cities incorporated after July 1, 1978 (AS 29.65.030).

The governor's general grant land entitlement policy required by Section 11, Chapter, 34 SLA 1987 only affects the Northwest Arctic Borough and other municipalities incorporated after formation of the Northwest Arctic Borough (incorporated June 2, 1986). Thus, only general grant land entitlements pursuant to AS 29.65.030 for municipalities incorporated on or after June 2, 1986 will be affected by this policy document.

Section 2 ch 34 SLA 1987 significantly amended AS 29.65.030 by adding a new upper entitlement limit based on municipal population on the date of incorporation. ~~This limit was imposed to help dissuade formation of municipalities for the sole purpose of obtaining large general grant land entitlements from the state.~~ Since all densely populated areas of the state are presently incorporated, newly incorporated areas will generally be rural in character. State land within these areas is ~~often not well suited for development or other municipal purposes.~~ Creating large entitlements to be fulfilled from the state's rural land base may not be in the state's interests.

The per capita limit was established at 20 acres based on the highest per capita entitlement to any municipality statewide created by the 1978 amendments to the municipal entitlement law. The Matanuska-Susitna Borough has an entitlement of 355,210 acres which is about 20 acres per capita based on the population of the borough in 1978.

From inception, the municipal entitlement law has undergone a gradual philosophical broadening of purpose. Where the early versions of the law were focused on making land available that was suitable for development for residential, commercial or industrial use, the most recent version of the law shifts to include public purpose land. This shift occurs through inclusion of public recreation classified land in the categories of land available to municipalities.

PURPOSES FOR GENERAL GRANT LAND ENTITLEMENTS

The central theme of municipal entitlements today is to provide land to municipal corporations for the purposes of:

- 1) Siting public facilities/aiding community expansion;
- 2) Providing a means of revenue production through sales or lease which also expands the municipal tax base; and;
- 3) Providing local public recreation opportunities.

The provisions of Alaska Native Claims Settlement Act (ANCSA) defeated state's title to selected and tentatively approved land within the vicinity of ANCSA village corporations. This results in extremely limited or totally absent state land bases in or near ANCSA cities (population centers) for a new borough to realize the first two purposes. The provisions of ANCSA 14(c)(3) do however, compensate for this shortcoming by requiring that an ANCSA village corporation convey up to 1,280 acres of land to the municipal corporation. This provision includes title to the remaining surface estate of the improved land and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable community needs.

The results of AS 29.65 and ANCSA must be viewed together. If the land available under these two laws is insufficient to fulfill municipal land entitlement purposes, and other state land unavailable under AS 29.65 will meet the needs, then the municipality may make a written request, including justification, to the Department of Natural Resources for the specific additional land which increases their entitlement.

SUMMARY

The State of Alaska in furtherance of the goal of maximum local government committed in 1978 7,727 acres of state land to 19 cities and another 861,608 acres to 11 unified home rule municipalities and boroughs. With few exceptions land selections have been approved and the municipalities actively manage this land base of nearly 870,000 acres.

New incorporations after 1978 resulted in another 14,000 acres of entitlement to one city and one borough.

The 1987 amendments to AS 29.65 created new entitlements for two cities totalling over 1,200 acres, reestablished an 89,850 acre entitlement for a borough and expanded entitlements for seven cities and one borough for over 130,000 new acres.

Over 1,000,000 acres of state land have been committed under AS 29.65 to 41 municipalities statewide for local use. The state has patented nearly 430,000 acres of uplands to 48 municipalities since statehood and 25,000 acres of tidelands to 28 cities.

As the current trend toward more borough incorporations continues, general grant land entitlements promise to play a role in the viability of the new municipalities in a difficult economic environment.

MUNICIPAL ENTITLEMENT CERTIFICATION SUMMARY

| City | 1978 Entitlement | Other Entitlement | 1988 Entitlement | New Acres Under Ch34, SLA 1987 |
|-----------------|---------------------|----------------------|---------------------|-----------------------------------|
| Anderson | 0.0 | 0.0 | 1,182.0 | 1,182.0 |
| Bethel | 40.0 | 0.0 | 0.0 | |
| Cordova | 235.0 | 0.0 | 0.0 | |
| Delta Junction | 400.0 | 0.0 | 481.8 | 81.8 |
| Dillingham | 1.0 | 0.0 | 0.0 | |
| Fairbanks | 15.0 | 0.0 | 0.0 | |
| Homer | 16.0 | 0.0 | 0.0 | |
| Hoonah | 15.0 | 0.0 | 0.0 | |
| Houston | 405.0 | 0.0 | 0.0 | |
| Kanai | 307.0 | 0.0 | 0.0 | |
| Ketchikan | 0.5 | 0.0 | 4.0 | 3.5 |
| Kodiak | 32.0 | 0.0 | 0.0 | |
| Kupreanof | 0.0 | 180.8 | 0.0 | |
| North Pole | 0.5 | 0.0 | 0.0 | |
| Ouzinkie | 240.0 | 0.0 | 0.0 | |
| Pelican | 0.0 | 8.9 | 0.0 | |
| Petersburg | 0.0 | 461.3 | 0.0 | |
| Port Alexander | 0.0 | 0.0 | 53.0 | 53.0 |
| Port Lions | 35.0 | 0.0 | 0.0 | |
| Seward | 562.0 | 0.0 | 565.0 | 3.0 |
| Skagway | 500.0 | 0.0 | 7,977.0 | 7,477.0 |
| Soldotna | 14.0 | 0.0 | 0.0 | |
| Tenakee Springs | 0.0 | 2,958.0 | 0.0 | |
| Thorne Bay | 0.0 | 612.0 | 675.0 | 63.0 |
| Valdez | 4,805.0 | 0.0 | 7,593.0 | 2,788.0 |
| Whittier | 0.0 | 600.0 | 0.0 | |
| Wrangell | 0.0 | 310.0 | 551.0 | 241.0 |
| Yakutat | 104.0 | 0.0 | 0.0 | |
| TOTALS | 7,727.0 | 5,131.0 | 19,081.8 | 11,892.3 |

TABLE 1

CONVEYANCE SUMMARY: UNIFIED HOME RULE MUNICIPALITIES AND BOROUGHS

CONVEYANCES BY AUTHORITY

| City or Borough | Incorp | .347 | AS 07 | AS 29 | .810 | .320 | Legislative | Other |
|-------------------------------------|--------|--------------|-------------|------------------|-----------------|----------------|-------------|----------------|
| <i>Alutians East Borough</i> | Oct-67 | | | | | | | |
| <i>Bristol Bay Borough</i> | Oct-62 | | | 2,672.7 | | | | |
| <i>City & Borough of Juneau</i> | Jul-70 | | | 3,822.0 | 11.1 | 852.9 | | |
| <i>City & Borough of Sitka</i> | Dec-71 | 1.8 | | 1,308.3 | 6,084.6 | 184.6 | | 0.6 |
| <i>Fairbanks North Star Borough</i> | Jan-64 | | | 63,864.9 | 44.8 | | | |
| <i>Haines Borough</i> | Jul-68 | | | 1,082.8 | | | | |
| <i>Kenai Peninsula Borough</i> | Jan-64 | | | 78,208.0 | 181.8 | | | 117.0 |
| <i>Ketchikan Gateway Borough</i> | Sep-63 | | | 4,033.3 | | | | |
| <i>Kodiak Island Borough</i> | Sep-63 | | | 11,864.0 | 14.3 | | | |
| <i>Lake & Peninsula Borough</i> | Apr-68 | | | | | | | |
| <i>Matanuska-Susitna Borough</i> | Jan-64 | | 40.3 | 201,823.4 | 400.3 | | | 79.3 |
| <i>Municipality of Anchorage</i> | Sep-73 | 381.1 | | 12,883.7 | 5,897.1 | 1,328.8 | | 1,258.4 |
| <i>North Slope Borough</i> | Jul-72 | | | | | | | |
| <i>Northwest Arctic Borough</i> | Jun-68 | | | | | | | |
| TOTALS | | 382.9 | 40.3 | 402,133.7 | 12,614.1 | 2,375.9 | 0.0 | 1,453.3 |

Chapter 180

* Sec. 4. AS 38.05.290 is amended by adding a new subsection to read:

(b) Consistent with the best interests of the state, in the selection of general grant land it is the policy of the state to make available the maximum land area from which municipalities may fulfill land entitlements under AS 29.18.201 - 29.18.213.

* Sec. 5. AS 29.18.190, 29.18.200, and 29.18.420 are repealed.

* Sec. 6. REPORT. Within 30 days after the convening of each regular session of the Eleventh and Twelfth Legislatures and the first regular session of the Thirteenth Legislature, the director of the division of lands shall report to the legislature on the implementation of AS 29.18.201 - 29.18.213 in sec. 2 of this Act.

* Sec. 7. This Act takes effect July 1, 1978, except that AS 29.18.208, enacted by sec. 2 of this Act, takes effect July 1, 1980.

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Approved by the Governor: July 18, 1978
Actual Effective Date: July 1, 1978 (except AS 29.18.208 (sec.2)
effective July 1, 1980)



LAWS OF ALASKA

1978

Source

Chapter No.

FCCS SCS CSHB 720

181

AN ACT

Relating to the disposal of state land; and providing for an effective date.

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

* Section 1. DESIGNATION OF LAND FOR DISPOSAL. (a) The director of the division of lands in the Department of Natural Resources shall, no later than November 1, 1978, designate 30,000 acres of state land for disposal under the homesite entry program established in AS 38.08 and the open-to-entry program established in AS 38.05.077.

(b) Not less than 25 per cent of the former mental health land described in sec. 3(a) of this Act which is located within a municipality entitled to select land under AS 29.18 shall be designated for disposal in fiscal year 1979 under AS 38.04.020 enacted in sec. 5 of this Act. A municipality may select that former mental health land to satisfy its entitlement under AS 29.18 but title to the land may not be transferred to the municipality by the director until the governing body of the municipality certifies that disposal programs will be undertaken by the municipality which will meet the needs of persons residing in the municipality.

* Sec. 2. ASSESSMENT OF SUPPLY AND DEMAND OF LAND. (a) The director of the division of lands in the Department of Natural Resources shall assess the supply and demand for land under the homesite entry program established in AS 38.08 and the open-to-entry program established in AS 38.05.077. The assessment shall be based on applications submitted by persons in the state who are eligible to participate in those disposal programs. The applications shall be made on forms supplied by the division of lands which shall be available to the public at each district office of the division of lands in the state. The applications shall contain provisions so that each person may indicate a preference for the type of disposal program that best suits his

needs. To the extent possible, the director of the division of lands shall determine by region of the state which disposal program or combination of programs specified in this subsection is suited to the differing needs of eligible persons residing in that region.

(b) The closing date for the initial determinations of eligibility is October 1, 1978. The director of the division of lands in the Department of Natural Resources shall determine the eligibility of persons submitting applications and before November 1, 1978, advise them whether they are eligible to participate in disposals under AS 38.08 or AS 38.05.077. Persons determined to be ineligible shall be advised of the reason for their disqualification and the actions they may take to establish eligibility. The director shall compile a master list of all persons found to be eligible to participate in the disposals specified in (a) of this section. The master list shall be revised at regular intervals after the initial determination period so that it accurately reflects the eligibility of applicants.

(c) The director of the division of lands shall present to the legislature the plan for the disposal of land under the programs specified in (a) of this section. The plan shall be submitted not later than the 15th day of the First Session of the Eleventh Legislature. The plan shall set out the location of the land for disposal and the amount of acreage to be included in each program.

* Sec. 3. REDESIGNATION AND DISPOSAL OF MENTAL HEALTH LAND.

(a) Land granted to the state under the Mental Health Enabling Act of 1956, 70 Stat. 709, and patented to or approved for patent to the state on July 1, 1978 and land designated as mental health land which was received by the state in exchange for land granted under that federal land grant is redesignated as general grant land and shall be managed and disposed of by the Department of Natural Resources under applicable provisions of law.

(b) The redesignation of mental health land in (a) of this section does not affect the validity of a deed, contract for sale, lease, easement, right-of-way, permit, mineral lease disposal, or a reservation for public use of that land by statute, in effect before July 1, 1978 or land management actions including use classifications under AS 38.05.300, and interagency land management assignments of that land made by the Department of Natural Resources before July 1, 1978.

* Sec. 4. AS 37 is amended by adding a new chapter to read:

CHAPTER 14. MENTAL HEALTH FUND.

Sec. 37.14.010. MENTAL HEALTH FUND ADVISORY BOARD CREATED. (a) There is created in the Department of Revenue the Mental Health Fund Advisory Board composed of the director of the division of mental health, the chairman of the Mental Health Advisory Council, and the commissioner of the Department of Revenue.

(b) The board shall elect a chairman from the membership of the board. Members serve without compensation but are entitled to per diem and travel expenses authorized by law for other boards.

Sec. 37.14.020. POWERS AND DUTIES OF BOARD. The board has the following powers and duties:

(1) to hold regular meetings and special meetings considered necessary;

(2) to have prepared an annual accounting of the total principal and income of the mental health fund established in sec. 30 of this chapter;

(3) to prepare long-range investment plans for the fund established in sec. 30 of this chapter.

Sec. 37.14.030. MENTAL HEALTH FUND ESTABLISHED. (a) There is established as a separate fund the mental health fund.

(b) The principal of the fund consists of sums transferred under sec. 70 of this chapter.

(c) The income of the fund consists of the interest and dividends earned from investments of the fund under sec. 60 of this chapter.

Sec. 37.14.040. DUTIES OF COMMISSIONER OF REVENUE. The commissioner of revenue is the treasurer of the fund and shall

(1) act as official custodian of the cash and securities belonging to the fund and provide adequate safe deposit facilities for them;

(2) receive cash belonging to the fund;

(3) collect the principal on securities acquired for the fund and deposit it in the fund;

(4) collect interest and dividends earned on investments of the fund and credit the income account of the fund;

(5) invest and reinvest the principal of the fund in accordance with sec. 60 of this chapter.

Sec. 37.14.050. FUND UTILIZATION. The principal of the fund shall be retained in the fund for investment as specified in sec. 60 of this chapter. The income of the fund may not be appropriated for a purpose other than the support of the state mental health program.

Sec. 37.14.060. INVESTMENTS. (a) The commissioner of revenue, with the approval of the board, may invest the principal of the fund in the same manner specified in AS 39.35.110 for the investment of surplus pension funds.

(b) The commissioner of revenue may

(1) invest and reinvest the principal of the fund;

(2) sell, exchange, convey, transfer, or otherwise dispose of an investment of the fund by private

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

April 12, 1991

SUBJECT: Municipal land selection of former mental health lands

TO: Representative Jerry Mackie, Chair
House Community & Regional Affairs Committee
ATTN: Dave Gray

FROM: Jack Chenoweth
Legislative Counsel

Section 1(b), ch. 181, SLA 1978 provides:

(b) Not less than 25 percent of the former mental health land described in sec. 3(a) of this Act which is located within a municipality entitled to select land under AS 29.18 shall be designated for disposal in fiscal year 1979 under AS 38.04.020 enacted in sec. 5 of this Act. A municipality may select that former mental health land to satisfy its entitlement under AS 29.18 but title to the land may not be transferred to the municipality by the director [of the division of lands, Department of Natural Resources] until the governing body of the municipality certifies that disposal programs will be undertaken by the municipality which will meet the needs of persons residing in the municipality.

Section 3(a) referred to is, as you know, the bill section that redesignated former mental health land as general grant land of the state.

You have asked whether this provision continues to have operative effect.

Though drafted as uncodified law, the provision is in fact one of continuing duration--its effect would end only when the last municipality entitled to make a selection under that subsection presented the required certificate of its disposal program. Section 1(b) was not repealed by its own terms and has not been repealed since its enactment by another Act of the legislature.

Section 1(b) therefore continues to have operative effect. It is clearly applicable to municipalities that had selection rights to exercise under former AS 29.18. It is,

Representative Jerry Mackie

April 12, 1991

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however, applicable, in my judgment only to a very limited body of land, that being "former mental health land . . . located within a municipality entitled to select land under AS 29.18 [that was] designated for disposal in fiscal year 1979. . . ." If that land was not so designated, then section 1(b) has no applicability.

As you can see, the amount of land that this provision would affect is probably insignificant. As a practical matter, then, the provision may no longer be applicable.

JBC:pl

91-253.plm

MUNICIPAL CONVEYANCE SUMMARY CHART
(All State Lands)

| Municipality/Borough | Total Entitlement Acreage | Patented Acreage | Approved Acreage | Remaining Entitlement |
|------------------------------|---------------------------|------------------|------------------|-----------------------|
| Municipality of Anchorage | 44,893.0 | 17,480.0 | 3,196.1 | 24,221.9 |
| Kenai Peninsula Borough | 155,780.0 | 60,652.8 | 38,739.7 | 56,387.5 |
| Fairbanks North Star Borough | 112,000.0 | 66,624.8 | 23,947.3 | 21,427.9 |
| Hatanuska-Susitna Borough | 355,210.0 | 193,452.0 | 162,250.7 | 492.7 |
| Haines Borough | 2,800.0 | 780.9 | 2,256.0 | -0- |
| Sitka, City and Borough | 10,500.0 | 6,152.0 | 9,776.5 | -0- |
| Ketchikan Gateway Borough | 11,593.0 | 1,855.8 | 9,546.4 | 190.8 |
| Juneau, City and Borough | 19,584.0 | 2,842.9 | 19,155.0 | -0- |

MUNICIPAL CONVEYANCES SUMMARY REPORT
MENTAL HEALTH ACREAGE

| | BOROUGH/ MUNICIPALITY | SELECTED | APPROVED | PATENTED | TOTAL |
|-----------------------------|--------------------------|----------|----------|----------|-----------|
| COPPER RIVER MERIDIAN | Haines | .70 | 530.35 | 640.14 | 1,171.19 |
| | Juneau | 111.87 | 3,846.65 | 1,495.67 | 5,454.19 |
| | Sitka | 0 | 806.78 | 513.11 | 1,319.89 |
| | Ketchikan | .20 | 4,440.06 | 1,183.44 | 5,623.67 |
| Subtotal - Meridian Total | | 112.77 | 9,623.84 | 3,832.33 | 13,568.94 |

| | BOROUGH/ MUNICIPALITY | SELECTED | APPROVED | PATENTED | TOTAL |
|---------------------------|--------------------------|-----------|----------|----------|-----------|
| SEWARD MERIDIAN | Mat-Su | 1,005.00 | 1,767.14 | 5,381.98 | 8,254.12 |
| | Houston | 0 | 0 | 87.29 | 87.29 |
| | Kenai | 9,966.67 | 1,890.02 | 3,282.24 | 15,138.93 |
| | Anchorage | 1,367.89 | 0 | 752.96 | 2,120.85 |
| Subtotal - Meridian Total | | 12,439.56 | 3,657.16 | 9,504.47 | 25,601.19 |

| | BOROUGH/ MUNICIPALITY | SELECTED | APPROVED | PATENTED | TOTAL |
|---------------------------|--------------------------|----------|----------|----------|-----------|
| FAIRBANKS MERIDIAN | Fairbanks | 0 | 7,126.11 | 9,343.93 | 16,470.04 |
| Subtotal - Meridian Total | | 0 | 7,126.11 | 9,343.93 | 16,470.04 |

| | SELECTED | APPROVED | PATENTED | TOTAL |
|-------|-----------|-----------|-----------|-----------|
| Total | 12,552.33 | 20,407.11 | 22,680.73 | 55,640.17 |