

HB

259

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: March 23, 1994

FURTHER REFERRALS:

Date of Committee Action: 4/6/94

The FINANCE Committee considered:

HB 259

HOUSE BILL NO. 259

GENERAL GRANT LAND ENTITLEMENT

"An Act relating to general grant land entitlements for certain boroughs and unified municipalities; and providing for an effective date."

- RECOMMENDATIONS:
- be replaced with _____ the same title
 - _____ a new title
 - have attached amendments(s)
 - do pass
 - do not pass
 - 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) _____

zero fiscal note _____

zero fiscal note(s) DNR 2/9/94
CRA, 2/9/94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Maclean</i>					
<i>Edward P. Maclean</i>	<input checked="" type="checkbox"/>	<i>Hanley</i>			
<i>Donald J. Larson</i>	<input checked="" type="checkbox"/>	<i>Mark [unclear]</i>		<input checked="" type="checkbox"/>	
<i>Richard [unclear]</i>	<input checked="" type="checkbox"/>	<i>[unclear]</i>		<input checked="" type="checkbox"/>	
<i>[unclear]</i>		<i>Alan K. Starnell</i>		<input checked="" type="checkbox"/>	
		<i>Jay Brown</i>			<input checked="" type="checkbox"/>

Edward P. Maclean
CHAIRMAN'S SIGNATURE

Revision Date: 1/31/94
Title: "An Act relating to general grant land entitlements"
Sponsor: Rules by Request
Requestor: _____
Dept. Affected: Community & Regional Affairs
BRU: _____
Component: _____
COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current (FY94) impact \$ none

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Remond Henderson Director Phone: 465-4708
 Division: Administrative Services Date: 1/31/94
 Approved by Commissioner: [Signature] Deputy Commissioner Date: 1/31/94
 Agency: Community & Regional Affairs

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COMMITTEE COPY Page 1 of 1

FISCAL NOTE

No. 2
 Bill Version: HB 259
 (H) Publish Date: 2/9/94

STATE OF ALASKA

BILL N

1994 LEGISLATIVE SESSION

Revision Date: Original Dept Affected: Natural Resources
 Title: "An Act relating to general grant land entitlements BRU: Resource Development
for certain boroughs and unified municipalities..." Component: Land Development
 Sponsor: Rules by Request
 Requestor: _____ Component Serial No. 431

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost: \$ None

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

SEE ATTACHED.

Prepared by: Ron Swanson, Director Phone: 762-2692
 Division: Land Date: 1-Feb-94
 Approved by Commissioner: Harry A. Noah Date: 1-Feb-94
 Agency: Natural Resources

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The department supports this bill in concept. We have not, however, been able to complete a land analysis. The borough's entitlement under law would be calculated as 10% of the maximum amount of vacant, unappropriated, and unreserved (VUU) state land within the boundaries between the date of incorporation and two years thereafter. Passage of Chapter 51, SLA 1991 delayed the certification until no earlier than January 1, 1994, following completion of the state's land selections. An estimate of entitlement was prepared for the Department of Community and Regional Affairs in 1988 for the proposed incorporation report and based on estimates of the classification, the entitlement would have been about 29,000 acres. There is a considerable amount of state land within the boundaries of the borough and department analysis is needed to determine whether 97,000 acres is a fulfillable entitlement.

Since the department has between January 1, 1994, and January 1, 1996, to certify entitlements for newly incorporated municipalities, this selection deadline could severely impact municipalities that are certified near the January 1996 deadline. In order to correct this inequity, we recommend, in Section 2, line 12, deleting "any time before October 1, 1996" and replacing with "within two years of the date that the certification of entitlement is final."

AMENDMENT |

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO HB 259:

Page 2, line 2:

IA

failed

Delete "187,000"

Insert "100,000"

Page 2, line 2 after "acres;" Insert:

"general grant land entitlements authorized under this subsection in excess of 30,000 acres shall be managed to allow public access and use if it is determined by the Commissioner of Natural Resources that such designation is required to protect the public interest."

B

w/d

Sponsor Statement
HB 259
Representative Carl E. Moses

HB 259 relates to general grant land entitlements for certain boroughs and unified municipalities.

HB 259 amends AS 29.65.010, the land entitlement section, to statutorily authorize 187,000 acres for the Lake and Peninsula Borough (LPB), and gives the LPB until October 1, 1996 to select those lands.

The borough assembly and planning commission are developing a comprehensive borough plan, and have identified lands of interest to them. Alaska Statutes, Title 29, Chapter 65 currently provides a land selection process for newly formed boroughs. Since there is very little land available from Vacant, Unappropriated, and Unreserved (VUU) inventories, and because other state lands would need reclassification before issuance of grant land to the LPB, pursuing entitlements through the formula in AS 29.65.030 would delay the certification process for the LPB.

Because the land selection process in AS 29.65 would be very time consuming, HB 259 would raise the priority for processing grant land entitlements for the LPB by simply adding their entitlement to the list of municipalities and boroughs currently in AS 29.65.010(a).

HB 259 is a non-controversial bill, and does not affect other boroughs or their grant allocations. I would ask that the Community and Regional Affairs Committee favorably consider the bill.

Back-up



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

Phone: 907-463-3360

Fax: 907-463-3312

HB 259: Land Grant to Lake and Peninsula Borough

HB 259 creates a general grant land entitlement of 187,000 acres to the Lake and Peninsula Borough which is located in Southwest Alaska, adjacent to Bristol Bay. Under current law, the Borough would be entitled to 10% of state land within the Borough which is classified as "Vacant, Unappropriated, and Unreserved." This would entitle the Borough to approximately 11,600 acres.

AEL opposes HB 259 as written:

- * A grant of 187,000 acres is more than 16 times the amount of land the borough is entitled to under current state law. This would set a dangerous precedent, which may encourage excessive requests from newly incorporated areas in the future.
- * The areas identified for selection by the Lake and Peninsula Borough consist mainly of land identified in the 1984 Bristol Bay Area Plan for State Lands as important wildlife habitat and public recreation land. Included are salmon spawning areas that supply Bristol Bay, site of the world's most productive sockeye salmon fishery and world class sport fishing areas along the Mulchatna River, Tularik Creek and Lake Illiamna.
- * This bill would convert public lands currently managed with the protection of commercial, sport and subsistence activities as a priority to municipal lands much of which would likely be subdivided and sold or leased to private entities for development.
- * Resulting changes in land use patterns would have adverse impacts on fish and wildlife habitat and the commercial, subsistence and recreational activities they support, as well as reducing public access to world class hunting and fishing opportunities.

OVER

W. Dunne
3/23/94

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • ALASKA FRIENDS OF THE EARTH
ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY • CLEAN AIR COALITION • DENALI CITIZENS' COUNCIL
DENALI GROUP, SIERRA CLUB • JUNEAU AUDUBON SOCIETY • JUNEAU GROUP, SIERRA CLUB
KACHEMAK BAY CONSERVATION SOCIETY • KENAI PENINSULA AUDUBON SOCIETY • KNIK CANOERS AND KAYAKERS
KNIK GROUP, SIERRA CLUB • KODIAK AUDUBON SOCIETY • LYNN CANAL CONSERVATION • NORTHERN ALASKA ENVIRONMENTAL CENTER
PRINCE WILLIAM SOUND CONSERVATION ALLIANCE • SITKA CONSERVATION SOCIETY • SOUTHEAST ALASKA CONSERVATION COUNCIL • TONGASS CONSERVATION SOCIETY



Lake and Peninsula Borough Position Paper-HB 259

Background

From 1992-94 Lake and Peninsula Borough (LPB) developed a borough wide comprehensive plan. A key element of the plan was the identification of lands for selection under the municipal land entitlement program. After extensive review of lands, LPB identified approximately 187,000 acres of land for future municipal entitlement.

Current Status of HB 259

Hearings were held in House Community and Regional Affairs and Resources Committee on HB 259. The bill does not designate actual land selections, but only identifies a total amount. Department of Natural Resources (DNR) and Fish and Game have both expressed concerns about certain proposed selections, particularly around the Lake Iliamna, Mulchatna River area, Kvichak River and certain fishing streams. LPB recognizes the importance of all these areas. LPB no longer seeks the tracts initially identified in these areas. It still, however, will pursue smaller tracts on Lake Iliamna and the Mulchatna River area. DNR was amenable to LPB having lesser amounts.

Why so much acreage?

Municipal Land Entitlements are a one shot deal. These lands are to assist the borough financially in providing basic services well into the next century. The actual amount is misleading. An acre of land in LPB is not now nor probably will be in the near future worth one tenth the value of land in a more urban city or borough.

What are the possible uses of the Land?

At this time, LPB envisions leasing the land for commercial recreation to produce income. Some the lands could be sold as remote recreation parcels. LPB has not identified all possible uses nor does it feel compelled to develop such a plan at this time. Any private use of the lands must comply with LPB's stringent subdivision ordinance and development permit. LPB residents are primarily involved in commercial fishing or commercial recreation. It is unfair and wrong to suggest that they would allow uses that are detrimental to their own long term economic survival.

Does this set a precedent for good public policy?

Yes. LPB and the state have openly discussed and, in turn, modified what types of lands would be transferred. The current formula program is bad public policy. It is not equitable and is bias against new boroughs.



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

Phone: 907-463-3366

Fax: 907-463-3312

HB 259: Land Grant to Lake and Peninsula Borough

HB 259 creates a general grant land entitlement of 187,000 acres to the Lake and Peninsula Borough which is located in Southwest Alaska, adjacent to Bristol Bay. Under current law, the Borough would be entitled to 10% of state land within the Borough which is classified as "Vacant, Unappropriated, and Unreserved." This would entitle the Borough to approximately 11,600 acres.

AEL opposes HB 259 as written:

- * A grant of 187,000 acres is more than 16 times the amount of land the borough is entitled to under current state law. This would set a dangerous precedent, which may encourage excessive requests from newly incorporated areas in the future.
- * The areas identified for selection by the Lake and Peninsula Borough consist mainly of land identified in the 1984 Bristol Bay Area Plan for State Lands as important wildlife habitat and public recreation land. Included are salmon spawning areas that supply Bristol Bay, site of the world's most productive sockeye salmon fishery and world class sport fishing areas along the Mulchatna River, Tularik Creek and Lake Illiamna.
- * This bill would convert public lands currently managed with the protection of commercial, sport and subsistence activities as a priority to municipal lands much of which would likely be subdivided and sold or leased to private entities for development.
- * Resulting changes in land use patterns would have adverse impacts on fish and wildlife habitat and the commercial, subsistence and recreational activities they support, as well as reducing public access to world class hunting and fishing opportunities.

OVER

W. Dunne
3/23/94



HB 259 would grant 187,000 acres to the Lake and Peninsula Borough. Under current law the Borough is entitled to approximately 11,600 acres. A comparison of entitlements to other municipalities under AS 29.65.010 follows:

<u>Municipality</u>	<u>Entitlement (acres)</u>	<u>Population</u>	<u>Acres/Resident</u>
Muncplty. of Anchorage	44,893	240,258	.2
City & Bor. of Juneau	19,584	29,251	.7
City & Bor. of Sitka	10,500	8,815	1.2
Bristol Bay Borough	2,898	1,415	2.0
Fairbanks N. S. Borough	112,000	79,730	1.4
Haines Borough	2,800	2,117	1.3
Kenai Pen. Borough	155,780	42,242	3.7
Ketchikan Gtwy. Bor.	11,593	14,110	.8
Kodiak Island Borough	56,500	15,535	3.6
Mat-Su Borough	355,210	41,797	8.5
North Slope Borough	89,850	8,578	10.5
Lake & Peninsula Borough	@ 187,000	1,722	108.6
	@ 11,600		6.7

Lake and Peninsula Borough's request for 187,000 acres would give them more than 10 times the per capita entitlement of the next highest grantee (North Slope Borough) and more than 21 times the average per capita entitlement for all other boroughs, excluding the urban municipalities of Anchorage, Juneau and Fairbanks. Since one main reason for transfer of state land to boroughs is to provide them with revenue opportunities for municipal services, we feel that a per capita comparison is a fair method of determining entitlements.

A grant of 11,600 acres, as allowed under existing law, would be a per capita entitlement of 6.7 acres, still above average, but within the existing range of land grants to other Boroughs.

Lake and Peninsula Borough Position Paper-HB 259

Background

From 1992-94 Lake and Peninsula Borough (LPB) developed a borough wide comprehensive plan. A key element of the plan was the identification of lands for selection under the municipal land entitlement program. After extensive review of lands, LPB identified approximately 187,000 acres of land for future municipal entitlement.

Current Status of HB 259

Hearings were held in House Community and Regional Affairs and Resources Committee on HB 259. The bill does not designate actual land selections, but only identifies a total amount. Department of Natural Resources (DNR) and Fish and Game have both expressed concerns about certain proposed selections, particularly around the Lake Iliamna, Mulchatna River area, Kvichak River and certain fishing streams. LPB recognizes the importance of all these areas. LPB no longer seeks the tracts initially identified in these areas. It still, however, will pursue smaller tracts on Lake Iliamna and the Mulchatna River area. DNR was amenable to LPB having lesser amounts.

Why so much acreage?

Municipal Land Entitlements are a one shot deal. These lands are to assist the borough financially in providing basic services well into the next century. The actual amount is misleading. An acre of land in LPB is not now nor probably will be in the near future worth one tenth the value of land in a more urban city or borough.

What are the possible uses of the Land?

At this time, LPB envisions leasing the land for commercial recreation to produce income. Some the lands could be sold as remote recreation parcels. LPB has not identified all possible uses nor does it feel compelled to develop such a plan at this time. Any private use of the lands must comply with LPB's stringent subdivision ordinance and development permit. LPB residents are primarily involved in commercial fishing or commercial recreation. It is unfair and wrong to suggest that they would allow uses that are detrimental to their own long term economic survival.

Does this set a precedent for good public policy?

Yes. LPB and the state have openly discussed and, in turn, modified what types of lands would be transferred. The current formula program is bad public policy. It is not equitable and is bias against new boroughs.

Will LPB still need to go through DNR's land selection process?

Yes. This bill does not guarantee any site specific lands. In many cases, it will require extensive effort by the borough to have lands reclassified.

What, if any, impact will this issue have on the Northern Boundary dispute?

None. However, in spirit of cooperation, LPB will not select any lands in that area until the courts have resolved the case.

Will HB 259 require extra funding?

According to DNR officials, it will not. A key function of the division of lands is to assist with this program. It will cost LPB funds to survey the lands and in turn mean a longer time period before final conveyance.

Is the state giving away key valuable resources?

The state is assisting all municipalities with a resource that can be used fund programs such education that will funded locally or eliminated.

Will LPB have an open public process before it actually selects lands for possible transfer?

Yes. In fact LPB seeks to work directly with DNR whenever possible.

In summary, the Department does not consider the Lake and Peninsula Borough's entitlement of 34,000 acres, under the existing statute, to be equitable. By comparison, two other boroughs similar in area to the Lake and Peninsula Borough have entitlements of 355,210 acres (Matanuska-Susitna Borough) and 155,780 acres (Kenai Peninsula Borough).

For 
Edgar Blatchford
Commissioner

~~3~~ 4/2/93
Date

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF FISH AND GAME

333 RASPBERRY ROAD
ANCHORAGE, ALASKA 99518-1599
PHONE (907) 344-0541

BOARDS SUPPORT SECTION

Anchorage Advisory
Committee
Box 454
Girdwood, AK 99587

March 4, 1994

Members of the Alaska State Senate
Members of the Alaska State House of Representatives
State Capitol
Juneau, Alaska

Re: (1) Our Opposition to SB 217 (Expansion of University Land Entitlement),
(2) Our Opposition to HB 259 (Expansion of Lake and Peninsula Borough Land Entitlement)
(3) Mental Health Lands

Dear Senators and Representatives:

The Anchorage Fish and Game Advisory Committee, like other such committees in the state, is a publicly elected entity established by the Alaska Legislature. It provides advice to the Board of Fisheries and the Board of Game and other agencies on matters concerning fish and wildlife and the uses of them. Pursuant to regulations of the Department of Fish and Game, the committee is broadly representative. It is composed of recreational and commercial fishers, hunters, guides, lodge owners and others in the tourism industry, trappers, conservationists, non-consumptive users, and a variety of members who have worked for various state and federal resource agencies and natural resource law enforcement agencies. We represent the fish and wildlife interests of approximately half the state's population.

SB 217 and HB 259 are both land selection bills. Like the proposed Mental Health Settlement, they would result in

disposal of vast tracts of state land. The Anchorage Fish and Game Advisory Committee is strongly opposed to both SB 217 and HB 259 for the reasons set forth below.

A. Summary of SB 217 and HB 259, and Relation to Mental Health Settlement

SB 217 and HB 259, as well as the recently proposed Mental Health Lands Settlement (that will be submitted to the Legislature), hold the prospect of severely altering state land ownership in Southwest Alaska. The resources and the uses of resources in that region -- particularly in the drainages of the Kvichak River, Iliamna Lake, the Nushagak River and the Mulchatna River -- are very likely to be severely affected if land ownership changes because of these bills and the mental health settlement proposal.

We are addressing this letter jointly to members of both the House and the Senate because bills in both houses are involved.

SB 217 would allow the University to select an additional one million acres anywhere in the state. The bill provides that those lands would cease to be public lands and would be managed for income production. Sale by the University, charges for recreational and subsistence use, additional leasing for commercial development which only threatens existing businesses and invites further conflicts, as discussed below, all will result from this income production obligation.

HB 259 would raise the Lake and Peninsula Borough's land selection entitlement from approximately 29,000 acres, established pursuant to AS 29.65.030, to 187,000 acres. Arguably, the Borough is entitled to far less than 29,000 acres because the northwestern boundary of the Borough is the subject of current litigation.¹ The matter is now on appeal to the Alaska Supreme Court.

Nevertheless, the Borough has tentatively identified more than 100,000 acres that it would like to obtain. The lands include all the remaining state land around Lake Iliamna, Lower Talarik Creek, Copper River, Dream Creek, and most of the remaining state lands along the Mulchatna River and the Kvichak River. In short, the remaining state lands in the most productive salmon habitat in the world would cease to be state-owned.

The recent Mental Health settlement proposal would convey about 17,000 acres in the Iliamna area to the Mental Health Lands

¹ Villages that use the Nushagak/Mulchatna drainages sued successfully to overturn the election that ratified the boundary. They seek to exclude from the Borough, those lands in the Mulchatna drainage that they assert are within their traditional area.

Trust Corporation. Those lands would have to be managed for income production to the Trust. Again, sale by the Mental Health Trust, charges for use, and other dispositions are likely to result from this income production obligation.

B. Our Position

The Anchorage Fish and Game Advisory Committee opposes in the strongest possible terms SB 217 and HB 259. Both bills would result in further fragmenting ownership of the most important fish and wildlife habitat in Alaska -- the Bristol Bay drainages. Those drainages are the most productive in the world of commercial salmon, bar none. They produce on the order of 30 million sockeye salmon harvested each year with an escapement on the order of 10 million fish. By comparison, the Kenai River produces on the order of 5 million sockeye harvested with an escapement of 400,000 to 700,000. The lands are vitally important for subsistence. They provide world class recreation and support a valuable recreation industry. They contain the third largest caribou herd in Alaska -- the Mulchatna herd that is important for local subsistence and recreational hunting. The lands support the highest brown bear densities in Alaska -- in fact higher than Kodiak and Admiralty Island. They support the greatest rainbow trout fisheries in the world. They are widely recognized as essential to the recreation industry, as fragile due to small population size and late age of reproductivity, and are substantially managed as catch-and-release fisheries.

Presently the major land owners are the State, Native Corporations and the Federal Government. Further fragmentation of ownership -- by adding the University and Mental Health Lands Trust Corporation, and by increasing the Borough entitlement -- only invites problems, such as:

- (a) subdivision and sales of land title, as the pool of potential land sellers expands from the state and Native Corporations to include the University, the Mental Health Trust Corporation and the Borough;
- (b) increased allocation disputes between commercial fishing, subsistence and recreational interests, as more nonresidents come into the area as new property owners, permittees and users; and
- (c) increased regulatory costs for many agencies, such as DEC, ADF&G, DNR, the Boards of Fisheries and Game, as well as various federal agencies.

These problems already exist throughout the Cook Inlet region. They arise in the context of fisheries allocation disputes, game allocation disputes, and regulatory expenses involving fish habitat protection in the context of private

ownership of waterfront and riparian zone land. These problems should absolutely never be created in the Bristol Bay drainages.

The Committee strongly supports protecting existing uses (commercial fishing, subsistence and recreational businesses and use) and strongly oppose both bills as threats to those uses.

The purported purpose of SB 217 is supposedly to support the University. However, not one of the proponents of SB 217 advocates that the income would be substantial. For example, timber lands currently owned by the University contribute about two percent to the cost of the University and when amortized over a timber rotation, they contribute on the order of two-hundredths of one percent of those costs. In short, the bill simply uses (in our opinion abuses) the University as a vehicle for privatizing state land.

With respect to HB 259, we see no justification for the Legislature abrogating the statutory entitlement of the Borough, increasing it by six times, thereby threatening existing uses (subsistence, recreational and commercial), inexorably creating conflicts over allocation, and threatening habitat.

The history of land selection statutes is that they are poor public policy, do not accomplish their goals, and are costly and counter productive. Land available for selection is high-graded. Whatever is best becomes private. That land tends to be river-frontage, riparian zones, floodplain, and other riverain land important for fish, wildlife, subsistence, hunting, fishing and recreation and recreation business. Whatever is worst is left to the public who owned the land in the first place.

Far too frequently, therefore, the government simply ends up buying back what little it can afford. For example, much of our land acquisition budget in Alaska comes from federal taxes on recreational equipment and marine fuels (Dingle-Johnson and Wallop-Breaux accounts) that are partially matched with state monies from the Fish and Game Fund (derived from license sales). Almost without exception that land acquisition budget goes to buy parcels on riverfronts that should never have gone out of public ownership in the first place but went out under federal homestead laws during the territorial days. Those statutes essentially operated as land selection statutes. The fact that the public has to spend state and federal monies to buy back lands demonstrates the fallibility of land selection statutes. Similarly, current expenditures of Exxon Valdez monies for land acquisition is simply a testimonial of how land selection statutes lead to problems that should have been avoided if legislation had been drafted differently in the first place. In short, to the best of our knowledge, Alaska is the only state in the Union still enacting land selection statutes. That they are poor public policy has been historically demonstrated.

Furthermore, given that the State has spent nearly twenty years and untold litigation costs trying to resolve the Mental Health Lands controversy, one can only conclude that these similar dispositions of state land will only create the similar conflicts when public land ceases to be public. We urge you to learn from history, rather than repeat it. Keep Alaska's public lands public.

Sincerely yours,

for Larry Holmes
Laurence (Larry) Holmes
Chairman
Anchorage Fish and Game
Advisory Committee

cc: All Alaska State Senators and Representatives
Harry Noah, Commissioner, DNR
Carl Rosier, Commissioner, ADF&G
Iliamna Fish and Game Advisory Committee
Nushagak Advisory Committee
Dillingham Advisory Committee



Lake and Peninsula Borough

P.O. Box 495

King Salmon, Alaska 99613

Telephone: (907) 246-3421

Fax: (907) 246-6602



March 22, 1994

The Honorable Bill Williams, Chairman
House Resources Committee
House of Representatives
State Capitol, Room 128
Juneau, Alaska 99801-1182

RE: HB 259

Dear Chairman Williams:

This letter is in response to the March 4, 1994 correspondence from the Anchorage Fish and Game Advisory Committee. In short, the Lake and Peninsula Borough (LPB) strongly disagrees with a series of points made by the group. They include:

1. The lands LPB has identified through its planning process are not binding on DNR nor LPB. The Borough still needs to go through the process of selecting lands within DNR guidelines, including an extensive public hearing process. HB 259 only identifies an amount of land, not actual locations.
2. The letter is incorrect in its assertion that certain villages have successfully overturned the election that ratified the Borough boundaries. In fact, the villages are appealing the court decision because it is unfavorable to them. Even if the villages prevail in their appeal (which is very unlikely), a designated amount of acreage for the LPB would not necessarily affect lands in the disputed area.
3. The general statement that lands conveyed to local governments somehow threaten habitat and general public use is absurd. Resource management powers are still retained with lands transferred to a local government. Land conveyances to local governments often contain restrictions such as easements and rights-of-way. The LPB is at least as interested in protecting habitat and providing public access as the State.
4. The argument that land is only protected in state government is not only incorrect, but it reflects a short-sighted policy that does not promote economic development or growth.

The Honorable Bill Williams

March 22, 1994

Page Two

The LPB seeks a positive and cooperative relationship with the State on this issue, and has been pleased by the cooperative and understanding attitude exhibited by DNR and ADF&G staff. However, we consider the correspondence from the Anchorage Fish and Game Advisory Committee to be both uninformed and misleading. We appreciate the opportunity to express our concerns in this regard.

Sincerely,



Glen K. Vernon
Borough Manager

cc: Senator George Jacko
Representative Carl Moses
Lamar Cotten

Cross references. — For statement of purpose of 1978 Act that enacted the provisions from which this chapter derived, see § 1, ch 180, SLA 1978 in the Temporary and Special Acts.

Sec. 29.65.010. Determination of entitlement of boroughs and unified municipalities. (a) The general grant land entitlement of each of the municipalities in this subsection is the amount set out opposite each:

- (1) Municipality of Anchorage — 44,893 acres;
 - (2) City and Borough of Juneau -- 19,584 acres;
 - (3) City and Borough of Sitka — 10,500 acres;
 - (4) Bristol Bay Borough — 2,998 acres;
 - (5) Fairbanks North Star Borough — 112,000 acres;
 - (6) Haines Borough — 2,800 acres;
 - (7) Kenai Peninsula Borough — 155,780 acres;
 - (8) Ketchikan Gateway Borough — 11,593 acres;
 - (9) Kodiak Island Borough — 56,500 acres;
 - (10) Matanuska-Susitna Borough — 355,210 acres;
 - (11) North Slope Borough — 89,850 acres.
- (b) *[Repealed, § 12 ch 34 SLA 1987.]* (§ 17 ch 74 SLA 1985; am § 12 ch 34 SLA 1987)

Sec. 29.65.020. Determination of entitlement for cities. (a) The general grant land entitlement of a city formerly eligible to receive general grant land under the provisions of former AS 29.18.190 and 29.18.200 is 10 percent of the maximum total acreage of vacant, unappropriated, unreserved land in the boundaries of each city at any time between the initial date of eligibility under former AS 29.18.190 and 29.18.200 and January 1, 1988. Within six months after January 1, 1988, the director shall determine the entitlement for each city eligible to receive general grant land under this section and certify that entitlement to the city.

(b) *[Repealed, § 12 ch 34 SLA 1987.]* (§ 17 ch 74 SLA 1985; am §§ 1, 12 ch 34 SLA 1987)

Sec. 29.65.030. Determination of entitlement for newly incorporated municipalities. (a) The general grant land entitlement of a municipality incorporated after July 1, 1978, that does not qualify for an entitlement under AS 29.65.010 or 29.65.020 is 10 percent of the maximum total acreage of vacant, unappropriated, unreserved land within the boundaries of the municipality between the date of its incorporation and two years after that date.

(b) Within two years and six months after the date of incorporation of the municipality, the director shall determine the entitlement of

each municipality eligible to receive general grant land under (a) of this section and certify the entitlement to the municipality. However, the governing body of a city may, by resolution, request the director to certify the entitlement to the city on an expeditious basis. The director shall determine and certify the entitlement within six months after receipt of the resolution.

(c) *[Repealed, § 12 ch 34 SLA 1987.]* (§ 17 ch 74 SLA 1985; am §§ 2, 3, 12 ch 34 SLA 1987; am §§ 1, 2 ch 51 SLA 1991)

Effect of amendments. — The 1991 amendment, effective June 16, 1991, deleted the last two sentences in subsection (a) and added the last two sentences in subsection (b).

Editor's notes. — Section 11, ch. 34, SLA 1987 provides: "The general grant land entitlement authorized for the Northwest Arctic Borough under AS 29.65.030(a), as amended in sec. 2 of this Act, is a partial entitlement for the borough. After completion of the Northwest Area Plan prepared under AS 38.04.065, the governor shall submit to the legislature recommendations for additional general grant land entitlements for the Northwest Arctic Borough consistent with the general grant land entitlement policy developed by the governor. The governor shall also submit recommendations for additional general grant land entitlements for other newly-formed municipalities

consistent with the general grant land entitlement policy developed by the governor."

Section 9, ch. 51, SLA 1991 provides that, notwithstanding subsection (b), as amended by § 2, ch. 51, SLA 1991, "the director of lands may not certify an entitlement to a municipality until after January 2, 1994. Each entitlement for which certification is delayed under this section shall be certified by the director no later than January 1, 1996. The director shall by January 1, 1996, for each municipality incorporated after June 1, 1986, for which an entitlement was certified before June 16, 1991, redetermine and recertify the entitlement in accordance with AS 29.65.030(a), as amended in § 1, ch. 51, SLA 1991."

Under § 10, ch. 51, SLA 1991, the 1991 amendment to subsection (a) is retroactive to June 2, 1986.

Sec. 29.65.040. Status of entitlements. (a) After July 1, 1978, general grant land entitlements provided in former AS 29.18.201 and 29.18.202 are vested property rights that must be fulfilled as provided in AS 29.65.050 or 29.65.080. After January 1, 1988, general grant land entitlements provided in AS 29.65.010 are vested property rights that must be fulfilled as provided in AS 29.65.050 or 29.65.080.

(b) General grant land entitlements provided by AS 29.65.030 are property rights that vest on the date of incorporation of the municipality. The entitlement shall be fulfilled as provided in AS 29.65.050.

(c) Land may be selected or nominated for selection by a municipality to satisfy a general grant land entitlement under former AS 29.18.201 and 29.18.202 at any time before October 1, 1980. Land may be selected or nominated for selection by a municipality to satisfy a general grant land entitlement under AS 29.65.010 at any time before October 1, 1990. However, if a municipal selection or nomination or a part of a municipal selection or nomination is rejected by the director, the municipality may, not later than 90 days after receipt of the rejection or final decision on an appeal filed under AS 29.65.050(d), select additional state land as necessary to satisfy its entitlement.



Lake and Peninsula Borough

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March 23, 1993

The Honorable Carl E. Moses
Alaska House of Representatives
Alaska State Legislature
Capitol Building, Room 204
Juneau, Alaska 99801-1182

RE: Lake and Peninsula Borough/State Land Selection

Dear Representative Moses:

I appreciated very much your recent telephone call and your willingness to take the time to discuss some of the issues facing the Lake and Peninsula Borough. We continue to be optimistic about the possibility of EDA funding for the Egegik Dock, and appreciate whatever you may be able to do to help assure some state funding for the project.

As I think I mentioned to you, the Borough is presently preparing its first comprehensive plan. One segment of the plan deals with the selection of state lands pursuant to the Alaska Statutes, Title 29, Chapter 65. Although AS 29.65.030 provides for the determination of entitlement for newly incorporated municipalities, it is our understanding that we may be able to receive our land entitlement under an amendment to AS 29.65.010. Accordingly, I have prepared and enclosed a bill for possible introduction to the Legislature that would amend AS 29.65.010 by adding an entitlement to the Lake and Peninsula Borough of 187,000 acres.

The Borough Planning Commission and Assembly have spent many hours reviewing land status maps, and have identified the lands that the Borough would like to have considered for selection. Very little land within the Borough is presently classified as Vacant, Unappropriated, and Unreserved (VUU). We have been encouraged by the director of the Division of State Lands, however, to identify those state lands that the Borough would like to select, regardless of status, and request re-classification.

Land parcels totaling 187,000 acres have been identified for possible selection. In order to pursue the selection process, the Borough needs to either have the Legislature provide for an entitlement under AS 29.65.010 or determine

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The Honorable Carl E. Moses
March 23, 1993
Page Two

an entitlement under the formula set out in AS 29.65.030. The formula in AS 29.65.030 is very restrictive, and does not provide for a selection considered to be adequate by the Borough Planning Commission and Assembly. We understand that Representative Eileen Maclean is sponsoring a bill to amend AS 29.65.030, and that her amendment would provide for a more liberal entitlement. We have not seen the bill, but we would certainly support such an amendment.

Nevertheless, if it is possible, we would prefer to use the more direct approach to determining the Lake and Peninsula Borough's entitlement, and simply amend AS 29.65.010. Would you be willing to sponsor such a bill? It would probably be appropriate to ask Representative Nicholia to co-sponsor the bill, but we will wait to hear back from you before we approach her. Would it also be advisable to ask Senators Jacko and Lincoln to introduce an identical bill in the Senate?

I look forward to discussing this matter with you or your staff once you have had a chance to review it. Thank you for the North Pole satellite photos. We have distributed them as you requested.

Sincerely,



Glen K. Vernon
Borough Manager

Enclosure