

HB

79

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: February 13, 1995

FURTHER REFERRALS:

Date of Committee Action: 3/3/95

The FINANCE Committee considered:

HB 79

HOUSE BILL NO. 79

MUNICIPAL LAND ERROR CORRECTIONS

"An Act allowing the Department of Natural Resources to quitclaim land or interests in land, including submerged or shore land, to a municipality to correct errors or omissions of the municipality when inequitable detriment would result to a person due to that person's reliance upon the errors or omissions of the municipality."

recommends it be replaced with the following committee substitute CS HB 79 (FIN) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) DCRA 2/3/95
DNR 2/3/95

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Sean Parnell</i>	Parnell	X			
<i>Terry Martin</i>	Martin			X	
<i>Bruce Gussendorf</i>	Gussendorf	X			
<i>Chris Kohring</i>	Kohring	X			
<i>Ray Brown</i>	Brown			X	
<i>Pat Kelly</i>	Kelly	✓			
<i>Gene Therrault</i>	Therrault			X	
<i>Ed Mulderz</i>	MULDERZ			X	
<i>Richard Hanley</i>	Hanley			X	
<i>Richard Foster</i>	FOSTER	X			

CO-CHAIR'S SIGNATURE

Mark Hanley
Hanley

Richard Foster
FOSTER

FISCAL NOTE

No. L
 Bill Version: HB 79
 (H) Publish Date: 2/3/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: Original Dept Affected: Natural Resources
 Title: An Act allowing the Department of Natural Resources to quitclaim land or interests in land, including... BRU: Resource Development
 Sponsor: Representative Mackie Component: Land Development
 Requestor: _____ Component Serial No. 431

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY96	FY97	FY98	FY99	FY00	FY01
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 (FY95) cost: \$ None

POSITIONS	FY96	FY97	FY98	FY99	FY00	FY01
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)

This legislation would authorize the department to convey lands to the City of Skagway that they inadvertently subdivided and sold as subdivision lots on filled shore lands within the Skagway River. Conveyance of these lands will eliminate a cloud of title to the private property owners. This legislation will automatically be repealed in 1998 after the conveyance to Skagway has been completed. There are no known public interest values that would be impacted by this conveyance.

There will be no fiscal impact to the department associated with passage of this legislation. The cost to convey land to the City of Skagway will be partially absorbed by the department as part of the municipal entitlement conveyance program work, or paid by the City of Skagway. There is no anticipated loss of revenue associated with this legislation as the lands to be conveyed to Skagway are not currently under lease agreements.

Amendments to this bill and HB20 could be combined as they are very similar, but address different tide and submerged land conveyance issues.

Prepared by: Ron Swanson, Director Phone: 762-2692
 Division: Land Date: 25-Jan-95
 Approved by Commissioner: Nico Sue, for M. Luther and Act. Comm. Date: 1/25/95
 Agency: Natural Resources

FISCAL NOTE

No. 2

Bill Version: HB 79

(H) Publish Date: 2/3/95

Revision Date: January 26, 1995 Dept. Affected: Community & Regional Affairs
 Title: An Act allowing the Department of Natural Resources to quitclaim land or... BRU: none
 Component: none
 Sponsor: Representative Mackie
 Requestor: House C & RA Committee COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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	0.0	0.0	0.0	0.0	0.0	0.0

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)

This legislation would give the Department of Natural Resources (DNR) the authority to quitclaim land or interests in land to a municipality to correct certain errors or omissions of the municipality. There is no fiscal impact on DCRA from this bill.

Prepared by: Remond Henderson, Director *Remond Henderson* Phone: 465-4708
 Division: Division of Administrative Services Date: 1/26/95
 Approved by Commissioner: *Mike Austin* Date: 1/26/95
 Agency: Community & Regional Affairs

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3/3/95

Distributed By
Mackin

Attachment # 3

March 3, 1995
House Finance Committee

adopted

AMENDMENT 1

To: HB 79

Page 4, line 3: Delete "1998" and insert "1997".

CITY OF SKAGWAY, ALASKA

P.O. Box 415

Skagway, Alaska 99840

January 26, 1995

*Representative Alan Austerman, Co-Chair and
Representative Ivan Ivan, Co-Chair,
House Community and Regional Affairs Committee,
House of Representatives,
Juneau, Alaska 99801*

RE: HOUSE BILL No. 79

Dear Rep. Austerman and Rep Ivan:

I would like to take this opportunity to encourage you and the members of the House Community and Regional Affairs Committee to favorably consider House Bill No. 79.

This legislation, when adopted, will assist the City of Skagway in resolving a land ownership question which has been identified two years ago but which has not been able to be resolved because current law does not provide a workable solution.

The current situation is worsened because individuals in Skagway are affected by this dead-end and I believe the legislation as proposed will allow the municipality to take an active part in resolving any questions of land title that we now know about, or that may arise in the "riverine" area in the future.

Thank you for your attention.

Sincerely,



James R. Filip,

City Manager

cc: Representative Jerry Mackie

Mr. Andrew W. Peckovich, DNR

CITY OF SKAGWAY, Y

GATEWAY TO THE GOLD RUSH OF '98"

P. O. BOX 415 SKAGWAY, ALASKA 99840

(PHONE) 907-983-2297

(FAX) 907-983-2151

January 13, 1994

Representative Jerry Mackie
Room 602, Court
State Capitol
Juneau 99801-1182

Dear Jerry,

I would like to take this opportunity to request your assistance in supporting legislation which would correct a land use problem in Skagway.

The details of the situation focus on a section of the community which was flooded by the Skagway River on a regular basis then protected by the construction of a dike approximately 50-years ago. The newly dried out land was subdivided as an extension of the existing street and lot grid and sold or used for community purposes.

The problem that has resulted today from these earlier efforts involves reluctance on the part of a title insurance company to provide coverage on a lot in the reclaimed zone.

Dave Gray has been working diligently with the city in arriving at a solution to this problem that will serve all parties well.

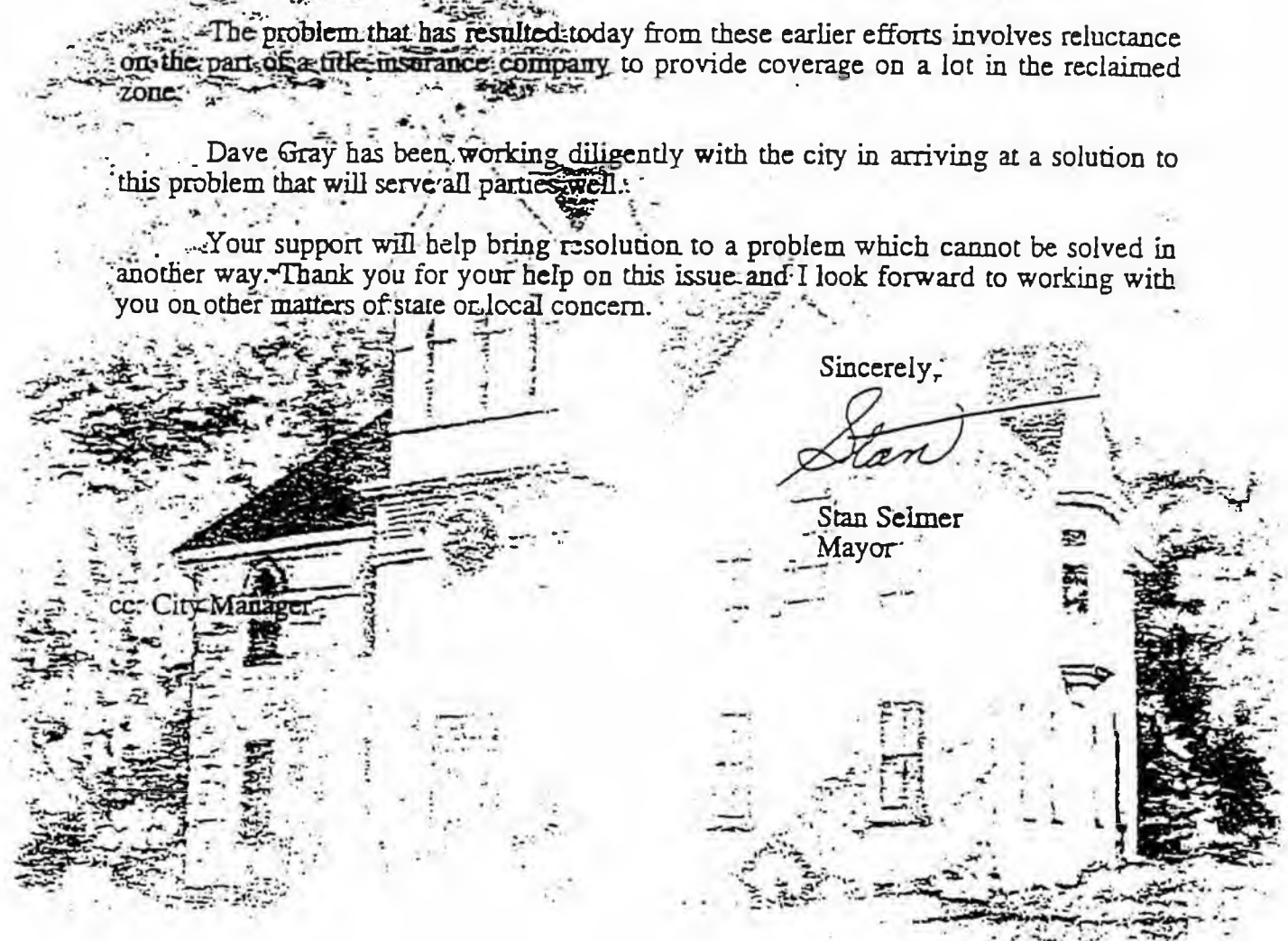
Your support will help bring resolution to a problem which cannot be solved in another way. Thank you for your help on this issue and I look forward to working with you on other matters of state or local concern.

Sincerely,



Stan Seimer
Mayor

cc: City Manager



DEPARTMENT OF NATURAL RESOURCES

SOUTHEAST REGIONAL OFFICE

DIVISION OF LAND

400 WILLOUGHBY AVENUE, SUITE 400
JUNEAU, ALASKA 99801
PHONE: (907) 465-3400
FAX: (907) 586-2954

January 7, 1993

Meg Hayes
c/o Law Offices of James B. Gottstein
406 G Street, Suite 206
Anchorage, Alaska 99501

Re: City of Skagway Title Problem


Dear Meg:

Sorry for the delay, but enclosed please find the map indicating the lands at Skagway that are involved in the title problem which we would like to have released from the list of PSL lands and convey to the City of Skagway. I have also attached a copy of the draft legislation that Representative Mackie may want to advance.

The heavy black line on the attached City of Skagway Base Map represents the eastern boundary of the Skagway River (original meander) in the problem area and the western boundary, in that area, of the original townsite prior to construction of the dike by the Navy in the 40's. The low land behind the dike was later filled, and some of the newly elevated area subdivided and deeded by the city to the respective purchasers. A few of the newly created lots are also in use by the City for public purposes, including the school. To add to the problem, although there are deeds and a base map depicting the new lots, the inclusion of this land into the original townsite subdivision as depicted on the Skagway Base Map is not covered by a proper plat (no recorded plat). Please let me know if you need more. We would like to obtain the release of all lands, including platted right-of-ways, e.g Alaska Street west of the dike. Any suggestions?

I would recommend dropping from the PSL all lands east of the dike abutting the eastern boundary of the Skagway River lying south of the northern boundary of 23rd Street, and west of the original townsite survey.

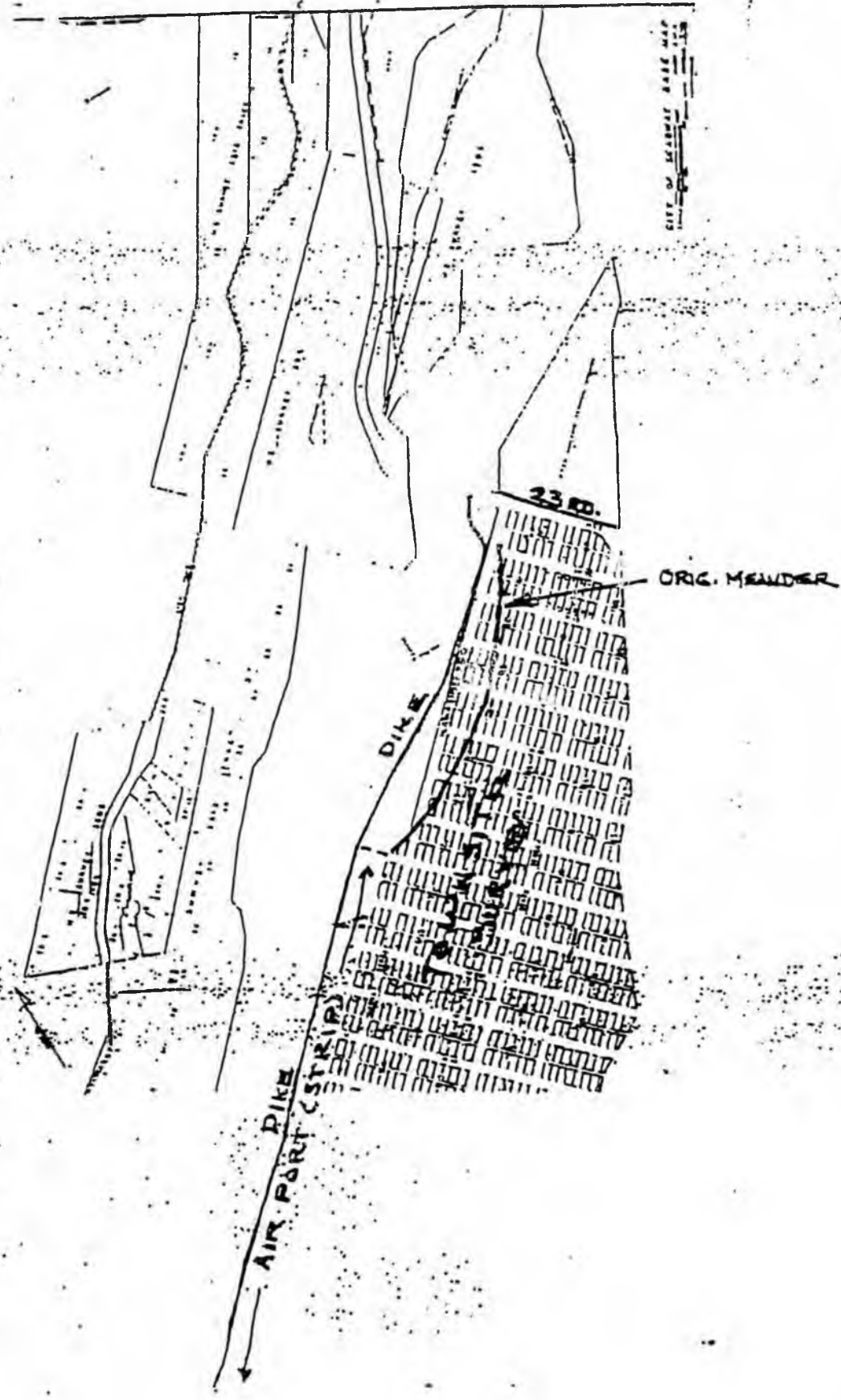
Sincerely,


Andrew W. Pekovich
Manager, Southeast Region

Enclosure: Marked Up Skagway Base Line Map

CC: Jim Filip, City of Skagway w/attach.
Dave Gray, Representative Mackie's Office w/attach.
Salli Salughter, DNR PIO w/attach.
Bruce Phelps, DOL, Anch. w/attach.

*Review final S. Title
Anchorage meeting
K. H.*





Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

Phone: 907-463-3366

Fax: 907-463-3312

The Alaska Environmental Lobby has some reservations concerning HB 79, Municipal Land Error Corrections:

HB 79 requires the commissioner of DNR to convey land to a municipality if that municipality had, through "errors or omissions," caused harm or injury to a third party who had relied on the faulty information. In other words, if a developer were to unknowingly use state land in a project because of misinformation provided by the local municipality, the municipality could apply to the state for ownership of the land.

Some problems with HB 79 - paragraph (11) on p. 2-3 authorizes the Commissioner of DNR to transfer state land- - uplands, submerged lands, and shorelines (beds and banks of navigable waters)-- to municipalities to "correct errors or omissions of the municipality...". This provision relieves the municipalities of the responsibility for correcting their own mistakes with their own land.

HB 79, Municipal land error corrections, provides the municipality with the incentive to make mistakes. Other than the actual costs of conveyance, the municipality would receive potentially valuable state land **without** cost. The municipality should bear some of the responsibility for making the mistake, such as paying fair market value for the conveyance.

HB 79 stipulates repeal of Sec. 2 by January 1998. This time allowance seems excessive in light of the potential/possible abuses. Because the intent of the sponsor in this bill is to redress long standing land title errors, it would seem more reasonable to shorten the time limit to less than 18 months.



DEPARTMENT OF NATURAL RESOURCES

SOUTHEAST REGIONAL OFFICE
DIVISION OF LAND

400 WILLOUGHBY AVENUE, SUITE 400
JUNEAU, ALASKA 99801
PHONE: (907) 465-3400
FAX: (907) 586-2954

February 22, 1995

Dave Gray
c/o Representative Mackie's Office
Capitol Building
Juneau, Alaska

Re: HB-79

Dear Dave:

This is written at your request for my response to the February 11, 1995 comments by the Alaska Environmental Lobby, Inc. pertaining to HB 79.

1. The writer seems to be under the impression that the bill would "require" the Commissioner. I believe we used "may" to specifically address this concern. The Department has typically protected its right to say "NO" unless it finds the conveyance to otherwise be in the "state's best interest."
2. Although I do not know of any instances where DNR has applied AS 38.05.035(b)(2) and or (3) to tidelands, these preferences already allow the Commissioner of DNR to negotiate the sale of uplands to those harmed either by the state or others.
3. When developing the language, DNR envisioned: 1) charging the lands against a municipalities Title 29 entitlement if it had one, and if it did not, 2) charging either full fair market value, or other value felt by the Commissioner to be fair, based on his or her perception of the public benefits that might be derived from the conveyance.
4. We do not know of any cases in Alaska but Skagway that qualify at this time. The sun-set clause was to prevent speculation and abuse. However, we do not have any problem with reducing the sun-set to 18 months.

Sincerely,



Andrew W. Pekovich
REGIONAL MANAGER, Southeast Region

MEMORANDUM

State of Alaska

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND
S.E. REGIONAL OFFICETO: Ron Swanson (Name)
Director, Div. of Land

DATE: December 17, 1993

FILE:

TELEPHONE: 465-3400

FROM: Andrew W. Pekovich
Regional Manager, CENO
Division of Land
Department of Natural ResourcesSUBJECT: City of Skagway
Skagway River Subdivision

I would recommend consideration of the following legislation to Representative Mackie, unless you want to just sell the land to the City of Skagway at "fair market value" or feel that we already have the right under AS 38.05.810 to convey for "less than fair market value" without any overriding state benefit, without imposing a reverter, and without establishing a president we cannot live with

"The director, pursuant to AS 38.05.035 (b), may without classification or reverter, convey lands to a municipality ~~which made application to the Division for lease or purchase prior to~~ with or without compensation, to allow the municipality to correct an error inadvertently created by its inclusion of these lands in a subdivision and conveyance to third parties."

I believe the language is generic enough to not be labeled special, and would recommend a deadline which would just cover applications existing at the time of the deadline. If you approve I will pass this language to Dave Gray for consideration of Representative Mackie.

Appears that this would affect most of 22 lots and a fraction of 9 others. All are small lots. Have FAXED a plat.

CC: Nan Schonenbach

OK
w/me
R

Alaska State Legislature



REPRESENTATIVE
JERRY MACKIE

ALASKA STATE CAPITOL
JUNEAU, ALASKA 99801-1121
(907) 465-4925

P.O. BOX 795
CRAIG, ALASKA 99921
(907) 826-3008 OFFICE
(907) 826-2930 HOME

House of Representatives

SPONSOR STATEMENT ON HB 79

I introduced HB 79 at the request of the City of Skagway to correct a long standing land ownership problem in Skagway. Fifty years ago a dike was constructed along the Skagway River to protect the town from flooding. Over the years, the area between the original river bank and the dike has been reclaimed and subdivided by the city with lots sold and built upon (see attached map). Even the High school is located in the area.

The problem is that the city did not have clear title to this land from the start. Hence, the title for subsequent private property owners is also clouded. Not only are the owners' investments and improvements at risk, but bank financing for further improvements or sales is foreclosed.

In the past several years, the city and the Department of Natural Resources have unsuccessfully sought an administrative remedy for the problem. While current statute allows DNR administrative discretion in resolving land ownership errors and omissions for individual citizens [AS 38.05.035 (b) (2) and (b) (3)], there is no similar provision for errors and omissions of a municipality.

HB 79 would add such a provision. The new proposed subsection, AS 35.05.035 (b) (11), allows the director of the division of lands the discretion to quitclaim land to a municipality to correct past errors and omissions. The director may also set any terms or conditions that is deemed appropriate for the transaction. Furthermore, land title transferred to a municipality in this manner is counted against the municipality's general land grant entitlement from the state.

Section 2 provides a January 1, 1998 repeal of AS 35.05.035 (b) (11). Thus, the opportunity to correct municipal land ownership errors is limited to a two and one-half year period.

Finally, this bill was introduced in the last session. It progressed through the House and Senate until time ran out in the Senate Rules committee. It is my hope that the bill will be enacted this year so that the problem is resolved.

HB 398

The following was read the second time:

HOUSE BILL NO. 398

"An Act relating to rights in certain tide and submerged land."

with the:

Journal Pag

CRA RPT CS(CRA) NEW TITLE 4DP 2NR	240
-ZERO FISCAL NOTE (DNR) 2/15/94	240
RES RPT CS(RES) NEW TITLE 9DP	254
-PREVIOUS ZERO FISCAL NOTE (DNR) 2/15/94	254

Representative Phillips moved and asked unanimous consent that the following committee substitute be adopted in lieu of the original bil

CS FOR HOUSE BILL NO. 398(RES)

"An Act relating to conveyance of certain land to municipalities."

There being no objection, it was so ordered.

Representative Phillips moved and asked unanimous consent that CSHB 398(RES) be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

CSHB 398(RES) was read the third time.

HB 398

The question being: "Shall CSHB 398(RES) pass the House?" The roll was taken with the following result:

CSHB 398(RES)
Third Reading
Final Passage

YEAS: 37 NAYS: 0 EXCUSED: 3 ABSENT: 0

Yeas: Barnes, Brice, Brown, Bunde, Carney, Davidson, Davies, G.Davis, Finkelstein, Foster, Green, Grussendorf, Hanley, Hudson, James, Rott, Larson, Mackie, MacLean, Martin, Moses, Mulder, Navarre, Nicholia, Nordlund, Olberg, Parnell, Phillips, Porter, Sande Sitton, Therriault, Toohey, Ulmer, Vezey, Williams, Willis

Excused: B.Davis, Hoffman, Menard

And so, CSHB 398(RES) passed the House.

Representative Ulmer gave notice of reconsideration of her vote on CSHB 398(RES).

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB79

Revision Date: Original Dept Affected: Natural Resources
 Title: An Act allowing the Department of Natural Resources to quitclaim land or interests in land, including... BRU: Resource Development
 Resources to quitclaim land or interests in land, including... Component: Land Development
 Sponsor: Representative Mackie
 Requestor: _____ Component Serial No. 431

Expenditures/Revenues		(Thousands of Dollars)				
OPERATING EXPENDITURES	FY96	FY97	FY98	FY99	FY00	FY01
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 (FY95) cost: \$ None

POSITIONS		FY96	FY97	FY98	FY99	FY00	FY01
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)

This legislation would authorize the department to convey lands to the City of Skagway that they inadvertently subdivided and sold as subdivision lots on filled shore lands within the Skagway River. Conveyance of these lands will eliminate a cloud of title to the private property owners. This legislation will automatically be repealed in 1998 after the conveyance to Skagway has been completed. There are no known public interest values that would be impacted by this conveyance.

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Amendments to this bill and HB20 could be combined as they are very similar, but address different tide and submerged land conveyance issues.

Prepared by: Ron Swanson, Director Phone: 762-2692
 Division: Land Date: 25-Jan-95
 Approved by Commissioner: Nico Swanson for M. Luther for Act. Comm. Date: 1/25/95
 Agency: Natural Resources

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- 1 - 1 - DNR

Revision Date: January 26, 1995 Dept. Affected: Community & Regional Affairs
 Title: An Act allowing the Department of Natural Resources to quitclaim land or... BRU: none
 Component: none
 Sponsor: Representative Mackie
 Requestor: House C & RA Committee COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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	0.0	0.0	0.0	0.0	0.0	0.0
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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)

This legislation would give the Department of Natural Resources (DNR) the authority to quitclaim land or interests in land to a municipality to correct certain errors or omissions of the municipality. There is no fiscal impact on DCRA from this bill.

Prepared by: Remond Henderson, Director *Remond Henderson* Phone: 465-4708
 Division: Division of Administrative Services Date: 1/26/95
 Approved by Commissioner: Miles, Aron Date: 1/26/95
 Agency: Community & Regional Affairs

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Fiscal notes - GRA