

HB

352

HOUSE COMMITTEE REPORT

(9)

Date Referred: February 15, 1994

FURTHER REFERRALS:

Finance

Date of Committee Action: 3/18/94
 The RESOURCES Committee considered:

SSHB 352

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 352

SUBDIVISION PLAT APPROVAL: UNORGANIZED BOR

"An Act relating to the approval of subdivision plats in areas outside organized boroughs, in the unorganized borough outside of cities, and in the third class boroughs; and relating to the definitions of 'street' and 'subdivision'."

RECOMMENDATIONS:

be replaced with CS SS HB 352 (RES) 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) DNR / 2-15-94

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Bill Anderson</i>	<input checked="" type="checkbox"/>	<i>Don Bledsoe</i>		<input checked="" type="checkbox"/>	
<i>Jannette James</i>	<input checked="" type="checkbox"/>	<i>John Blunt</i>		<input checked="" type="checkbox"/>	
		<i>Bob [unclear]</i>		<input checked="" type="checkbox"/>	
		<i>Casey [unclear]</i>		<input checked="" type="checkbox"/>	
		<i>W. F. Williams</i>		<input checked="" type="checkbox"/>	

W. F. Williams
 CHAIRMAN'S SIGNATURE

Alaska State Legislature

REPRESENTATIVE
JEANNETTE JAMES

P O. Box 56622
North Pole, Alaska 99705
(907) 488-0862

House District 34



White in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-3748

House Of Representatives

Sponsor Substitute for HB 352
January 31, 1994

SPONSOR STATEMENT

Currently no legal authority reviews plats in the unorganized boroughs for compliance with State law. This means that there is no agency review of access to each lot, the outcome is that there are landlocked lots created. Currently "paper plats" are allowed to be recorded without being surveyed, HB 352 corrects this oversight. This legislation requires the Department of Natural Resources to review plats for compliance with State law.

There are several definitions of Street and Subdivision in various statutes, this legislation defines them as requested by the Department of Natural Resources.

8-LS1472R
Luckhaupt
3/17/94

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 352()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE JAMES

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the approval, change, or vacation of subdivision plats in
2 areas outside organized boroughs, in the unorganized borough outside of cities,
3 and in the third class boroughs; and relating to the definitions of 'street' and
4 'subdivision'."

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

6 * Section 1. AS 34.65.100 is amended by adding a new paragraph to read:

7 (6) "subdivision" has the meaning given in AS 40.15.290.

8 * Sec. 2. AS 38.04.910 is amended by adding a new paragraph to read:

9 (13) "subdivision"

10 (A) means the division of a tract or parcel of land into two or
11 more lots or by the creation of public access;

12 (B) does not include cadastral plats, cadastral control plats,
13 open-to-entry plats, remote parcel plats created by or on behalf of the state
14 regardless of whether these plats include easements or other public dedications,

1 or plats prepared by the Department of Transportation and Public Facilities for
2 the purpose of transferring leasehold interests at state-owned airports or
3 creating or adjusting right-of-way boundaries.

4 * Sec. 3. AS 40.15.070 is amended to read:

5 Sec. 40.15.070. PLATTING AUTHORITY. If land proposed to be subdivided
6 or dedicated is situated within a first or second class borough, the proposed subdivision
7 or dedication shall be submitted to the borough planning commission for approval. If
8 the land is situated within a city in the unorganized borough or the third class borough,
9 the proposed subdivision or dedication shall be submitted to the city planning
10 commission for approval. The borough planning commission is the platting authority
11 for the first or second class borough, the city planning commission is the platting
12 authority for the city, and the Department of Natural Resources is the platting authority
13 in the remaining areas of the state and third class borough [FOR THE CHANGE OR
14 VACATION OF EXISTING PLATS OR A PORTION OF SUCH PLATS,
15 AS PROVIDED IN AS 40.15.075]. If the borough or the city does not have a
16 planning commission, the borough assembly or the city governing body, respectively,
17 is the platting authority and the proposed subdivision or dedication shall be submitted
18 to it. A subdivision may not be filed and recorded until it is approved by the platting
19 authority.

20 * Sec. 4. AS 40.15.075 is amended to read:

21 Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH AND
22 THIRD CLASS BOROUGHES. The Department of Natural Resources is the platting
23 authority in the area outside organized boroughs and outside cities in the unorganized
24 borough and in the third class borough. The department may not disapprove a new
25 subdivision plat except for failure (1) to comply with applicable state law; or (2)
26 of the plat to provide for, or otherwise specifv. access to each lot, site, or other
27 division of the subdivision. The department when [FOR ONLY THE PURPOSES
28 OF] hearing and acting on petitions for the change or vacation of plats [AND] shall
29 execute this function substantially in conformity with the provisions of AS 29.40.130
30 - 29.40.160. Costs of publication and mailing authorized in AS 29.40.130 shall be paid
31 to the department [DEPARTMENT OF NATURAL RESOURCES] by the petitioner.

1 The department [DEPARTMENT OF NATURAL RESOURCES] shall adopt
2 reasonable regulations governing the exercise of the authority conferred by this section
3 and may adopt regulations establishing fees for the services provided under this
4 section. Fees established under this section shall reflect the administrative cost
5 to the department and must include costs for personal, contractual, and material
6 services. A fee established under this section is in addition to other charges
7 authorized by this section.

8 * Sec. 5. AS 40.15.290 is amended to read:

9 Sec. 40.15.290. DEFINITIONS. In this chapter,

10 (1) "street" means an access way in common use including all of the
11 land lying within a dedicated right-of-way as delineated on a plat showing streets,
12 whether improved or unimproved [INCLUDES STREETS, AVENUES,
13 BOULEVARDS, ROADS, LANES, ALLEYS, AND OTHER WAYS];

14 (2) "subdivision"

15 (A) means the division of a tract or parcel of land into two or
16 more lots by the landowner or, except for land owned by corporations
17 organized under P.L. 92 - 203, by the creation of public access [, SITES,
18 OR OTHER DIVISIONS FOR THE PURPOSE, WHETHER IMMEDIATE OR
19 FUTURE, OF SALE OR BUILDING DEVELOPMENT, AND INCLUDES
20 RESUBDIVISION AND, WHEN APPROPRIATE TO THE CONTEXT,
21 RELATES TO THE PROCESS OF SUBDIVIDING OR TO THE LAND OR
22 AREAS SUBDIVIDED];

23 (B) does not include cadastral plats, cadastral control plats,
24 open-to-entry plats, [OR] remote parcel plats created by, or on behalf of the
25 state, or corporations organized under P.L. 92 - 203, regardless of whether
26 these plats include easements or other public dedications, or plats prepared
27 by the Department of Transportation and Public Facilities for the purpose
28 of transferring leasehold interests at state-owned airports or creating or
29 adjusting right-of-way boundaries.

30 * Sec. 6. AS 46.03.900 is amended by adding a new paragraph to read:

31 (36) "subdivision" has the meaning given in AS 40.15.290.



*Department of Transportation
and Public Facilities*

POSITION PAPER

BILL NO: HB 352

APPROVED: 

TITLE: Subdivision Plat Approval:
Unorganized Boroughs

DATE: February 9, 1994

In principal, we support the need for a platting authority in the unorganized borough, but we believe this bill will be detrimental to certain activities we perform as a public agency. Specifically, the application of subdivision procedures to (1) plats solely used to establish right-of-way boundaries, and (2) to lots used to convey leasehold interests on airports is unnecessary and cumbersome.

Platting Procedures and Right-of-Way Acquisitions

The general process of subdivision rules simply does not work well in the context of right-of-way plats. For example, a typical subdivision is done to create lots, voluntarily with the landowner's consent. In contrast, right-of-way acquisitions are often accomplished under condemnation procedures, making such routinely required tasks as surveying, platting, boundary monumentation, signature approvals and recording, prior to conveyance, exceedingly difficult or impossible.

In recent years the various platting authorities in the organized borough (under the authorities of AS 09.55.275, 35.30.020, and 40.15.070) have required that their platting ordinances fully apply to our right-of-way acquisitions. Fortunately, most of these jurisdictions have discovered how atypical right-of-way plats really are, and in response have amended their ordinances to specifically address right-of-way platting. In general, the amended ordinances validated the long-standing procedures we had been following prior to local enforcement. One borough in particular, has not taken this relaxed approach, to the detriment of project advancement in their jurisdiction.

In many other states, state law specifically exempts right-of-way plats from the oversight of local platting authorities, in favor of a general mandate, to conduct such platting with regard to recording plat documents, and appropriate boundary monumentation. Such an exemption would be the best solution to our circumstances.

Moreover, the new definition of "subdivision" contained in Section 3 further ensnares our activities. In a recent Fairbanks project, a land owner objecting to a condemnation action challenged the state, in part, due to a claim that the state failed to comply with AS 40.15.200. The judge specifically ruled that our subdivision plat was exempt based on the existing definition of "a tract or parcel of land into two or more lots". By adding the new

For Further Information contact J.K. Ginger Johnson at 465-3904.

BILL NO: HB 352

TITLE: Subdivision Plat Approval: Unorganized Boroughs

DATE: February 9, 1994

clause "or by creation of public access" to the definition, we could lose future legal challenges. It is important to again point out the impracticality of requiring that we subdivide a piece of property, prior to conveyance, that is being purchased involuntarily.

Another feature of typical subdivision procedures is the time involved to provide public notice, hold hearings and proceed through multiple-step approvals. Yet our transportation projects are already subject to other public hearing and public notice requirements, making the subdivision public reviews tedious, expensive and a cause of delay.

We would urge that the legislation be amended to generally exempt right-of-way plats in favor of existing practices used by the department.

Leasehold Interest Lots on State Airports

Historically, when leasing lots on state-owned airports we have retained unallocated land until a leasing demand arises. Then, based upon the requirements of the lessee, the department establishes the lot size, access ways, and other requirements. In earlier versions of this bill (such as SB 81 in the previous Legislature) we successfully convinced the sponsor to insert language which declared that subdivision procedures do not apply to maps prepared for the purpose of transferring a leasehold interest.

We believe that a similar provision is beneficial to the important business development functions that airport leases play, and that the requirements of subdivision reviews, surveying, monumentation and recording, do not serve the public interest in these circumstances.

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
FAX: (907) 465-3886

January 28, 1994

The Honorable Jeannette James
Alaska State House of Representatives
State Capitol
Juneau, AK 99801-1182

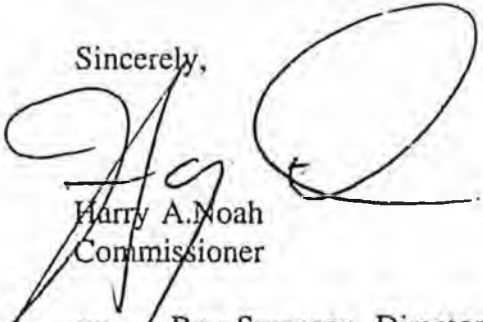
Dear Representative James:

The Department of Natural Resources supports the Sponser Substitute for House Bill 352, which includes the addition of the definitions of "streets" and "subdivisions." We also understand that the Alaska Society of Professional Surveyors also supports HB 352. They specifically requested that the bill include the definitions of "streets" and "subdivisions" as in the Sponsor Substitute. These two definitions are needed to establish a common definition of streets and subdivisions for use by all state agencies that are involved in permitting and approval of subdivisions. The lack of a common definition has made it difficult for surveyors to meet the requirements of all state agencies.

This bill will greatly benefit anyone purchasing or having property in the unorganized borough or third class boroughs. There is more and more subdivision activity in our outlying areas. The passage of this bill will ensure that land offered for sale in these areas meets the applicable laws, reduces the chances of clouded title, ensures proper location of sale parcels, and ensures that all subdivided parcels have legal access.

Thank you for sponsoring this bill. If the Department can be of assistance, please contact Ron Swanson at 762-2692.

Sincerely,



Harry A. Noah
Commissioner

cc: Ron Swanson, Director, Division of Land

james-hb.352

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSSSHB352 (CRA)

Revision Date: 11-Feb-94 Dept Affected: Natural Resources
 Title: Establishing DNR as Plotting Authority in BRU: Resource Development
certain areas of the State Component: Land Development
 Sponsor: Representative James
 Requestor: House Resources Component Serial No. 431

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	66.0	66.0	66.0	66.0	66.0	66.0
TRAVEL						
CONTRACTUAL	10.0					
SUPPLIES	4.0	4.0	4.0	4.0	4.0	4.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	80.0	70.0	70.0	70.0	70.0	70.0
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	80.0	70.0	70.0	70.0	70.0	70.0
1006 GF/MHTIA						
Other						
TOTAL	80.0	70.0	70.0	70.0	70.0	70.0

Estimate of any current year (FY94) cost: \$ _____

POSITIONS

FULL-TIME	1	1	1	1	1	1
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

See attached analysis page.

Prepared by: Ron Swanson, Director Phone: 762-2692
 Division: Land Date: 11-Feb-94
 Approved by Commissioner: Harry A. Noah Date: 11-Feb-94
 Agency: Natural Resources

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

ATTACHMENT A

BACK UP FOR FISCAL NOTE FY 95

PERSONAL SERVICES:

Anticipate 250 subdivision plats submitted for review per year.

Preliminary reviews will be performed by CSA II, at \$31.41 per hour.

Estimated review time will be 7.5 hours per plat.

250 plats X 7.5hrs/plat X \$31.41/hr = \$58,893.00 \$58,893.00

Final reviews and approval will be performed by CS I, at \$39.58 per hour.

Estimated review and approval time will be 0.75 hours per plat.

250 plats X 0.75hrs/plat X \$39.58/hr = \$7,421.00 \$ 7,421.00

TOTAL PERSONAL SERVICES \$66,314.00

CONTRACTUAL:

The State must purchase existing land records, survey plats and field survey notes from BLM and the recording offices to carry out the functions required by this bill. The one time purchase cost for microfiche copys of survey plats and field notes to cover the State is \$10,000.00. Document purchases from the recording office will be covered through the supply budget. _____

TOTAL CONTRACTUAL \$10,000.00

SUPPLY:

The supply budget will consist of phone calls, copy purchases from the Recorders Office, office supplies and space rent. Estimate of \$4,000.00. _____

TOTAL SUPPLY \$ 4,000.00

Analysis

This bill will greatly benefit anyone purchasing property in the unorganized borough or third class boroughs. There is more and more subdivision activity in our outlying areas. The passage of this bill will ensure that land offered for sale meets the applicable laws, reduces the chances of clouded title, ensures proper location of parcels, and ensures that all subdivided parcels have legal access.

The committee substitute (House Community and Regional Affairs) added a section that authorizes the department to "adopt regulations establishing fees for the services provided." Fees are to include costs for personal, contractual, and material services. Based on this amendment this fiscal note reflects a change from general fund to general fund/program receipt funding.

We estimate that the DNR Survey Unit's work load will increase by approximately 250 plat reviews per year. Attached is a cost breakdown of dealing with this additional work.

We currently have existing regulations that should cover the costs of this program. These regulations cover both preliminary, final plat reviews and recording fees. These costs are \$200.00 per plat, with an additional charge of \$50.00 per parcel. At an average cost of \$350.00 per review, \$87,500.00 would be generated which is higher than our requested program receipt funding level of \$80,000.00. These plat review fees are comparable with existing borough platting fees.

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 21, 1994

FURTHER REFERRALS:

Resources
Finance

Date of Committee Action: 2-10-94

The COMMUNITY AND REGIONAL AFFAIRS Committee considered:

SSHB 352

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 352

SUBDIVISION PLAT APPROVAL: UNORGANIZED BOR

"An Act relating to the approval of subdivision plats in areas outside organized boroughs, in the unorganized borough outside of cities, and in the third class boroughs; and relating to the definitions of 'street' and 'subdivision'."

CSSSB 352

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: _____ (Dep/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note DNR

zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Jim Sanders</i>	✓	<i>E. J. Willis</i>		X	
<i>Don Bunde</i>	✓	<i>W. K. Williams</i>		✓	
<i>[Signature]</i>	✓				
<i>Harley Olberg</i>	✓				

Harley Olberg
CHAIRMAN'S SIGNATURE



One Sealaska Plaza
Suite 400
Juneau, Alaska 99801-1276
(907) 586-1512
FAX (907) 586-9214

March 10, 1994

Representative Bill Williams
Chairman, House Resources
State Capitol, Room 128
Juneau, Alaska 99801-1182

Re: House Bill 352

Dear Representative Williams:

Thank you for the opportunity to provide Sealaska Corporation's comments on the current version of House Bill 352 (CSSS HB 352). From Sealaska's perspective Section 3 of House Bill 352 modifies the definitions of "street" and "subdivision" found in AS 40.15. 290. The modification to the term "subdivision" is the most problematic for Native corporations. As discussed below, under a broad interpretation of the proposed definition, any parcel of land that is divided into two or more parcels by the creation of a public access would come within the definition of "subdivision" and within the purview of DNR's platting authority and the local government's taxing authority.

In a recent Alaska Supreme court decision, Kenai Peninsula Borough v. Cook Inlet Region, Inc., 807 P.2d 487 (Alaska 1991), the court intimated that the subdivision of land may bring that land within the definition of "developed" for tax purposes.

It is our view that AS 29.45.030 is consistent with ANCSA with respect to the meaning of developed. The definition of developed in that statute is broad enough to

Representative Bill Williams

March 10, 1994

Page -2-

include subdivided land which is ready for sale. Subdividing is legally a purposeful modification of property, for it enables separate parcels of the property to be sold. Similarly, as a sale of property is a use, a subdivision which suffices to permit sales effects a gainful and productive condition.

Id. 807 P.2d at 498.

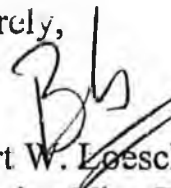
If this bill passes, vast areas of ANCSA land could be considered subdivided because many areas are bisected by 17(b) easements, public accessways. This amendment, in its broadest terms and possible interpretation, if adopted, will cause problems for the Native corporations. They may find their lands, which were previously undeveloped, to be now subdivided and perhaps "developed." As such, they would be automatically subject to the platting authority of DNR, and possible taxation, even though the owners have done nothing to develop the land, nor derived any economic benefit from it. To avoid this situation, Sealaska Corporation proposes that the enclosed draft committee substitute be advanced. This proposal exempts lands conveyed to Native corporations from the broad definition of "subdivision." Specifically, Sealaska proposes the addition of "by the landowner or, except for lands owned by corporations organized under Public law 92-203" to the new text in Sec. 3(2)(A), and the addition of "or corporations organized under Public Law 92-203," in Sec. 3(2)(B).

I understand that this bill is presently in House Resources but has not been scheduled for a hearing at this time. Once this bill has been scheduled for a hearing, Sealaska Corporation is prepared to offer testimony at that hearing as well as provide any other support that your office needs.

Representative Bill Williams
March 10, 1994
Page -3-

Thank you again for the opportunity to provide you with Sealaska Corporation's comments on CSSSHB 352. If there are any questions, please contact me.

Sincerely,



Robert W. Loescher
Executive Vice President
Natural Resources

RWL/SFS/amt

Enclosure: Proposed draft of CSSSHB 352(RES)

cc/enc: Leo Barlow
Bruce Keizer
Rick Harris
Ernie Hillman
Senator Randy Phillips
Senator Loren Leman
Senator Georgianna Lincoln
Senator Fred Zharoff
Senator Jim Duncan
Senator Robin Taylor
Senator Al Adams
Representative Harley Olberg
Representative Jerry Sanders
Representative Cynthia Toohey
Representative Con Bunde
Representative John Davies
Representative Ed Willis
Representative Bill Hudson
Representative Jerry Mackie
Representative Eileen Maclean
Commissioner Harry Noah
Sam Kito
AFN Land Managers
Julie Kitka
SEPA

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 352 (RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE WILLIAMS BY REQUEST

Introduced: _____

Referred: _____

Sponsor(s): Representative Williams

A BILL

FOR AN ACT ENTITLED

"An Act relating to the approval, change, or vacation of subdivision plats in areas outside organized boroughs, in the unorganized borough outside of cities, and in the third class boroughs; and relating to the definitions of 'street' and 'subdivision'."

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

*** Section 1.** AS 40.15.070 is amended to read:

Sec. 40.15.070. PLATTING AUTHORITY. If land proposed to be subdivided or dedicated is situated within a first or second class borough, the proposed subdivision or dedication shall be submitted to the borough planning commission for approval. If the land is situated within a city in the unorganized borough or the third class borough, the proposed subdivision or dedication shall be submitted to the city planning commission for approval. The borough planning commission is the platting authority for the first or second class borough, the city planning commission is the platting authority for the city, and the Department of Natural Resources is the platting authority in the remaining areas of the state and third class borough [FOR THE CHANGE OR VACATION OF EXISTING PLATS OR A PORTION OF SUCH PLATS, AS PROVIDED IN AS 40.15.075]. If the borough or the city does not have a planning commission, the borough assembly or the city governing body, respectively, is the platting authority and the proposed subdivision or dedication shall be submitted to it. A subdivision may not be filed and recorded until it is approved by the platting authority.

* **Sec. 2.** AS 40.15.075 is amended to read:

Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH AND THIRD CLASS BOROUGH. The Department of Natural Resources is the platting authority in the area outside organized boroughs and outside cities in the unorganized borough and in the third class borough. The Department of Natural Resources may not disapprove a new subdivision plat except for failure (1) to comply with applicable state law; or (2) of the plat to provide for, or otherwise specify, access to each lot, site, or other division of the subdivision. The Department of Natural Resources when [FOR ONLY THE PURPOSES OF] hearing and acting on petitions for the change or vacation of plats [AND] shall execute this function substantially in conformity with the provisions of AS 29.40.130 - 29.40.160. Costs of publication and mailing authorized in AS 29.40.130 shall be paid to the Department of Natural Resources by the petitioner. The Department of Natural Resources shall adopt reasonable regulations governing the exercise of the authority conferred by this section and may adopt regulations establishing fees for the services provided under this section. Fees established under this section shall reflect the administrative cost to the department and must include costs for personal, contractual, and material services. A fee established under this section is in addition to other charges authorized by this section.

* **Sec. 3.** AS 40.15.290 is amended to read:

Sec. 40.15.290. DEFINITIONS. In this chapter,

(1) "street" means an access way in common use including all of the land lying within a dedicated right-of-way as delineated on a plat showing streets, whether improved or unimproved [INCLUDES STREETS, AVENUES, BOULEVARDS, ROADS, LANES, ALLEYS, AND OTHER WAYS];

(2) "subdivision"

(A) means the division of a tract or parcel of land into two or more lots by the landowner or, except for lands owned by corporations organized under Public Law 92-203, by the creation of public access [, SITES, OR OTHER DIVISIONS FOR THE PURPOSE, WHETHER IMMEDIATE OR FUTURE, OF SALE OR BUILDING DEVELOPMENT, AND INCLUDES RESUBDIVISION AND, WHEN APPROPRIATE TO THE CONTEXT, RELATES TO THE PROCESS OF SUBDIVIDING OR TO THE LAND OR AREAS SUBDIVIDED];

(B) does not include cadastral plats, cadastral control plats, open-to-entry plats, [OR] remote parcel plats created by or on behalf of the state, or

corporations organized under Public Law 92-203, regardless of whether these plats include easements or other public dedications, or plats prepared by the Department of Transportation and Public Facilities for the purpose of transferring leasehold interests at state-owned airports or creating or adjusting right-of-way boundaries.

COOK INLET REGION, INC.

March 2, 1994

Mr. William K. Williams, Chairman
House Resources Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

SUBJECT: House Bill 352

Dear Mr. Williams:

It is my understanding that CS for Sponsor Substitute for House Bill 352 (CRA) has been referred to the House Resources Committee. It is my further understanding that HB 352 has not, as of this date, been scheduled for a hearing in your committee.

Initially SB 211 was incorporated into HB 352 via a sponsor amendment. The Community and Regional Affairs Committee further amended HB 352 to exempt plats from the definitions of "subdivision" that are prepared by the Department of Transportation and Public Facilities for the purpose of transferring leasehold interests at State-owned airports or creating or adjusting right-of-way boundaries.

The bill, as currently drafted, has the potential for creating serious problems for ANCSA corporations. Federal law defines "developed" land as "a purposeful modification of land for its original state that effectuates a condition of gainful and productive present use without further substantial modification".

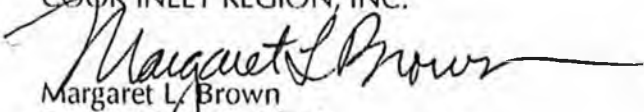
Proposed language in Section 3(2)(A) of HB 352 contradicts Section 907 of ANILCA, as amended, (43 U.S.C. 1636) subsections (B)(2)(i) where it is specifically noted that construction of roads, surveying, providing utilities, or other similar actions, which are normally considered to be component parts of the development process shall not constitute a developed state.

If our analysis is correct, the passage of HB 352 as currently drafted is in conflict with federal law relative to ANCSA lands. Therefore, we request that the bill not be granted a hearing until the issue can be more thoroughly reviewed.

Thank you for your consideration in this matter. Please feel free to contact Mr. Lawrence Kimball, whom I believe you know, of my staff to further discuss this issue.

Sincerely,

COOK INLET REGION, INC.


Margaret L. Brown
Senior Vice President

1/4026



HOUSE RESOURCES COMMITTEE

DATE: 3-18-94

PLACE: Capitol, Room 124

SUBJECT OF MEETING:
 HB 446 - Environmental Conservation Agreements
 HB 462 - Mining Requirements, Recording/Labor/Size
 HB 352 - Subdivision Plat Approval: Unorganized Bor.

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Mead Treadwell	ADEC	410 Willoughby Ave, Ste 103/Anchorage	99801	364 3430	465 5665	(Y) N	446.
JERRY GALLAGHER	DWR				465-2400	(Y) N	462
Don Swanson	DWR				262-2692	(Y) N	352
Rich Harris	SEMASIA	ONE SEMASIA PLAZA SUITE 400	99801	586-1512 786-3909	586-1512	(Y) N	352
MARY A. NARDACE	AMA	P.O. Box 21211 SUNBAU 99802			586-3340	(Y) N	462
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	