

HB

295

FISCAL NOTE

**STATE OF ALASKA
2010 LEGISLATIVE SESSION**

Fiscal Note Number: 1
 Bill Version: HB 295
 (H) Publish Date: 1/19/10

Identifier (file name): 0829-REV-APFC-1-6-10 Dept. Affected: Revenue
 Title University of Alaska Land Transfer RDU Alaska Permanent Fund Corporation
 Component APFC Operations
 Sponsor Rules
 Requester Request of Governor Component Number 109

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
OPERATING EXPENDITURES								
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	0.0

CAPITAL EXPENDITURES								
-----------------------------	--	--	--	--	--	--	--	--

CHANGE IN REVENUES ()								
-------------------------------	--	--	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

	FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

The APFC anticipates no impact on revenues or expenditures as a result of this legislation.

Prepared by: Ginger Blaisdell for Laura Achee
 Division Alaska Permanent Fund Corporation
 Approved by: Ginger Blaisdell, Director
Administrative Services Division

Phone 465-2312
 Date/Time 12/18/09; 2:00pm
 Date 1/6/10; 1:33pm

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HB 295
 (H) Publish Date: 1/19/10

Identifier (file name): 0829-DNR-MLW-12-21-2009 Dept. Affected: Natural Resources
 Title Grant of State Land to the University of Alaska RDU Resource Development
 Component Title Acquisition and Defense
 Sponsor Rules Committee
 Requester Governor Component Number 2459

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	Appropriation Required	Information					
	FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES							
-----------------------------	--	--	--	--	--	--	--

CHANGE IN REVENUES ()	***	***	*** Indeterminate (see analysis) ***	***	***	***	***
-------------------------------	-----	-----	--------------------------------------	-----	-----	-----	-----

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

This bill requires DNR to convey title to 194,379 acres of specifically identified parcels of state land to the University of Alaska within two years of the effective date of the legislation. To satisfy the land conveyance proposed under this legislation, DNR will need to complete the conveyance process for these parcels, including a land title search, identify and reserve easements, identify and reserve navigable waters, and resolve any title conflicts. This will require some DMLW staff time to complete this research, finish the preparation of legal descriptions, prepare conveyance documents, and update the state's computerized records system. Because this effort was substantially completed by the department under the provisions of chapter 8, FSSLA 2005 prior to the State Supreme Court's invalidation of that statute, only a small amount of work remains to finalize the conveyances required under this bill.

Prepared by: Dick Mylius
 Division: Director, Mining Land and Water
 Approved by: Tom Irwin, Commissioner
Natural Resources

Phone 907-269-8625
 Date/Time December 21, 2009
 Date December 21, 2009

FISCAL NOTE #2

**STATE OF ALASKA
2010 LEGISLATIVE SESSION**

BILL NO. HB 295

ANALYSIS CONTINUATION

(Analysis cont.)

Accordingly, DNR does not anticipate any additional funds or positions will be required, and the department can implement the intent of this proposed legislation using existing staff and resources.

This bill is intended to expedite the conveyance of state lands, including the mineral estate, to the University of Alaska by conveying to the Board of Regents by quitclaim deed to those state lands identified for conveyance to the University in a document entitled "University of Alaska Land Grant List 2005" dated January 12, 2005. This "Land Grant List" includes lands that make up part of the Nenana oil and gas basin.

***Based on the subsurface information currently available, the Nenana basin is thought to be gas-prone. DNR believes that the gas potential of this basin ranges from moderate to good. The basin is also in close proximity to markets in Fairbanks. Andex Resources currently has an oil and gas exploration license for part of the Nenana Basin. It is impossible without further exploration to predict the exact fiscal impacts. However, the conveyance of part of the Nenana oil and gas basin to the University of Alaska could result in a significant new source of revenue and /or energy for the University with a corresponding decrease in general and permanent fund revenues.

There is a similar but lesser impact from transferring the surface and subsurface from other lands that DNR would otherwise sell or lease. That is, the Department anticipates an unspecified decrease in future revenues from the loss of these lands.

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: HB 295
 (H) Publish Date: 1/19/10

Identifier (file name): 082-UA-SWS-12-18-09 Dept. Affected: University of Alaska
 Title An Act relating to the grant of certain land to the University of RDU University of Alaska
Alaska Component Sysbra
 Sponsor Governor
 Requester _____ Component Number 730

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information					
		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
OPERATING EXPENDITURES							
Personal Services							
Travel							
Contractual	500.0	250.0	250.0	250.0	250.0	250.0	250.0
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	500.0	250.0	250.0	250.0	250.0	250.0	250.0

CAPITAL EXPENDITURES							
-----------------------------	--	--	--	--	--	--	--

CHANGE IN REVENUES ()							
-------------------------------	--	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037_GF/Mental Health							
1048 University Receipts	500.0	250.0	250.0	250.0	250.0	250.0	250.0
TOTAL	500.0	250.0	250.0	250.0	250.0	250.0	250.0

Estimate of any current year (FY2010) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

In the short term (6 years) this bill would provide very little operating revenue, due to the fact that the funding resulting from this bill is deposited into UA's Land Grant Trust Fund (LGTF, an endowment that has a payout policy similar to the POMV principles i.e., 5% of the prior five year endowment average), however, in the long term, after substantial additions to the LGTF endowment UA can see modest operating revenue i.e., in approximately 20 years UA anticipates annual investment earnings on new land sales to reach 1% of state general fund support or \$2.6M. UA Land Management will add minimal staff to accomplish management of the new lands as this land transfer would roughly replace land inventory available for sale. Land Management operating costs are already considered in the net revenue projections.

Prepared by: Michelle Rizk, Associate Vice President
 Division: University of Alaska
 Approved by: Michelle Rizk, Associate Vice President
Statewide Budget

Phone 450-8187
 Date/Time 12/18/09 4:40 PM
 Date _____

STATE OF ALASKA

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

SEAN PARNELL, GOVERNOR

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-5903
PHONE: (907)269-5100
FAX: (907)276-3697

February 25, 2010

The Honorable Cathy Munoz
House of Representatives
Co-Chair of House Community and Regional Affairs Committee
State Capitol, Room 409
Juneau, AK 99801-1182

The Honorable Bob Herron
House of Representatives
Co-Chair of House Community and Regional Affairs Committee
State Capitol, Room 415
Juneau, AK 99801-1182

Re: Committee Substitute for House Bill 295(EDC)

Dear Representative Munoz and Representative Herron:

At the close of the February 18, 2010 Community and Regional Affairs Committee hearing on House Bill 295, you requested a written response from the Department of Law to testimony by Legislative Counsel Donald Bullock. Mr. Bullock testified that CSHB 295 (EDC) failed to address the Alaska Supreme Court's decision in *Southeast Alaska Conservation Council v. State*¹ that prior University land grant legislation was unconstitutional. Mr. Bullock testified that under the Alaska Supreme Court's holding in *SEACC v. State*, the Board of Regents lack the authority to set policy regarding the administration and disposal of University land. We have reviewed Mr. Bullock's materials from the February 18, 2010 hearing, as well as his March 30, 2009 memorandum to Representative Ramras regarding "Alaska Supreme Court decision on the conveyance of lands to the University of Alaska (Work Order No. 26-LS0818)."

¹ 202 P.3d 1162 (2009).

We disagree with Mr. Bullock's testimony. Article VII, section 2 of the Alaska Constitution states that the University "shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law." Article VII, section 3 of the Alaska Constitution empowers the Board of Regents as the governing body of the University, and states that "[t]he board shall, in accordance with law, formulate policy." In accordance with these constitutional mandates, the Legislature has established a statutory framework for administration and disposal of University land and University interests in land. Alaska Statute 14.40.170(a)(4) specifies that the Board of Regents "have the care, control, and management of all the real and personal property of the university" as well as land that would be conveyed under CSHB 295(EDC). This statute also requires that the Board of Regents "provide public notice of sales, leases, exchanges, and transfers of the land of the university or of interests in land of the university." AS 14.40.170(a)(8). Furthermore, the Legislature has established specific requirements for administration of University land in various sections of AS 14.40 (*see, e.g.*, AS 14.40.291 (specifying that University land is not public domain land); AS 14.40.350 and .360 (authorizing the Board of Regents to administer federal University land grant land); AS 14.40.366 (requiring land development and disposal plans as well as public notice and comment for development, exchange, or sale of University land)). Additionally, the Legislature has specifically exempted University land from the Alaska Land Act (*see* AS 38.05.030(f)) and the requirements of AS 30.04 (*see* AS 38.04.005(f)). The validity of these statutes has not been challenged.

In *SEACC v. State*, the Alaska Supreme Court held that University land is state land and therefore generates revenue subject to Article IX, section 7 of the Alaska Constitution.² In reaching this conclusion, the Court relied in part on its 1981 decision that the Legislature has ultimate authority to dispose of University trust land,³ but it must reconstitute the trust.⁴ In deciding that University land is state land subject to the dedicated funds clause, the Court stated that:

[E]ven when the University has title to land, only the legislature can make laws effecting the disposal of land, not the Board of Regents. We further observed that the Alaska Constitution grants extensive powers to the legislature to control lands, which makes clear that the University lands received under the 1929 act 'belong' to the state. The

² 202 P.3d at 1172.

³ The University received two federal land grants in 1915 and 1929. This land was conveyed from the federal government to the state in trust for the University. This trust land was at issue in the Alaska Supreme Court's 1981 decision.


⁴ *See State v. University of Alaska*, 624 P.2d 807 (Alaska 1981).

conclusion we reached in *State v. University of Alaska*, that University land is state land, applies even more readily to the present case because the University land involved here is not shielded by a federal trust obligation. Statutory language treating University lands differently from other state land does not overcome this constitutionally based conclusion.⁵

In other words, the Court held that conveyance of state land to the University did not remove the land from the ultimate control of the Legislature, nor did it exempt University land revenue from the dedicated funds clause. The Court did *not* hold that University land must be managed under the same statutory framework as other state land, nor did the Court hold that the Legislature could not delegate to the Board of Regents the authority to develop policy for the day-to-day implementation of the University land program, including decisions regarding development and disposal of individual parcels. Because University land is state land, University land management practices must comply with the requirements of Article VIII, Natural Resources, of the Alaska Constitution. However, there is no basis for the conclusion that the Legislature may not enact separate laws governing the administration of University land, including delegation of day-to-day land administration responsibilities to the Board of Regents.

Sincerely,

DANIEL S. SULLIVAN
ATTORNEY GENERAL

By: 
J. Anne Nelson
Assistant Attorney General
Attorney for the State of Alaska

Cc:

Gerald Gallagher, Legislative Director, Office of the Governor
Tom Irwin, Commissioner, Department of Natural Resources
Richard Lefebvre, Deputy Commissioner, Department of Natural Resources
Richard Mylius, Director, Mining Land and Water
Deborah Behr, Chief Assistant Attorney General
Michael Ford, Assistant Attorney General
Wendy Redman, Vice President, University Relations
Larry Zervos, University General Counsel

⁵ *SEACC v. State*, 202 P.3d 1162, 1171 (Alaska 2009) (internal citations and quotations omitted).

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

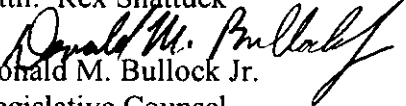
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 22, 2010

SUBJECT: Transfer of land to the University
(HB 295; Work Order No. 26-GH2829)

TO: Representative Mark Neuman
Co-Chair of the House Resources Committee
Attn: Rex Shattuck

FROM: 
Donald M. Bullock Jr.
Legislative Counsel

HB 295 proposes to transfer land to the University of Alaska. The bill was introduced after the Alaska Supreme Court found that a prior bill conveying land to the University of Alaska (University) was unconstitutional.¹ The court found that ch. 8, FSSLA 2005 violated art. IX, sec. 7 by dedicating the proceeds from university lands to the endowment trust fund.²

HB 295 does not dedicate the proceeds from the land transferred to the University. Instead, the amendment to AS 14.40.491 in sec. 10 of CSHB 295(CRA) treats "receipts from lands conveyed to the University" as university receipts, subject to appropriation by the legislature.

A problem with the 2005 University Lands Act was that it dedicated all land proceeds to the University's endowment fund. Since the court struck down all dedication of funds generated by university lands as contrary to the prohibition of dedicated funds in art. IX, sec. 7, the court never discussed whether some of the proceeds should have been directed to the permanent fund under art. IX, sec. 15. The governor's bill attempts to provide for a dedication to the permanent fund, in sec. 13, where AS 37.13.010(a) is amended to require, "25 percent of all mineral lease rentals, royalties, royalty sale proceeds, net profit shares derived from lands conveyed to the University of Alaska under AS 14.40.365 and 25 percent of all bonuses derived by the University of Alaska from mineral leases on these lands" to be deposited in the permanent fund. I write the bill "attempts" because the paragraph that is amended -- AS 37.13.010(a)(1) -- applies to certain payments received from leases issued on or before December 1, 1979 and bonuses from leases issued on or

¹ *Southeast Alaska Conservation Council v. State of Alaska*, 202 P.3d 1162 (Alaska 2009).

² 202 P.3d at 1177.

before February 15, 1980. Compare paragraph (1) with paragraph (2) in the same section; AS 37.13.010(a)(2) provides for inclusion in the permanent fund of payments received after the dates in AS 37.13.010(a)(1). Paragraph (2) makes no mention of deposits from land conveyed to the University. I suggest the administration should explain to the committee what is intended by the amendment to AS 37.13.010 in the bill. AS 37.13.010(a), in sec. 13, needs to be amended to at least address the time period issue and the obligation to contribute mineral-related proceeds to the permanent fund.

Another issue raised by *Southeast Alaska Conservation Council v. State of Alaska* relates to how land transferred to the University is to be managed. The court stated that, as state land, university land must be administered and disposed of according to law under art. VII, sec. 2, Constitution of the State of Alaska. That part of the decision, reads as follows:³

We considered the meaning of article VII, section 2 in *State v. University of Alaska* [624 P.2d 807, 814]. There, we held that the state could take land that Congress had granted to the University to be held in trust for it under the federal 1929 act, but that the state had to compensate the University with monetary damages or equivalently valuable land. Our opinion emphasized article VII, section 2's command that "property shall be administered and disposed of according to law," and noted that "'according to law' refer[s] to the legislature's power to make laws." *Thus, even when the University has title to land, "only the legislature can make laws effecting the disposal of land, not the Board of Regents."* We further observed that "[t]he natural resources article of the Alaska Constitution grants extensive powers to the legislature to control lands," which makes "clear that [the University lands received under the 1929 act] 'belong' to the state." The conclusion we reached in *State v. University of Alaska*, that University land is state land, applies even more readily to the present case because the University land involved here is not shielded by a federal trust obligation. Statutory language treating University lands differently from other state land does not overcome this constitutionally based conclusion.

CSHB 295(CRA) contains legislative findings and purpose in sec. 1. Paragraph (2) in that section refers to art. VII, sec. 2, Constitution of the State of Alaska, but paraphrases the constitutional provision in a somewhat confusing manner. Paragraph (2) states that the legislature finds:

(2) article VII, sec. 2 of the Constitution of the State of Alaska provides that the University of Alaska shall have title to all real property conveyed to it and that *the legislature shall prescribe how university property shall be administered according to law;*

³ 202 P.3d at 1171 (footnotes omitted, emphasis added).

(Emphasis added.) The actual constitutional provision, addressed in the court's opinion, is:

SECTION 2. State University. The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. *Its property shall be administered and disposed of according to law.*

Although the court stated, "Thus, even when the University has title to land, only the legislature can make laws effecting the disposal of land, not the Board of Regents[,]" the amendment to AS 14.40.291(a) in sec. 4 of CSHB 295(CRA) requires the land to be managed "in accordance with [AS NONTAXABLE TRUST LAND UNDER] AS 14.40.365 - 14.40.367 *and policies of the Board of Regents.*" [Emphasis added.]

AS 14.40.366 is repealed and reenacted in sec. 6 of CSHB 295(CRA), and addresses the management requirements for university land to be transferred under the bill. That section gives general direction to the Board of Regents to manage the lands; the board is to "adopt policies that require the preparation of land development plans and land disposal plans," "offer first refusal to the closest municipality" on land offered for sale, and "adopt policies requiring public notice before approval of land development plans and land disposal plans." Whether this law -- AS 14.40.366 -- rises to the level of a law effecting the disposal of land under art. VII, sec. 2, in light of the discretion granted to the Board of Regents, should be examined as this bill progresses. When comparing AS 14.40.366 with AS 38.05 (Alaska Land Act), there is a considerable difference in the laws providing for the administration and disposal of state land. For example, AS 38.05.180 contains extensive provisions relating to oil and gas leasing. What provisions would apply to oil and gas leasing on land conveyed to the University in light of AS 38.05.030(f) that exempts "[l]and owned by the Board of Regents of the University of Alaska"?"⁴

Section 15 of CSHB 295(CRA) would ratify conveyances that were made before the court's decision on ch. 8, FSSLA 2005. The Alaska Supreme Court remanded the case to the superior court with instructions to order reconveyances to the State of the land transferred under the act and order the return of any net proceeds received from the land.⁵

⁴ Under art. VII, sec. 2, the university can hold title to land; AS 14.40.170(a), the Board of Regents is responsible for the care, control, and management of the land, but not ownership. CSHB 295(CRA) transfers land to the University, not the Board of Regents.

⁵ 202 P.3d at 1177. The "net proceeds" part of the order is not clear. Since the court found that money from the land could not be dedicated, questions arise as to what funds were deducted in determining the "net proceeds" and whether costs associated with the management of the land had been appropriated by the legislature.

What follows below is an analysis of *Southeast Alaska Conservation Council v. State of Alaska* that may be helpful as you consider CSHB 295(CRA) in your committee.

Southeast Alaska Conservation Council v. State of Alaska and the conveyance of land to the University of Alaska under ch. 8, FSSLA 2005

Introduction

On March 13, 2009, the Alaska Supreme Court issued a decision in *Southeast Alaska Conservation Council v. State*.⁶ The decision concludes that the dedication of money to the endowment trust fund of the University of Alaska (University) generated from land conveyed to the University by ch. 8, FSSLA 2005 violated the prohibition against dedicated funds in art. IX, sec. 7 of the Alaska Constitution. The court declined to sever the land transfer provisions of the Act from the unconstitutional dedicated fund provisions because the court found the survival of those provisions "would not serve the act's main purpose and would operate strikingly differently from the original act."⁷

The court remanded the case to the superior court,

with instructions (1) to order reconveyance to the State of the land transferred under the act, (2) to order the return of any net proceeds received from the land, and (3) to enter judgment in favor of the appellants in accordance with the views expressed in this opinion.^[8]

The decision recognized the authority of the University to have title to real and personal property under art. VII, sec. 2, Constitution of the State of Alaska.⁹ While the University may have title, the court concluded that the same section of the constitution requires that "[the University's] property shall be administered and disposed of according to law," and

⁶ 202 P.3d 1162 (Alaska 2009).

⁷ 202 P.3d at 1176. The court identified the main purpose of the act as follows:

The legislative findings show that the main purpose of the act was to make a land grant that would operate in a manner similar to the way that the University's federal land grant has operated since before statehood: the University is partially supported by net earnings from the [endowment trust fund], which in turn is funded by net proceeds from revenues derived from the sale or use of land grant lands.

202 P.3d at 1174 (footnote omitted).

⁸ 202 P.3d at 1177.

⁹ 202 P.3d at 1171.

"according to law" refers to the legislature's power to make laws;¹⁰ the Board of Regents does not have the power to effect the disposal of land outside of laws passed by the legislature. The court wrote:

Thus, even when the University has title to land, "only the legislature can make laws effecting the disposal of land, not the Board of Regents." We further observed that "[t]he natural resources article of the Alaska Constitution grants extensive powers to the legislature to control lands," which makes "clear that [the University lands received under the 1929 act] 'belong' to the state." The conclusion we reached in *State v. University of Alaska*, that University land is state land, applies even more readily to the present case because the University land involved here is not shielded by a federal trust obligation. Statutory language treating University lands differently from other state land does not overcome this constitutionally based conclusion.^[11]

Following the finding that University land is state land, the court found that revenue from the land is state revenue for purposes of the dedicated funds clause and would be subject to appropriation. Revenue from state land conveyed to the University could be appropriated to the University or to any other state agency. On this point, the court wrote, in the context of its severability discussion:

The land grant provisions of the act, if allowed to stand alone, would not enhance the University's endowment. With only the land grant provisions, the legislature would appropriate on an annual basis the net proceeds gained from the sale or use of the land. The appropriation could be directed in whole or in part to the University or any agency. The appropriated proceeds would be available for immediate use. They would not be capitalized and preserved. If the University were to sell the land, which would be likely given the legislature's goal of encouraging development, the land could be substantially disposed of within a few decades. Because the net proceeds from the land would be spent rather than saved, the benefits from the land grant, far from lasting in perpetuity, could be dissipated in a relatively short period of time.^[12]

In summary, the case decided that the legislature had the exclusive power to pass laws effecting the disposal of land held by the University, revenue from the land conveyed by

¹⁰ *Id.* (footnotes omitted).

¹¹ *Id.* (footnotes omitted). The quoted excerpts are from *State v. University of Alaska*, 624 P.2d 807 (Alaska 1981).

¹² 202 P.3d at 1175.

the state may not be dedicated, and the revenue from state land conveyed to the University could be appropriated to the University or to any other state agency.

DISCUSSION

Bills conveying state land to the University

In 2000 and 2005 the Alaska legislature passed bills conveying approximately 250,000 acres to the University.¹³ The 2000 legislation (SB 7) allowed the University to select 250,000 to 260,000 acres of land and required the "net income derived from the sale, lease, or management of the land selected by and conveyed to the University of Alaska" to be placed and held in the University's endowment trust fund (ETF).¹⁴ Governor Knowles vetoed SB 7, the legislature overrode the veto by less than a three-fourths majority. The veto override was challenged on the basis that the conveyance of land was an appropriation requiring a three-fourths majority for override. On appeal, the Alaska Supreme Court concluded that the bill's provisions were not an appropriation and that the veto had been overridden by the legislature.¹⁵ The case considering the veto of SB 7 did not address provisions of the Act relating to the dedication of funds.

In 2005, the legislature passed HB 130. HB 130 differed from SB 7 by identifying the specific land to be transferred to the University rather than have the University select the land. Similar to SB 7, HB 130 retained the requirement that net proceeds from the land be placed in the ETF. HB 130 also established a "University Research Forest" for advancing research into forest practices, ecology, wildlife management, and recreation.¹⁶

University land is state land; revenue from University land is state revenue

"Our case law establishes that University lands are state lands."¹⁷ "Because University land is state land, revenue from University land is state revenue for purposes of the dedicated funds clause."¹⁸ These two sentences are at the heart of the supreme court's decision. The two conclusions are critical for determining the laws that are applicable to

¹³ Ch. 136, SLA 2000 (HCS CSSB 7(FIN) AM H); Ch. 8, FSSLA 2005 (CCS HB 130(efd fld S)).

¹⁴ 202 P.3d at 1164 - 66.

¹⁵ *Alaska Legislative Council v Knowles*, 86 P.3d 891 (Alaska 2004).

¹⁶ 202 P.3d at 1166. The establishment of the University Research Forest is the only part of HB 130 that survived the court's decision on HB 130. *Id.* at 1176.

¹⁷ 202 P.3d at 1171.

¹⁸ 202 P.3d at 1172.

the management and disposition of University land and the use of revenue derived from University land.

The conclusion that University land is state land is grounded in art. VII, sec. 2, Constitution of the State of Alaska. Justice Matthews, writing for the court, wrote:

Article VII, section 2 establishes the University, declares it a "body corporate," provides that the University "shall have title to all real and personal property now or hereafter set aside for or conveyed to it," and states that "[i]ts property shall be administered and disposed of according to law." We considered the meaning of article VII, section 2 in *State v. University of Alaska*.^[19] There, we held that the state could take land that Congress had granted to the University to be held in trust for it under the federal 1929 act, but that the state had to compensate the University with monetary damages or equivalently valuable land.

The conclusion we reached in *State v. University of Alaska*, that University land is state land, applies even more readily to the present case because the University land involved here is not shielded by a federal trust obligation. Statutory language treating University lands differently from other state land does not overcome this constitutionally based conclusion.^[20]

The fact that University land is state land under art. VII, sec. 2 leads to the second conclusion, that revenue for University land is state revenue and therefore subject to the prohibition against dedicated funds in art. IX, sec. 7, Constitution of the State of Alaska. Two historical sources cited by the court further support the court's conclusion. First, the decision quotes Governor Egan's statement in 1959 that he made after vetoing a bill intended to reserve lands for the support of the University. The governor wrote:²¹

I am vetoing [the bill], a bill intended to reserve lands for the support of the University of Alaska, because I believe it wrong in principle, inconsistent with constitutional concepts and not in the public interest. In so saying, I may add that I would act similarly on any bill which sought, as this does, to make special disposition of the proceeds of public lands in aid of one public function to the exclusion of others.

¹⁹ *State v. University of Alaska*, 624 P.2d 807, 814 (Alaska 1981).

²⁰ 202 P.3d at 1171 (notes and citations by the court omitted).

²¹ 202 P.3d at 1172, quoting Governor Egan's Statement in 1959 House Journal 1186, 1186 - 87.

To return now, by the enactment of [this bill], to a proposal whereby lands are given piecemeal earmarking for various state functions would be a distinct step backward.

If we are to return to the "internal improvement" concept of earmarking state lands, can we in good conscience limit the practice to the University? . . . Certainly, this bill invites similar treatment for other state responsibilities. By this bill the door would be opened to an unplanned disposition, or dissipation, of the resource without regard to relative need and without regard to the clear constitutional and congressional intent.

The second historical support for the court's conclusion is found in a letter from Senator Bob Bartlett to William Egan in 1964.²² With regard to the position for further dedication of land after Alaska achieved statehood, Senator Bartlett wrote:

[A]t many times during the consideration of the statehood bill, efforts were made to set aside this amount of land or that amount of land for the common schools and for other educational uses. I always resisted these and, as it turned out, successfully. My conviction was--and is--that notwithstanding the possible need for such reservations in the early statehood bills, the reasons for such have long since evaporated. . . . [I]f dedication is made for one institution or one purpose, what argument could be made against expanding? None, of course.^[23]

~~Both historical quotes relate to both the dedication of land for a particular purpose and the disfavor of dedicating revenue from that land.~~

Proceeds from University land transferred from the state may not be dedicated

The lower court's decision found that the proceeds from state land are not "proceeds of any state tax, or license" that may not be dedicated under the literal reading of art. IX, sec. 7, Constitution of the State of Alaska.²⁴ That provision reads as follows:

Dedicated Funds. *The proceeds of any state tax or license shall not be dedicated to any special purpose*, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

²² Letter from Bob Bartlett to William Egan (June 8, 1964), quoted and cited in 202 P.3d at 1172.

²³ *Id.*

²⁴ 202 P.3d at 1167.

(Emphasis added.) One of the three exceptions to the prohibition is art. IX, section 15, which authorizes the dedication of a certain amount of mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State to the Alaska Permanent Fund.²⁵

In analyzing the extent of the prohibition in art. IX, sec. 7, the court reiterated its statement in *State v. Alex*, that the prohibition is "intended . . . to prohibit not only the dedication of taxes, but also such revenue as the proceeds from the sale of state lands."²⁶ Regarding *Alex*, the court wrote:²⁷

We reaffirm the reasoning and language of *Alex*. In *Alex*, we struck down a statute authorizing aquaculture associations to collect assessments from commercial salmon fishermen because it violated the dedicated funds clause. Our opinion considered the meaning of the word "tax" and concluded that "the sense in which 'tax' is used in *article IX, section 7 of the constitution* must be determined from its context, both in the text and according to the discussion at the constitutional convention which adopted the wording." We then turned to constitutional history, noting that the studies on which Constitutional Convention delegates relied encouraged adopting a prohibition on earmarking because the dedication of funds "curtailed the exercise of budgetary controls and simply amounted to an abdication of legislative responsibility." We also remarked that the commission's studies "used the terms revenues, funds, and taxes interchangeably" in discussing this issue. We interpreted an amendment to the proposed provision that inserted "proceeds of any state tax or license" in the place of "all revenues" as an effort to "allow for the setting up of certain special funds, such as sinking funds for the repayment of bonds," rather than "to exempt some sources of revenue from the prohibition." Thus, we held "that since the constitution prohibits the dedication of any source of revenue," the assessments in question could not be earmarked.

We see no reason to hold differently now. In addition to the history described in *Alex*, the amendment to *article IX, section 7* creating

²⁵ Although the court did not address the issue of dedicating similar revenues to the ETF rather than the Permanent Fund when generated from University land, I believe that such dedication would have also been unconstitutional under art. IX, sec. 15. The court did not need to reach this issue after concluding that no revenue from University land could be dedicated to the ETF.

²⁶ 202 P.3d at 1169 (quoting *State v. Alex*, 646 P.2d 203, 210 (Alaska 1982)).

²⁷ 202 P.3d at 1169 - 70 (footnotes omitted, emphasis added).

an exception for the Permanent Fund indicates that the prohibition is meant to apply broadly. If only revenue collected as taxes or license fees were included, there would have been no need to expressly exempt "all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State" to ensure that placing those revenues in the Permanent Fund did not violate the constitution.

The court also rejected the arguments by the State that:²⁸

the grant of land and proceeds from it does not violate the dedicated funds clause because the grant of land and proceeds is not a dedication of revenue but rather an asset conveyance. The State asks us not to rely on *State v. Alex* but to rule that this case should follow what it contends is the reasoning of *Myers v. Alaska Housing Finance Corp.*

In *Myers v. Alaska Housing Finance Corp.*²⁹ the court "upheld the state's sale of future proceeds from settlement with tobacco companies against a challenge under the dedicated funds clause."³⁰ The court described the situation in *Myers* as legislative authorization of "the sale of the right to future proceeds from the settlement for a lump-sum amount based on the present value of the future proceeds."³¹ The court continued:³²

The legislature appropriated the lump sum in a single year for various purposes. No dedicated fund was created nor were revenues placed in a pre-existing dedicated fund. Accordingly, we concluded that "[b]ecause the legislature sold the tobacco settlement and then appropriated the resulting income, it did not directly violate the anti-dedication clause." Nonetheless, we were concerned that the transaction might be contrary to the spirit of the clause; ultimately, however, we found no constitutional violation.

Thus *Myers* neither holds nor suggests that revenue from state property can be placed in a dedicated fund. Likewise, it does not imply that there is an exception to the dedicated funds clause applicable to revenue from state property. *Instead, Myers suggests that the reach of the dedicated funds clause might be extended to statutes that, while not directly violating the*

²⁸ 202 P.3d at 1170 (footnote omitted).

²⁹ *Myers v. Alaska Housing Finance Corp.*, 68 P.3d 386 (Alaska 2003).

³⁰ 68 P.3d at 391 - 393.

³¹ 202 P.3d at 1170.

³² *Id.*

clause by dedicating revenues, in some other way undercut the policies underlying the clause.

(Emphasis added.)

The court distinguishes the dedication of funds specifically prohibited under art. IX, sec. 7 from the allocation of revenue by statutes that undercut the policy behind the section. The court seems to emphasize that in *Myers*, no dedicated fund was created and the revenues from the tobacco settlement were not placed into a dedicated fund. That situation is factually distinguishable from the University land conveyance in which the revenues from University land conveyed by the state were to be deposited in the University's endowment trust fund. The court described the nature of the trust fund as a dedicated fund by stating, "State law mandates that the principal of the trust fund be held in perpetuity and that '[t]he total return from the [ETF] shall be used exclusively for the University of Alaska.'"³³

University land must be administered and disposed of according to law

As noted above, the court reiterated the requirement in art. VII, sec. 2 that University land "shall be administered and disposed of according to law" and "'according to law' refer[s] to the legislature's power to make laws."³⁴ The court continued, "Thus, even when the University has title to land, 'only the legislature can make laws effecting the disposal of land, not the Board of Regents.'"³⁵

The Alaska Land Act, AS 38.05.005 - 38.05.990, was enacted pursuant to art. VIII, sec. 10, Constitution of the State of Alaska.³⁶ That section of the constitution reads as follows:

No disposals or leases of state lands, or interests therein, shall be made without prior public notice and other safeguards of the public interest as may be prescribed by law.

Managing land conveyed to the University using the provisions in the Alaska Land Act would be consistent with the court's decision; managing University land under any policy established by the Board of Regents that is inconsistent with the Alaska Land Act or other laws passed by the legislature relevant to the management of State land violates the

³³ 202 P.3d at 1166 (referring to AS 14.40.400(a) and (c)).

³⁴ 202 P.3d at 1171 (notes and citations omitted).

³⁵ *Id.*

³⁶ *Moore v. State*, 553 P.2d 8, 21 (Alaska 1976).

"according to law" requirement in art. VII, sec. 2.³⁷

Conclusion and summary

While the legislature may convey land to the University and the University may hold title to that land, there seems to be little benefit to the University from the transfer. The land would continue to be "state land" and have no special status or exclusion from the requirement that the land be managed according to law. The University would have to manage the land consistent with laws passed by the legislature, such as the Alaska Land Act. Management pursuant to policies adopted by the Board of Regents that are inconsistent with law violates art. VII, sec. 2, Constitution of the State of Alaska.

Revenue from land conveyed to the University is state revenue for purposes of the prohibition against dedicated funds in art. IX, sec. 7, Constitution of the State of Alaska and is subject to appropriation. While revenue from University land may be appropriated to the University, appropriations could also be made for any other public purposes.

DMB:med
10-052.med

³⁷ The requirement that University land be "administered and be disposed of according to law" is consistent with the public trust doctrine adopted by the Alaska Supreme Court in *CWC Fisheries v. Bunker*, 755 P.2d 1115, 1117 - 18 (Alaska 1988) and AS 38.05.502. Both the doctrine and the statute reiterate that the state holds land in trust for the people of the state; the policies for management of that land determined by the legislature are consistent with that principle.

Roger Brunner
Vice President & General Counsel
Michael Hostina
Associate General Counsel
Ardith Lynch
Associate General Counsel
Michael O'Brien
Associate General Counsel
Larry Zervos
Associate General Counsel



UNIVERSITY OF ALASKA
Office of the General Counsel

203 Butrovich Building
P.O. Box 755160
Fairbanks, Alaska 99775-5160
Telephone: (907) 450-8080
Facsimile: (907) 450-8081
legal@alaska.edu

March 24, 2010

The Honorable Mark Neuman
House of Representatives
Co-Chair of House Resources Committee
State Capitol, Room 432
Juneau, Alaska 99811

The Honorable Craig Johnson
House of Representatives
Co-Chair of House Resources Committee
State Capitol, Room 126
Juneau, Alaska 99811

Dear Representative Neuman and Representative Johnson:

I attended the hearing on Committee Substitute for House Bill 295 (CRA) before your Committee on March 17, 2010. During the hearing, Legislative Counsel Donald Bullock pointed out the awkward wording of Section 13 of the Bill. This Section starts on page 14 and continues on page 15. It describes a proposed amendment to AS 37.13.010 (a), the statute pertaining to the Alaska permanent fund.

I agree with Mr. Bullock that the amendment proposed in Section 13 is confusing, but I believe a small modification to the structure of the proposed amendment will address Mr. Bullock's concerns. The modification I suggest is to removed the added language in subsection (a)(1) of AS 37.13.010 and place that language in a separate and new subsection (2). Section 13 would then read:

Sec. 13. AS 37.13.010(a) is amended to read:

(a) Under art. IX, sec. 15, of the state constitution, there is established as a separate fund the Alaska permanent fund. The Alaska permanent fund consists of

- (1) 25 percent of all mineral lease rentals, royalties royalty sale proceeds, net profit shares under AS 38.05.180(f) and (g), and federal mineral revenue sharing payments received by the

UNIVERSITY OF ALASKA

Letter Concerning CS for HB 295 (CRA)

March 24, 2010

Page 2 of 2

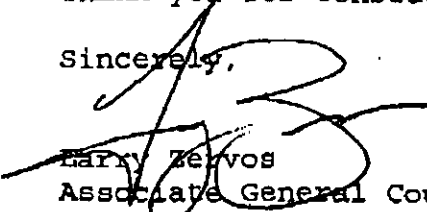
state from mineral leases issued on or before December 1, 1979, and 25 percent of all bonuses received by the state from mineral leases issued on or before February 15, 1980;

- (2) 25 percent of all mineral lease rentals, royalties, royalty sale proceeds, net profit shares derived from lands conveyed to the University of Alaska under AS 14.40.365 and 25 percent of all bonuses derived by the University of Alaska from mineral leases on these lands;
- (3) 50 percent of all mineral lease rentals, royalties, royalty sale proceeds, net profit shares under AS 38.05.180(f) and (g), and federal mineral revenue sharing payments received by the state from mineral leases issued after December 1, 1979, and 50 percent of all bonuses received by the state from mineral leases issued after February 15, 1980; and
- (4) any other money appropriated to or otherwise allocated by law or former law to the Alaska permanent fund.

Creating a new subsection (2) for the added language removes the confusion caused by the reference to certain dates in the initial draft. Also maintaining the 25% contribution rate to the Alaska permanent fund complies with Article IX, Section 15 of the our constitution and preserves the Legislature's intent to provide resources to the university for higher education purposes.

Thank you for considering my suggestion.

Sincerely,



Harry Zervos
Associate General Counsel
University of Alaska

Cc: Donald Bullock, Legislative Counsel
Anne Nelson, Assistant Attorney General
Wendy Redman, Vice President University Relations
Mari Montgomery, Director, University Land Management

Roger Brunner
 Vice President & General Counsel
 Michael Hostina
 Associate General Counsel
 Ardith Lynch
 Associate General Counsel
 Michael O'Brien
 Associate General Counsel
 Larry Zervos
 Associate General Counsel



University of Alaska
 Office of the General Counsel

203 Butrovich Building
 P.O. Box 755160
 Fairbanks, Alaska 99775-5160
 Telephone: (907) 450-8080
 Facsimile: (907) 450-8081
 lcgnl@alaska.edu

FAX COVER SHEET

Date: 3/24/10

To: Hon. Craig Johnson Fax No.: (907) 465- 3872

From: Larry Zervos

Re: _____

Hard copy to follow: Yes No

Transmitted are 3 pages, including this cover page. Please deliver as soon as possible to the person designated above.

This facsimile transmission contains confidential information belonging to the University of Alaska Office of the General Counsel and is intended solely for the person to whom it is addressed. If you are not the intended recipient or an authorized agent or employee of the intended recipient, this transmission has reached you in error. Any review, examination, use, disclosure, reproduction or distribution of this transmission of the information contained herein by anyone other than the intended recipient is prohibited. If you have received this transmission in error, please read no further and immediately notify the sender by telephone to arrange for the return of this transmission to the University of Alaska Office of the General Counsel, who will bear the costs of return. Thank you.

Message: Please see the attached.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MINING, LAND AND WATER

SEAN PARNELL, GOVERNOR

DIRECTOR'S OFFICE
550 W. 7th AVE., SUITE 1070
ANCHORAGE, ALASKA 99501-3579

PHONE (907) 269-8600
FAX (907) 269-8904

March 24, 2010

The Honorable Craig Johnson
The Honorable Mark Neuman
Co-Chairs, House Resources Committee
State Capitol
Juneau, Alaska 99811

Dear Representatives Johnson and Neuman:

Thank you for hearing House Bill 295, The University of Alaska Lands bill, in the House Resources Committee on Wednesday, March 17. I would like to address several of the concerns raised during that hearing.

First, let me assure you that the Department of Natural Resources (DNR) working with the University has thoroughly investigated the land status of all parcels on the land list. All of the parcels contained in HB 295 were included in the 2005 legislation (HB 130) passed by the legislature. After the 2005 legislation passed, DNR began the process to transfer lands to the University. This process included thorough land title research to confirm state ownership. In fact, at the time the Supreme Court issued an injunction barring further land transfers, DNR had already issued deeds for 30 of the 51 conveyable parcels and had prepared draft deeds for all of the other conveyable parcels. All of the land title issues raised at the March 17 hearing were addressed in that process.

The following are parcel specific issues and DNR's response.

Tenakee Springs lands. During the 2005 consideration of House Bill 130, the issue of the 1981 Settlement Agreement was specifically raised and addressed. The 1981 Settlement Agreement referred to by various Tenakee Springs residents and officials was settlement of a dispute between DNR and the City of Tenakee Springs regarding the city's municipal entitlement. In that agreement, DNR agreed to transfer certain state lands to the city and retain others in DNR ownership (rather than convey them to the city). The agreement needs to be considered in that context. This was not an agreement to retain these parcels in state ownership in perpetuity. Absent a legislative directive that these lands would be retained in perpetuity, DNR would not have such authority to have made that commitment.

Frying Pan Lake. During the Legislature's consideration of this parcel in the 2005 legislative session, numerous local residents expressed concern about protecting the dog mushing trails that crossed this parcel. In response, DNR committed to working with the local trail users and the Mat-Su Borough to identify important trails, establish easements for these trails and then make the land transfer subject to those easements. This was done, and we believe the results were quite satisfactory to local trail users. If this parcel is conveyed to the University, these trail uses are protected.

Cleveland Peninsula – Sunny Bay. DNR objected to the transfer of this parcel to the City and Borough of Wrangell because it had been already committed to the University. The parcel was not discussed when DNR and the City and Borough of Wrangell representatives met several weeks ago to consider increasing the Borough's entitlement under House Bill 273. Those discussions focused on specific, discrete lands that the City and Borough identified for development or community uses. The City and Borough's interest in the Sunny Bay parcel is to prevent use and development of the parcel, while the University is more likely to put the parcel to an economic use.

Sitka – Biorka Island. Regarding the Native Allotment on Biorka Island, one Native Allotment is noted on Biorka Island. The allotment belonged to Mr. Walton Rudolph and was certified on May 5, 1921. Due to the location of the island and its importance to the military for communications and navigation, the allotment was condemned in 1940 and acquired for fair market value in July of the same year. This case is closed. There is no active 1906 Native Allotment case file in the Bureau of Land Management's records for Biorka Island. The only other private land ownership file in BLM's records for Biorka Island is a homesite application that was filed by Kathleen and Howard Taubeneck that was rejected on April 19th, 1951.

The issue of a Native Allotment claim was considered as part of the debate surrounding HB130 in 2005. At that time then Director Bob Loeffler responded to inquiries made by Representative Wilson in a letter dated March 7, 2005. In that letter the Director answered the question of the affect the University parcel would have on future actions taken by the heirs of Mr. Rudolph to reopen his Native Allotment file by saying that "...University ownership will not affect the fate of Mr. Walton's allotment. That fate rests with BLM."

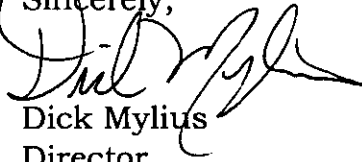
The FAA's navigational facility located on Biorka Island is on federal land that is adjacent to the state land proposed for transfer to the University. Maintaining the parcel under DNR management would provide no greater security for the FAA facility than transferring the parcel to University management.

Finally, I would like to address Don Bullock's concerns that were submitted in writing to Committee members during the hearing.

1. Style – “Generally needs edits to conform with the drafting manual and style of Alaska Statutes”. Much of the language contained in HB 295 is essentially the same as was contained in the 2005 legislation that was passed by the legislature, with modifications to remove the provisions that the Alaska Supreme Court found were unconstitutional. We agree that any edits necessary so that the bill conforms to appropriate drafting standards and style of the Alaska Statutes should be made.
2. Legal Substantive – “University land is state land”. This issue was first raised by Mr. Bullock in the House Community and Regional Affairs hearing on HB 295. Both the Department of Law and University believe that the Legislature has provided a statutory framework for the administration and disposition of University land, and therefore disagree with Mr. Bullock's interpretation of the Supreme Court's decision on this issue. See attached February 25, 2010 letter to Representatives Munoz and Herron from Assistant Attorney General Anne Nelson.
3. Legal Substantive – “policy as to Percentage”. As written, section 13 of the bill could be construed to apply only to University land proceeds in the form of lease rentals, royalties, royalty sale proceeds, and net profit shares from mineral leases issued on or before December 1, 1979, and bonuses from mineral leases issued on or before February 15, 1980. This interpretation would not capture all of the proceeds from the land to be conveyed to the University under this bill that are subject to the constitutional Permanent Fund contribution requirement. We agree that this section of the bill should be redrafted to accurately identify the proceeds from the land to be conveyed under this bill that are subject to the Permanent Fund contribution requirement. The University's counsel has submitted suggested language to address this issue.
4. Policy – The Legislature's purpose in passing the 2000 and 2005 legislation, and the intent behind HB 295, is to fulfill a commitment many believe was made at Statehood to more fully endow the University of Alaska with land. In addition to providing land that the University can use for educational purposes, the legislature has supported conveying appropriate parcels to the University because the University land office has better resources and fewer constraints than DNR to encourage the development of the land and resources.

We hope that the Committee will consider the bill again soon and pass the bill out of committee. Thank you for your consideration of this important legislation.

Sincerely,



Dick Mylius

Director

DNR Division of Mining, Land and Water

cc: House Resources Committee Members
Don Bullock, Legislative Counsel
Wendy Redman, University of Alaska
Mari Montgomery, University of Alaska
Jerry Gallagher, Office of the Governor
Tom Irwin, Commissioner, DNR
Anne Nelson, Assistant Attorney General
Michael Ford, Assistant Attorney General
Melanie Lesh, DNR Legislative Liaison

STATE OF ALASKA

SEAN PARNELL, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-5903
PHONE: (907)269-5100
FAX: (907)276-3697

March 30, 2010

The Honorable Mark Neuman
House of Representatives
Co-Chair of Resources Committee
State Capitol, Room 432
Juneau, AK 99801-1182

The Honorable Craig Johnson:
House of Representatives
Co-Chair of Resources Committee
State Capitol, Room 126
Juneau, AK 99801-1182

Re: Committee Substitute for House Bill 295 (CRA)

Dear Representative Neuman and Representative Johnson:

We have reviewed Legislative Counsel Don Bullock's March 22, 2010 memorandum to Representative Neuman regarding "Transfer of land to the University (HB 295; Work Order No. 26-GH2829)," and wish to provide a response for consideration by your committee. We also wish to provide for you the attached February 25, 2010 letter from the undersigned to Representatives Munoz and Herron.

HB 295 was drafted in response to the Alaska Supreme Court's holding in *SEACC v. State*, 202 P.3d 1162 (2009) that dedication of university land revenue to the university's endowment trust created an unconstitutional dedicated fund. The Court also found that it could not sever the land conveyance provisions of the statute from the dedication provisions because it was unclear whether the legislature would have intended for the university to receive the land if the proceeds from the land were not dedicated to the endowment trust, but were instead managed as university receipts, subject to appropriation each year by the legislature. The Court therefore found the land grant

legislation unconstitutional in its entirety. HB 295 was drafted to specifically address the Alaska Supreme Court's ruling in *SEACC v. State*.

Two of the three legal issues that Mr. Bullock identifies in his March 30, 2009 and March 22, 2010 memoranda already have been addressed. The first issue, dedication of revenue from the conveyed land to the university endowment trust, is addressed in section 9 (deleting the provision dedicating land revenue to the endowment trust) and section 10 (specifying that land revenue is to be managed as university receipts, subject to appropriation each year by the legislature) of HB 295. In his March 24, 2010 letter to you, the Associate General Counsel for the University of Alaska proposed a technical edit to section 13 of the bill that would address the concerns Mr. Bullock raises on page 1 of his March 22, 2010 memorandum regarding the dedication of at least 25 percent of the land revenue to the permanent fund. The University and Department of Law both agree that Article IX, section 15 of the Alaska Constitution (which sets forth the types and amount of state revenue that must be dedicated to the permanent fund) applies to land conveyed under this bill.

The third issue raised by Mr. Bullock addresses the statutory requirements applicable to administration and disposal of university land. On page 3 of his March 22, 2010 memorandum, Mr. Bullock expresses concerns that the statutory framework for administration of university land, and AS 14.40.366 in particular, may not "rise[] to the level of a law effecting the disposal of land under art. VII, sec. 2 [of the Alaska Constitution], in light of the discretion granted to the Board of Regents." This concern is reiterated on pages 11 and 12. Mr. Bullock raises these same issues in his March 30, 2009 memorandum, which is largely repeated in his March 22, 2010 memorandum. While the Alaska Constitution requires that university land be "administered and disposed of according to law," it does not prohibit the legislature from delegating specific administrative functions (including decisions regarding management and disposal of individual parcels) to the Board of Regents. The legislature has delegated similar discretion to the Department of Natural Resources in administering state public domain land. See *Kachemak Bay Watch v. Noah*, 935 P.2d 816, 825-26 (Alaska 1997) ("The legislature's assignment of a task to an agency, such as the identification of districts at issue here, invariably involves the exercise of agency discretion.")


Mr. Bullock also states, on pages 11-12 of his March 22, 2010 memorandum, and page 9 of his March 30, 2009 memorandum, that the Alaska Constitution requires that university land be managed consistent with the Alaska Land Act. We disagree. The legislature has specifically exempted university land from the Alaska Land Act and from the statutes that govern use and classification of state land surface. See *AS 38.04.005(f)*; *AS 38.05.030(f)*. The legislature's disparate treatment of university land, managed by the Board of Regents, and state public domain land, managed by the Department of Natural Resources, recognizes the different responsibilities and purposes of the land management

programs of each agency of the state. The legislature also has enacted statutes that provide land management authority to other state agencies that hold title to and manage state land outside the Alaska Land Act. For example, *see AS 19.05.040, AS 19.05.080-.120 (Department of Transportation) and AS 42.40.250(7)-(10), AS 42.40.285, AS 14.40.350-.465 (Alaska Railroad)*. The validity of these statutes has not been challenged.

Thank you for considering these issues.

Sincerely,

DANIEL S. SULLIVAN
ATTORNEY GENERAL

By: 
J. Anne Nelson
Assistant Attorney General
Attorney for the State of Alaska

Cc:

Gerald Gallagher, Legislative Director, Office of the Governor
Tom Irwin, Commissioner, Department of Natural Resources
Richard Lefebvre, Deputy Commissioner, Department of Natural Resources
Richard Mylius, Director, Mining Land and Water
Deborah Behr, Chief Assistant Attorney General
Michael Ford, Assistant Attorney General
Wendy Redman, Vice President, University Relations
Larry Zervos, University General Counsel

CITY OF TENAKEE SPRINGS

Don Pegues
MAYOR

P.O. Box 52
Tenakee Springs, Alaska 99841

February 10, 2010

Alaska State House of Representatives

Representative Bill Thomas

Dear Rep. Thomas,

I want to thank you for your hard work representing us on HB 295. Last Thursday the Tenakee Springs City Council adopted Resolution 2010-16, relating to the community's desire to have ST 1003 excluded from the list of lands to be granted to the University of Alaska. The Resolution is enclosed. Also enclosed, are three pieces of correspondence between the City of Tenakee Springs and DNR, the Stipulation for Settlement Tenakee Springs vs. State of Alaska 1JU 80-1666, March 9, 1981, and three pages from the Northern Southeast Area Plan (NSEAP). Tenakee Springs strongly desires to be excluded altogether from the University Bill and if that is not possible to have an amendment inserted binding the University to the terms of the Stipulation for Settlement. We intend to convey this material to Senator Kookesh, and if you have the opportunity, hope you would urge him to help with the exclusion.

Much of the concern expressed at the public hearing on resolution 2010-16 and by the Council members centered around whether the Stipulation with the land-use restrictions cited in the March 9, 1981 Court Order would remain in effect if the land were transferred to the University. In 1977, when the US Forest Service wanted to build a road and log dump and cut three timber units within the corporate boundaries of Tenakee Springs, the City's objections resulted in a Memorandum of Understanding between the city of Tenakee Springs the State of Alaska and Alaska Pulp Corporation. The US Forest Service declined to participate. A part of the MOU promised that DNR would convey to Tenakee Springs the lands selected under statehood with the understanding some would be retained by the State. When the conveyance was not forthcoming the City sued the State and the end result was an court order approving the Stipulation for Settlement, 1JU 801666, March 9, 1981. In the Stipulation for Settlement paragraph 1.2 describes a tract of land to be retained by the state for "commercial, industrial, row right away and borrow pits purposes... containing 261 acres, more or less." This track is designated C34 in the NSEAP. Paragraph 1.4, describes a "public facilities reserve, 40 acres more or less" and is designated C30 in NSEAP. C30 encompasses C31 and C32. The University list erroneously adds the acreages of C30, C31 and C32 together totaling 80 acres when the actual acreages 40 as a result the total acreage in ST 1003 is 301 acres. In the correspondence from 2005 enclosed DNR stated that they do not believe this day to be bound by the terms of the stipulation for settlement as to land-use.

The community is very concerned about the potential increased burden for new services that may be placed upon us. Extending power lines, improved access, and snow removal are all

CITY OF TENAKEE SPRINGS

things that would overwhelm our limited budget. If the University is not bound by the Stipulation for Settlement and is able to privatize these lands that burden could be considerably

greater. A fiscal note to the bill from the University of Alaska indicates that the 20-year projected income from these lands might produce 1% of the annual income required by the University. The 301 acres in Tenakee comprises only .11% of the total land grant in HB 295. Consequently the income derived from this land would be less than .0013 percent of the University's annual requirement. The potential burden to the city, in our minds, far outweighs the potential gain to the University.

The City of Tenakee Spring would be grateful for any help that you could provide in excluding the Tenakee Lands from the University Bill. One of our Council members, in contact with your office, has indicated you might be willing to forward amendment language to the House Committee on Community and Regional Affairs for an exclusion amendment. The Community and Regional Affairs Committee is meeting this week. I know that you work closely with Senator Kookesh and hope that together you can get exclusion amendments in both HB 295 and SB 225.

Respectfully,

Don Pegues, Mayor
City of Tenakee Springs

CC: Alaska House of Representatives
Committee for Community and Regional Affairs

City of Tenakee Springs

RESOLUTION 2010-16

In the Council
February 11, 2010

Introduced by
Council President

**A RESOLUTION FOR THE CITY OF TENAKEE SPRINGS, ALASKA, SUPPORTING
AN AMENDMENT TO HB 295 AND SB 225, "UNIVERSITY LAND GRANT",
EXCLUDING PARCEL ST 1003 FROM CONVEYANCE TO THE UNIVERSITY OF
ALASKA**

WHEREAS, the Alaska Department of Natural Resources, (DNR) adopted the Northern Southeast Area Plan (NSEAP) on October 15, 2002; and

WHEREAS, the City of Tenakee Springs, the public, various stakeholders and other government agencies had input into the land-use designations for local state lands in the NSEAP; and

WHEREAS, the NSEAP acknowledges that the State of Alaska shall retain certain lands in state ownership and manage them for the purposes designated in the Stipulation of Settlement pursuant to the order of the Alaska Superior issued on March 9, 1981 in case number IJU-80-1666; and

~~WHEREAS, if these lands in ST-1003 are conveyed to the University of Alaska, the University remains bound by the management uses designated for these lands in the IJU-80-1666, March 9, 1981 court order; and~~

WHEREAS, the Parcel Number ST 1003 includes parcels identified in the NSEAP as C30 which includes C31 and C32, 40 acres more or less, is designated to be managed "as a public facilities reserve" by court order; and

WHEREAS, the NSEAP states, "Other than development that may be related to marine support at the boat harbor, further development of this parcel is not considered appropriate."; and

WHEREAS, Parcel Number ST 1003 also includes the parcel identified in the NSEAP further as C24, 261 acres more or less, and the NSEAP and March 9, 1981 Court Order declares that "Lands within this parcel are to be retained by the state"; and

WHEREAS, the Stipulation for Settlement, (para 1.4), Tenakee Springs vs. State of Alaska, IJU-80-1666, March 9, 1981 stipulates these retained lands to be managed for "Commercial, industrial, right of way, and borrow pits" uses; and

WHEREAS, DNR did not solicit public comment from residents of Tenakee Springs for the 2010 legislation (HB 295) when designating Parcel ST 1003 for conveyance to the University; and

WHEREAS, all of the parcels in ST 1003 are within the city limits of Tenakee Springs; and

WHEREAS, fiscal Note 3 of House Bill 295 indicates, "after substantial additions to the LGTF endowment UA can see modest operating revenue i.e., in approximately 20 years UA anticipates annual investment earnings on new land sales to reach 1% of state general fund support or \$2.6M."; and

WHEREAS, the total acreage of land recommended for conveyance from the State of Alaska to the University of Alaska in HB 295 and SB 225 is 260,000 acres; and

WHEREAS, parcel number ST 1003 is approximately 301 acres in size, which equates to .0013 percent of the total acreage of land to be conveyed to the University; and

WHEREAS, the City of Tenakee Springs would be unduly burdened by conveyance of these lands compared to the relatively insignificant additional revenue this parcel would contribute to the University's budget;

THEREFORE BE IT RESOLVED by the Common Council of the City of Tenakee Springs, Alaska that we support an amendment to HB 295 and SB 225 either removing the transfer of ST 1003 to the University of Alaska or binding the University to the terms of the Stipulation for Settlement in IJU-80-1666, City of Tenakee Springs vs. State of Alaska, March 9, 1981

ADOPTED 7 Yes, 0 No THIS 11th DAY OF February 2010.

Don Pegues
City Council President
Ex officio MAYOR

ATTEST:

Mary M. Almy
Acting City Clerk

March 16, 2010

House Resources Committee

The Honorable Craig Johnson, Co-Chair
State Capitol
Juneau AK, 99801

The Honorable Mark Neuman, Co-Chair
State Capitol
Juneau AK, 99801

Dear Representatives Johnson and Neuman:

I am writing in regard to HB 295, which is scheduled to be heard before the House Resources Committee this week. That bill provides for the transfer of designated lands to the University of Alaska, as listed in the "University of Alaska Land Grant List 2005." Among the lands recommended for transfer are those contained in ST 1003, which fall within our city boundaries. The City was opposed to this proposed transfer in 2005, and still opposes it today. The Tenakee Springs City Council recently adopted Resolution 2010-16, expressing the community's desire to have ST 1003 removed from the list of lands to be granted to the University of Alaska.

This is not the first time these parcels have been the center of controversy. In 1977, when the U.S. Forest Service proposed a road, log dump and harvest of three timber units within the corporate boundaries of Tenakee Springs, the City's objections led to a Memorandum of Understanding between the City of Tenakee Springs, the State of Alaska and Alaska Pulp Corporation. That MOU, in part, provide that the Alaska Department of Natural Resources would convey to the City lands selected by the State, while some lands would be retained by the State. When the conveyances did not occur, the City sued the State. That litigation was resolved in a Judgment¹ against the State in 1981, adopting a Stipulation for Settlement entered into by the parties. That Judgment was subsequently reaffirmed and amended by the court in 1984 and 1986, again by stipulation of the parties.

The Stipulation for Settlement provides that the State "convey to the City . . . fee simple title to all selected lands within the City's boundaries conveyed to the state by the Bureau of Land Management, except for the sites and acreages set out below." The Settlement goes on to

¹ The Judgment from the Superior Court orders that "the failure or refusal of either party to comply with the terms of the Stipulation for Settlement, the other party shall be entitled to specific performance, special damages sustained by reason of the other party's non-performance, and costs and attorney's fees incurred in enforcing this judgment."

designate specific parcels that would remain with the State but with restrictions on their use or or be transferred to the City for specified uses.

Two of those lands specifically excepted from the transfer to the City were lands designated as tracts C30 and C34 in the Northern Southeast Area Plan, adopted October 15, 2002. In 2005, DNR took the position HB 130 that tract C30 was not among the parcels in the 2005 list. The City is relying on DNR's position that C30 is, similarly, not included now in HB 295. However, if for some reason C30 is considered included in the 2010 legislation, the City objects. In reference to C30, DNR has noted:

The classification of parcels within the Tenakee community is greatly affected by a court order dated March 9, 1981 that identifies state lands for conveyance to the community and assigns uses to the lands retained by the state. This parcel is affected by paragraph 1.4 of that order, which designates it as a "public facilities reserve".

With the restriction on C30 that it be used only as a "public facilities reserve," it is unlikely that the University would desire to possess it with such restrictions.

As to C34, DNR observed:

This parcel includes all of those areas within Tenakee affected by paragraph 1.2 of the court order. It consists of two parts: an interior part within sections 15 and 22 situated eastward and upslope of the community, and a part within section 23 that stretches along the coast. The classification of parcels within the Tenakee community is affected by a court order dated March 9, 1981 that identifies state lands for conveyance to the community and assigns uses to the lands retained by the state. Paragraph 1.2 designates this parcel for "commercial, industrial, road right-of-way, and borrow pits".

Lastly, there are two smaller parcels, designated as tracts C31 and C32 in the Northern Southeast Area Plan, that comprise part of the ST 1003 lands. These parcels did not transfer from BLM to the State until 1986 and 2003, respectively. These delays were because of the existence of un-adjudicated claims to the land at the time the remaining selected lands were transferred to the City in 1982. Those two parcels, selected by and transferred to the State under the Statehood Act, are subject to the same obligation to transfer them to the City under the terms of the Settlement. To that end, the City is considering a quiet title action to resolve that oversight.

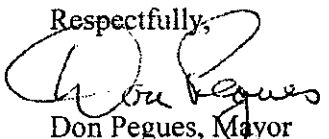
It appears that transfer of these parcels would not promote the intent of the legislation: to provide clear title to the lands and provide for management of revenue from that land as university receipts. Ownership of C31 and C32 is in dispute, and the remaining parcels are subject to the restrictions set forth in the Settlement. Consequently, the purposes of the proposed land transfer would be frustrated, if not unobtainable. Further, this community is very concerned about the potential increased burden for new services that may be placed upon us. Extending

power lines, improved access and snow removal are just a few of the possible things that would overwhelm our limited budget.

A fiscal note to the bill from the University of Alaska indicates that the 20-year out annual projected income from the total new land grant might produce 1% of the annual income required by the University. The acreage in Tenakee comprises only .11% of the total land grant in HB 295, meaning the income derived from this land would be less than .0013 percent of the University's annual requirement. When considering the restrictions the University would take this land subject to, the potential burden to the City far outweighs the gain to the University.

We ask that ST 1003 be removed from HB 295, and appreciate your attention to this matter.

Respectfully,



Don Pegues, Mayor
City of Tenakee Springs

- Cc: Representative Edgmon
- Representative Olson
- Representative Seaton
- Representative Wilson
- Representative Guttenberg
- Representative Kawasaki
- Representative Tuck

Debra Higgins

From: Tim Lydon [t_lydon@yahoo.com]
Sent: Thursday, March 18, 2010 11:29 AM
To: Rep. Craig Johnson; Rep. Mark Neuman; Rep. Bryce Edgmon; Rep. Kurt Olson; Rep. Peggy Wilson; representative_david_guttenberg@legis.ak.us; Rep. Chris Tuck; Rep. Scott Kawasaki; Rep. Paul Seaton
Cc: hans baertle; bill bailey; shannon bailey; jeff behrens; dan blanchard; bryce brockaway; gary carlson; christine@northwestnavigation.com; dennis@yachtalaska.com; joyce gauthier; ken gerkin; joel hanson; info@sikumi.com; becky janes; mike jones; jim kyle; dan liden; randy@bluewateradventures.ca; john swanson; ben swanson; trips@dolphincharters.com; spirit walker; aksong@aol.com; michael mcintosh; solan jensen; kevin hood; barbara lydon; Jon Horn; sean rielly; John Neary
Subject: requested testimony--sumdum--university lands bill
Attachments: sawta sanford cove ltr.doc

Good morning Resources Committee members.

At last night's hearing you requested I submit written testimony about the Sumdum parcel currently listed in the University Lands Bill. Thank you for the opportunity to testify and for considering my concerns. And sorry if I was a little long-winded last night. I'll attempt more brevity today.

Here's a summary of the important points related to Sumdum. Also, attached is a letter from 18 commercial tour operators that use the lands surrounding Sumdum and who strongly object to its privatization.

*Sumdum is in Endicott Arm, part of Holkham Bay. This is the only undeveloped mainland bay between Juneau and Frederick Sound, maybe even all the way to Petersburg. It's surrounded by 730,000 acres of federally designated wilderness.

*Privatizing Sumdum opens it to development and commercial activity like flightseeing, whale watching, charter fishing, catamarans to the glaciers, salmon bakes, etc., etc.. It would adversely impact the surrounding 730,000 acres of wilderness and the independent and commercial visitors that currently rely on the area.

*Currently DNR zones the parcel as Rec Undeveloped to be compatible with surrounding land uses. Privatization and development is contrary to surrounding land uses.

*This place is important to local residents for fishing, hiking, hunting, camping, and more.

*This place is important to commercial operators of nature-based tourism. Commercial operators rely on undeveloped bays. The operators contribute significantly to the Southeast AK economy.

* If Sumdum cannot be removed from the bill, we recommend a stronger covenant than the one currently traveling with the bill. The current one prohibits mining and logging and assures educational, scientific, historical, cultural uses of the site. But it does not address development, which is the true threat to this parcel and the surrounding land. A covenant that would address the concerns of myself, my wife, and many commercial operators would prevent any development on the parcel. It also sounds like the University would not want the parcel with such a covenant, so perhaps removing it from the bill would be best.

Thank you again for the opportunity to comment

Tim and Barbara Lydon

cc: commercial tour operators that use the area surrounding Sumdum

Debra Higgins

From: Steve Lewis or Rachel Myron [tenakeetwo@yahoo.com]
Sent: Wednesday, March 17, 2010 12:41 AM
To: Rep. Craig Johnson
Subject: Please Remove Lands in Tenakee Springs from House Bill #295

March 17, 2010
Honorable Representative Johnson,

As a member of the House Resources Committee you will soon be reviewing House Bill #295.

Please remove lands within the city of Tenakee Springs from HB 295. The Tenakee Springs City Council recently unanimously passed Resolution 2010-16 making an identical request. The specific parcel(s) is ST 1003 which includes C 30 (~40 acres) and C 34 (~261 acres). These parcels represent a very minor amount of the total acreage included in HB 295. Their inclusion in the bill, however, would have vastly disproportionate impacts on Tenakee Springs.

Thank you
for your work in government. Thank you for listening and for responding to the needs and concerns of our community.

Sincerely,

/s/ Rachel Myron

Rachel Myron, Tenakee Springs
resident
PO Box 53

Tenakee Springs, AK 99841
Email: tenakeetwo@yahoo.com

FROM LEG LEGAL
Don Bullock

Issues with CSHB 295(EDC)

1. (STYLE) Generally needs edits to conform with the drafting manual and the style of the Alaska Statutes. (Also, some sections were repealed and reenacted when there were only limited changes).
2. (LEGAL, SUBSTANTIVE) University land is state land. The bill does not provide the law for the administration and disposition of the land conveyed to the university. Administration and disposition may not be done under policies of the Board of Regents, only under laws passed by the legislature. See, e.g. AS 38.05, the Alaska Land Act.
3. (LEGAL SUBSTANTIVE; POLICY AS TO PERCENTAGE) The bill incorrectly describes proceeds from the land conveyed to the University that must be deposited into the Permanent Fund (Amendment to AS 37.13.010(a) in sec. 12, CSHB 295(EDC)).
4. (POLICY) Bottom line University can have title, but cannot manage the land except under laws passed by the legislature; University cannot have any money generated by the land without appropriation by the legislature. Begs the question, except for land that may be used for purposes related to the function of the university, why transfer the land? The same thing could be accomplished by keeping the land under the administration of DNR, identify the parcels, and provide that the income from the identified parcels may be appropriated to the University.

proceeds from the amount based on the future proceeds.³⁸ The lump sum is appropriated for various purposes.³⁹ No trust is created nor were revenues dedicated to a fund. The court concluded that "[b]ecause of the tobacco settlement and the resulting income, the state would violate the anti-dedication clause unless, we were concerned that the state might be contrary to the clause; ultimately, however, we found no constitutional violation."⁴¹

Neither holding nor suggests that the state property can be dedicated to a fund. Likewise, it does not appear to be an exception to the anti-dedication clause applicable to revenue property. Instead, *Myers* suggests that the dedicated funds clause is extended to statutes that, by violating the clause by some other way, are underlying the clause.

University is not exempt from article 7.

We would prefer that we affirm the court's holding on the alternative that the University's special revenues generated by its

390-91.

The tobacco settlement revenue is an indirect method of producing revenue similar to the prohibited dedicated revenues. The anti-dedication clause, with the legislature's approval, we conclude that the sale of the settlement is constitutional because the legislature has the power to appropriate power to sell state assets, lawsuit settlements, and traditional sources of public revenue. The legislature has the responsibility to protect the state's risk.

lands may be dedicated. The State and University argue, in effect, that article VII, section 2 of the Alaska Constitution creates an implied exception to the dedicated funds clause by authorizing the University to hold title to real property. Because, the appellees reason, University lands are not state lands, University land revenues are not state revenues, and therefore University land revenues can be dedicated. In addition to drawing this conclusion from the constitutional text, the appellees emphasize that the University's lands are distinct from state lands under certain statutes, such as the Alaska Land Act⁴² and laws regarding public domain land.⁴³

SEACC believes interpreting article VII, section 2 to permit ownership but deny control of proceeds harmonizes that provision with the dedicated funds clause without improperly reading an exception into the dedicated funds clause. Further, SEACC argues that the University is an instrumentality of the state for relevant purposes⁴⁴ and points out that the legislature controls the University's funding. Therefore, SEACC concludes, University revenues are subject to article IX, section 7.

Our case law establishes that University lands are state lands. Article VII, section 2 establishes—the University—declares—it—a "body corporate," provides that the University "shall have title to all real and personal property now or hereafter set aside for or

conveyed to it," and states that "[i]ts property shall be administered and disposed of according to law."⁴⁵ We considered the meaning of article VII, section 2 in *State v. University of Alaska*.⁴⁶ There, we held that the state could take land that Congress had granted to the University to be held in trust for it under the federal 1929 act, but that the state had to compensate the University with monetary damages or equivalently valuable land.⁴⁷ Our opinion emphasized article VII, section 2's command that "property shall be administered and disposed of according to law,"⁴⁸ and noted that "'according to law' refer[s] to the legislature's power to make laws."⁴⁹ Thus, even when the University has title to land, "only the legislature can make laws effecting the disposal of land, not the Board of Regents."⁵⁰ We further observed that "[t]he natural resources article of the Alaska Constitution grants extensive powers to the legislature to control lands," which makes "clear that [the University lands received under the 1929 act] 'belong' to the state."⁵¹ The conclusion we reached in *State v. University of Alaska*, that University land is state land, applies even more readily to the present case because the University land involved here is not shielded by a federal-trust obligation.—Statutory language treating University lands differently from other state land does not overcome this constitutionally based conclusion.

transfer of contractual rights to it distinct from transfer to a private entity).

42. See AS 38.05.965.

43. See AS 14.40.291(a).

44. SEACC provides several examples of other purposes for which we have found that the University is part of the state, citing *University of Alaska v. National Aircraft Leasing, Ltd.*, 536 P.2d 121, 123-25, 127-28 (Alaska 1975) (holding that the University is protected by sovereign immunity and can be sued under statutes subjecting the state to suit); *University of Alaska v. Geistaust*, 666 P.2d 424, 427-28, 427 n. 3 (Alaska 1983) (holding that meetings of a university committee are subject to the Public Meetings Act); *Carter v. Alaska Public Employees Ass'n*, 663 P.2d 916, 920-21 (Alaska 1983) (holding that the University must comply with the requirements of the public records statute), and *Ellingstad v. State, Department of Natural Resources*, 979 P.2d 1000, 1007 (Alaska 1999) (holding that the University's treatment as a state entity under state law makes

45. ALASKA CONST. art. VII, § 2.

46. 624 P.2d 807, 814 (Alaska 1981).

47. *Id.* at 815-16.

48. *Id.* at 814 (quoting ALASKA CONST. art. VII, § 2).

49. *Id.* at 815 n. 10.

50. *Id.* at 815.

51. *Id.* The court was referring to and quoting article VIII, section 2 of the constitution, which states: "The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people." See *id.*

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE COMMISSIONER

SEAN PARNELL, GOVERNOR

- P.O. BOX 111000
JUNEAU, ALASKA 99811-1000
PHONE: (907) 465-2400
FAX: (907) 465-3886
- 550 WEST 7TH AVENUE, SUITE 1400
ANCHORAGE, ALASKA 99501-3650
PHONE: (907) 269-8431
FAX: (907) 269-8918

March 10, 2010

Representative Craig Johnson, Co-Chair
Representative Mark Neuman, Co-Chair
House Resources Committee
Capitol, Room 124
Juneau, AK 99811

Re: HB 295 – University Land Grant

Dear Resources Committee Chairmen,

Please accept this request for your consideration to schedule CS HB 295 (CRA) before the House Resources Committee at your earliest convenience.

This bill would convey approximately 197,600 acres of state land to the University of Alaska, and specify that revenue generated by the University of Alaska's management of the land be subject to appropriation each year by the Legislature.

Legislation passed in 2000 and 2005 made certain land grants to the University of Alaska and specified that the revenue generated from those lands would be deposited into the University endowment trust fund. In March 2009, the Alaska Supreme Court found these statutes violate the dedicated funds section of the Alaska Constitution, Art. IX, Sec. 7.

This bill seeks to remedy issues identified by the Court by specifying that the revenue generated from the land is to be accounted for as university receipts and therefore subject to appropriation each year by the Legislature. It also ratifies and reauthorizes the land conveyances authorized in the previously enacted legislation.

The land to be conveyed under this bill as proposed originally has been modified by amendment in the House State Affairs and Community and Regional Affairs Committees. As originally introduced the bill conveyed the lands identified by the Legislature in 2005 (ch. 8, FSSLA 2005), with the exception of two parcels that were conveyed under separate statutory authority to the University research forest. The amendments in the House Education Committee removed one parcel at Mite Cove on Lisianski Inlet, while amendments in House Resources Committee removed four parcels also in Southeast Alaska.

If you have any questions regarding the bill, please contact Melanie Lesh, Special Assistant to the Commissioner of the Department of Natural Resources at 465-4730, or Dick Mylius, Director, Division of Mining, Land, and Water at 269-8625.

Sincerely,



Thomas E. Irwin
Commissioner

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."

STATE CAPITOL
PO Box 110001
Juneau, Alaska 99811-0001
907-465-3500
fax: 907-465-3532



550 West 7th Avenue #1700
Anchorage, Alaska 99501
907-269-7450
fax 907-269-7463
www.gov.alaska.gov
Governor@alaska.gov

Governor Sean Parnell
STATE OF ALASKA

January 15, 2010

The Honorable Mike Chenault
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear President Stevens,

Under the authority of Art. III, Sec. 18, of the Alaska Constitution, I am transmitting a bill relating to: the grant of certain State lands to the University of Alaska; the duties of the Board of Regents; the deposits made to the Alaska Permanent Fund received from lands conveyed to the University of Alaska; ratifying and reauthorizing certain prior conveyances of land to the University of Alaska; and making conforming amendments.

This bill will fulfill a promise made at the turn of the 20th century, when Congress promised 350,000 acres of land to the former Alaska Territorial College and School of Mines. However, since Statehood in 1959, most of this promised land has never materialized. Today, at 140,000 acres, the University of Alaska has one of the smallest land grants in the United States. Even Rhode Island's university land grant is larger. The intent of the land grants is to provide the university with a portfolio of land that will enhance its financial position and further its educational mission. Land grant colleges and universities are common throughout the United States.

Final resolution to this much overdue commitment is something I have and continue to strongly support. During my tenure in the Legislature I advocated for, and the Legislature passed, several pieces of University Land Grant legislation. By introducing this legislation I've committed to the purpose of the legislation passed in 2005 and removed constitutional issues created by that legislation.

The bill will convey approximately 199,838 acres of State land to the University of Alaska. The Legislature will specify revenue generated by the University of Alaska's management of the land be managed as university receipts, subject to appropriation each year by the Legislature. This bill ratifies and reauthorizes the land conveyances in legislation enacted in 2000 (ch. 136, SLA 2000) and 2005 (ch. 8, FSSLA 2005). These statutes were found by the Alaska Supreme Court, in *Southeast Alaska Conservation Council v. State*, 202 P.3d 1162 (Alaska 2009) to violate Art. IX, Sec. 7 (the dedicated funds section) of the Constitution of the State of Alaska, because the statutes specified that revenue generated from the University of Alaska's management of the land was to be deposited in the University of Alaska's endowment trust fund.

The Alaska Supreme Court found that the dedication provisions of the statutes could not be severed from the land conveyance provisions, rendering the entirety of the legislation unconstitutional, except for the provisions pertaining to the university research forest. The bill explicitly states the intent to convey the land to the University of Alaska, notwithstanding that revenue generated from the land may not be dedicated to

The Honorable Mike Chenault
January 15, 2010
Page 2

the University of Alaska's endowment trust. The bill addresses the constitutional infirmity by specifying that revenue generated from the University of Alaska's management of the land is to be managed as university receipts, subject to appropriation each year by the Legislature.

The land to be conveyed in this bill to the University of Alaska will be the land originally designated in the final 2005 legislation (ch. 8, FSSLA 2005), with the exception of two parcels that were conveyed under separate statutory authority and the university research forest. The bill refers to the land identified in the document titled, "University of Alaska Land Grant List 2005," dated January 12, 2005. This land list was arrived at after more than a year of intense work by the Department of Natural Resources (department) and the University of Alaska to identify land that may be conveyed to the University of Alaska without unreasonably conflicting with programs associated with, and uses of, State land managed by the department.

The land list in the bill reflects changes made by the Legislature during the 2005 session, including the Legislature's decision to drop certain parcels that were on the original list provided in January 2005. The bill will also include language added by the Legislature to protect land for possible municipal entitlement selections by the City and Borough of Wrangell and possible borough in the Petersburg area. Before the Alaska Supreme Court declared the prior land conveyance statutes unconstitutional (ch. 136, SLA 2000 and ch. 8, FSSLA 2005), the department had completed conveyance of 31 of the 52 available parcels identified in the land list. The bill ratifies and reauthorizes these conveyances, as well as provides authority for conveyance of the remaining 21 parcels.

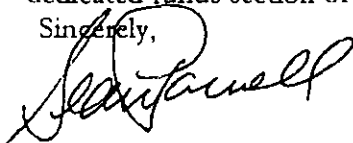
The bill also includes requirements for management of university land, such as public notice and comment opportunities on proposals for land development, exchange, or sale. Additionally, the bill exempts certain sensitive business and economic information regarding sale, lease, or development of university land from the public records production requirements of AS 40.25.100 - 40.25.295 (Alaska Public Records Act). These provisions reflect the 2005 legislation.

The prior land conveyance statutes included a provision for establishment of a university research forest. This provision is not included in this bill since the Alaska Supreme Court found that the provision in the prior legislation could be severed from the unconstitutional dedication provisions, and it was therefore upheld as constitutional.

The bill also contains a provision authorizing the deposit to the Alaska Permanent Fund of 25 percent of receipts from certain lands conveyed to the University of Alaska. A copy of the "University of Alaska Land Grant List 2005" has been provided to the Legislature and is available upon request from the Department of Natural Resources.

I urge your prompt and favorable action on this measure, which will complete the State's efforts to provide a beneficial educational and income-producing land base to the University of Alaska, while complying with the dedicated funds section of the Constitution of the State of Alaska.

Sincerely,



Sean Parnell
Governor

Enclosure

Board of Regents' Office
Phone: (907) 450-8010
Fax: (907) 450-8012
EMAIL: svbor@alaska.edu
www.alaska.edu/bor/

OFFICE OF THE GOVERNOR
MAIL ROOM



JUN 19 2009

10946
AK
JG

202 Butrovich Building
910 Yukon Drive
P.O. Box 755300
Fairbanks, AK 99775-5300

June 15, 2009

Dear Governor Palin and State of Alaska Legislators,

The united leadership of the University of Alaska system seeks your assistance to remedy the financial injury caused to the State of Alaska's University system by the recent Alaska Supreme Court March 13, 2009, decision, Southeast Alaska Conservation Council v State of Alaska and University of Alaska. In this decision, the Alaska Supreme Court voided the Alaska Legislature's action in passing the 2005 University Land Grant Bill. The court held unconstitutional the restriction that any proceeds of the land must be placed into the University Endowment Trust Fund, and surmised that the legislature would not have intended to grant the land without that restriction. The court, therefore, invalidated the whole act except for the part establishing a research forest.

A great state needs a great university system. A great university system must have adequate resources sufficient to meet its responsibilities. A more woeful history of a land-grant college could hardly be found. The University of Alaska is a land-grant college without the land.

The State of Alaska's University system has been waiting almost 100 years with no appreciable land. For an interesting and concise account of this baneful history we would direct you to "A Land Grant College Without the Land: A History of the University of Alaska's Federal Land Grant"; a brief 20 page report by Terrence M. Cole, which we can provide to you upon request.

The united leadership of the University of Alaska system is requesting that in your capacity as the governing leadership of the State of Alaska, as Governor and Legislators, that you correct the court's conjecture that the legislature would not want the University to have the land that the legislature granted to it. We respectfully request your support for advancing higher education in the State of Alaska by reconveying these lands to the University of Alaska at the earliest possible opportunity without the dedicated funds clause that the Alaska Supreme Court found to be offensive to our State Constitution.

We the undersigned, the leadership of the University of Alaska system, thank you for your support of higher education in the State of Alaska.

Cynthia Henry, Chair
Board of Regents

Mark Hamilton, President
University of Alaska

SB 225 and HB 295: Grant of State Land to the University of Alaska

Prepared by Department of Natural Resources, January 2010

Summary of Bills: Transfer 199,838 acres of state land to the University of Alaska and address the March 2009 Alaska Supreme Court ruling that struck down previous university land grant legislation (2005 HB 130 and 2000 SB 7), which dedicated land revenue to the University Endowment Trust. These bills convey the entire HB 130 land list as amended by the legislature, ratifies conveyances already in place, and directs land revenue to the General Fund instead of the university's endowment trust.

The land to be conveyed includes:

- 29 parcels located throughout SE Alaska
- 5 parcels in Southcentral, including tract at McCarthy in Wrangell St Elias National Park
- 18 parcels in Interior – including tracts along the Dalton Highway, the 90,000 acre Nenena oil/gas tract, and numerous educational properties.

The bills also:

- Exclude from transfer 9 parcels in SE that were withdrawn by the legislature in 2005 due to public opposition;
- Identify 9 parcels in SE that would go to UA only if not selected by new Boroughs as part of municipal entitlements;
- Include specific language addressing the March 2009 Supreme Court ruling and a one-year statute of limitations period.

The March 13, 2009 Supreme Court Decision

- The Alaska Supreme Court in *S.E. Alaska Conserv'n Council v. State*, 202 P.3d 1162 (Alaska 2009) held that 2000 SB 7 and 2005 HB 130 violated the dedicated funds clause of the Alaska Constitution by dedicating land revenue to the University's endowment trust
- The Court held that the trust provisions of the legislation reflected the key intent of the legislature to enhance the University's permanent endowment and therefore were not severable from the land conveyance provisions.
- The Court upheld provisions of the legislation that conveys a research forest (near Tanana) to the University because the research forest is not income property and was addressed independently in the legislation. The Court declined to address the other non-income properties on the conveyance list (which included miscellaneous educational and infrastructure properties).

Related Legislation

- House Bill 234 would convey 12 of the approximately 50 parcels on the HB 130 land list, including the noncontroversial educational properties and the Nenana oil and gas tract.

For more information contact:

Dick Mylius, DNR, Director of Division of Mining, Land and Water - 269-8600;

dick.mylius@alaska.gov

Melanie Lesh, DNR Legislative Liaison, 465-4730, melanie.lesh@alaska.gov

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE COMMISSIONER

SEAN PARNELL, GOVERNOR

- P.O. BOX 111000
JUNEAU, ALASKA 99811-1000
PHONE: (907) 465-2400
FAX: (907) 465-3886
- 550 WEST 7TH AVENUE, SUITE
ANCHORAGE, ALASKA 99501
PHONE: (907) 269-8431
FAX: (907) 269-8918

Sectional Analysis

House Bill 295 – “An Act relating to the grant of certain state land to the University of Alaska; relating to the duties of the Board of Regents; relating to deposits made to the Alaska permanent fund received from certain lands conveyed to the University of Alaska; ratifying and reauthorizing certain prior conveyances of land to the University of Alaska; making conforming amendments; and providing for an effective date.”

Section 1 – Findings and Purpose – Explains why legislation is necessary. Paragraphs (7) – (10) specifically address issues raised by Alaska Supreme Court regarding previous legislation.

Section 2 – Legislative Intent – Clarifies the intent of the Legislature to:

- respond to the Alaska Supreme Court decision in *S.E. Alaska Conserv'n Council v. State*, 202 P.3d 1162 (2009).
- convey state land to the University even though revenue from the land will be deposited in the general fund and be subject to annual appropriation by the Legislature.
- ratify conveyances that occurred under authority of SB 7 and HB 130. that the land should proceed even if any other provision in the bill is found to violate the dedicated funds clause of the Alaska Constitution.

Section 3 – Amends AS 14.40.170(a) by deleting the phrase “THE BOARD OF REGENTS IN TRUST FOR” before “the University” specifying the land conveyed under this legislation cannot be considered trust land managed by the Board of Regents.

Section 4 – Amends AS 14.40.291(a) similar to Section 3.

Section 5 – Creates a new AS 14.40.365 to replace the statute the Supreme Court found to be unconstitutional in its ruling in *Southeast Alaska Conservation Council v. State*, 202 P.3d 1162 (Alaska 2009). Subsectional analysis of new AS 14.40.365 follows:

- (a) Provides that DNR will convey land to University of Alaska by quitclaim deed within two years. Conveyance by quitclaim deed eliminates expensive land survey requirements. The two-year period should not be difficult for DNR to meet because most of the work to issue the deeds was already completed after the 2005 legislation.
- (b) Defers conveyance of the University Research Forest in Tanana Valley State Forest until 2055 (50 years from passage of 2005 legislation). This deferral

was requested by the University as it allows the continued use of this area as Research Forest by University while at the same time allowing continued small timber sales and forestry management activities by DNR Division of Forestry.

- (c) Allows that when federal mining claims that currently exist as inholdings to parcels conveyed by the state to the University are terminated and the land subsequently conveyed to the state (DNR), that DNR will in turn convey this land to the University.
- (d) Ensures that the mineral estate is also conveyed to the University. This is an exception to AS 38.05.125 which requires, for most conveyances, DNR retain the mineral rights in state ownership due to provisions in Section 6(i) in the Alaska Statehood Act. Since the University is a state entity, transfer of mineral estate to the University does not violate the 6(i) provision.
- (e) Requires that conveyances to the University recognize and protect all valid existing rights.
- (f) Requires that DNR reserve access to and along navigable and public waters as required in AS 38.05.127, but limits the width of these easements on parcels along tidewater to a maximum of 25 feet (a provision specifically inserted by the legislature in the 2005 bill). These easements by regulation would otherwise have a 50-foot minimum width. This subsection also specifies that other provisions of AS 38.04 and AS 38.05 do not apply to these conveyances to the University.
- (g) Sets out additional limitations or requirements regarding the land conveyed to the University, including Section 6(i) of the statehood act that prohibits the state's alienation of mineral estate; makes conveyance subject to RS 2477 and Omnibus Act rights of way; and excludes from the conveyance to the University any valid existing state mining claims.
- (h) Requires that upon the termination of a state mining claim located within a parcel conveyed to the University under this bill, DNR will transfer that land to the University
- (i) Establishes the date of the recording of a parcel as the time when the University takes over management responsibility for land transferred under this act.
- (j) Establishes that upon conveyance to the University, all revenue and receipts accrue to the University as University receipts;
- (k) Allows the University to return land to DNR up to ten years after conveyance if it contains hazardous waste; is located on a historic or archeological site; or the University and DNR agree to the re-conveyance.
- (l) Requires University concurrence with any DNR conveyance of an irrevocable interest in a parcel to be conveyed to the University.
- (m) Allows the Commissioner of DNR to make minor boundary adjustments to correct omissions and errors.
- (n) Removes nine (9) parcels from the land list originally agreed to by DNR and the University. These 9 parcels were included in the original land list submitted to the legislature in 2005. They were removed by the legislature during committee review of the bill based upon public and community concerns.
- (o) Defers conveyance of five parcels located within the potential boundaries of a Petersburg Borough so that if a Borough forms before July 1, 2012 (two years), these parcels could be selected by a future Borough as part of its

municipal entitlement under AS 29.65. If a borough does not form or the land is not selected by a future Borough, the land will be conveyed to the University. This provision was inserted in the 2005 legislation to specifically address this concern raised by the Cities of Wrangell and Petersburg during the 2005 legislative hearings.

- (p) Defers conveyance of three parcels located within the City and Borough of Wrangell pending possible selection by the new borough under its municipal entitlement (AS 29.65). Provides the Borough until December 1, 2011 to select the land, which is the deadline for Borough selections under AS 29.65.040(d). A provision to defer these selections was inserted in the 2005 legislation to specifically address potential borough formation, a concern raised by the cities of Wrangell and Petersburg during the 2005 legislative hearings. Wrangell formed a borough after the 2005 legislation, but has not yet filed its land selections with DNR.
- (q) Defers conveyance of one parcel located within the potential boundary of a Northern Chichagof Island Borough so that if a Borough forms before July 1, 2012 (two years), this parcel could be selected by a future Borough as part of its municipal entitlement under AS 29.65. If a borough does not form or the land is not selected by a future Borough, the land will be conveyed to the University. This provision was inserted in the 2005 legislation to specifically address this concern raised during the 2005 legislative hearings.

Section 6 – Repeals and reenacts AS 14.40.366 as passed in 2005. Sets forth management requirements for university land, including preservation of historic recent public uses, public notice and comment opportunities for land development or disposal plans, and right of first refusal to closest municipality.

Section 7 – Repeals and reenacts AS 14.40.367 as passed in 2005. Exempts certain proprietary and business sensitive information related to university land disposals from the Alaska Public Records Act.

Section 8 – Establishes a one-year statute of limitations for parties wishing to bring a lawsuit regarding this legislation.

Section 9 – Requires that revenue generated from the conveyed land be handled as University receipts subject to annual appropriation by the Legislature. This section deletes the provision in HB 130 that required revenue from the conveyed land be deposited in the University Endowment Trust, thereby correcting the dedicated funds violation found by the Alaska Supreme Court in *S.E. Alaska Conserv'n Council v. State*, 202 P.3d 1162 (2009).

Section 10 – Defines University receipts to include land transferred under this new legislation.

Section 11 – Specifies that University land conveyed under this bill is exempt from general taxation.

Section 12 – Ensures that a municipal entitlement of a future city or borough is not reduced by the conveyance of land to the University under this legislation.

Section 13 – Requires that 25% of mineral revenue from University lands granted under this legislation be deposited into the Permanent Fund.

Section 14 – Restores the repeal of AS 14.40.368 regarding encumbrances and trespasses on land to be conveyed. This statute was enacted by SB 7 and repealed by HB 130. This section confirms that AS 14.40.368 is to remain repealed.

Section 15 – Ratifies conveyances made to the University under the 2005 legislation, so that DNR does not have to re-issue deeds.

Section 16 – Adds a severability clause.

Section 17 – Establishes an immediate effective date.

Governor Sean Parnell
P.O. Box 110001
Juneau, AK 99811-0001

Dear Governor Parnell,

The Southeast Alaska Wilderness Tours Association (SAWTA) and the additional undersigned commercial tour companies are writing to inform you of the importance of the state-owned Sumdum property located near Endicott and Tracy Arms, Southeast Alaska. This property was included in the 2005 University of Alaska Lands Bill, House Bill 130, which the Supreme Court of Alaska ruled as unconstitutional. We understand that the Alaska Department of Natural Resources and the University of Alaska are encouraging you to introduce new legislation that would convey properties to the University. We ask that the Sumdum parcel not be transferred to the University of Alaska. We support Alaska's university system and fully funding it, but we believe the Sumdum parcel is not an appropriate selection for privatization.

SAWTA and the additional undersigned represent __ commercial tour companies that bring thousands of visitors to Southeast Alaska every year. Our businesses provide guided hunting and fishing, kayak expeditions, and week-long excursions aboard small and mid-size vessels. Our segment of Alaska's tourism industry provides vital and unique economic benefits to southeast Alaska, and many of us are local business people. We stand out among other segments of the tourism industry because many of us provision our excursions locally, and a high number of our clients dine and seek local accommodations before and after their trips. University of Alaska research shows businesses like ours pump millions of dollars into the Southeast economy annually.

Bringing clients to wild Alaskan landscapes is the backbone of our businesses, and it's the reason for our concern over the Sumdum parcel. The Sumdum parcel is in Sanford Cove, in the heart of the Tracy Arm-Fords Terror and Chuck River Wilderness Areas. For each of us, the area is a highlight of the services we provide. Many of us use Sanford Cove as a safe and scenic anchorage. With bears, wolves, salmon and cultural ruins, it is a common location for walks ashore, fishing, hunting and camping. Not only for our commercial clients, but for many independent and local travelers, too.

Tracy Arm-Fords Terror Wilderness is especially unique because it currently contains no lodges, private cabins, or other developments. Some of us have operated in southeast Alaska for several decades, long enough to know that such undeveloped anchorages are increasingly rare.

Privatization of the Sumdum parcel would displace many of us from long-standing business activities. It would also displace many independent and local recreationists and mar an undeveloped landscape. But removing the Sanford Cove parcel from House Bill 295 would have only a minor impact on university funding, one that could be compensated by other means.

Thank you for your consideration, and please help us maintain current use of this important part of southeast Alaska.

Sincerely,

John Swanson, President, Southeast Alaska Wilderness Tours Association (SAWTA)
SAWTA represents the following ten southeast Alaska commercial tour companies:

Geoff Wilson	Alaska Yacht Charters	(www.alaskansong.com)
Richard Friedman	Alaskan Song	(www.yachtexplorer.com)
Christine Smith	Northwest Navigation	(www.northwestnavigation.com)
John Swanson	All Aboard Yacht Charters	(www.alaskacharters.com)
Bill and Shannon Bailey	Pacific Catalyst	(www.pacificcatalyst.com)
Meg Swimlear	Sikumi	(www.sikumi.com)
Randy Burke	Bluewater Adventures	(www.bluewateradventures.ca)
Butch Laughlin	Alaska Fly n' Fish Charters	(www.alaskabyair.com)
Gary Carlson	Spirit Walker Expeditions	(www.seakayakalaska.com)
Dennis Rogers	Alaska Sea Adventures	(www.yachtalaska.com)

The letter is also signed by the following companies:

Dan Blanchard	American Safari Cruises	(www.americansafaricruises.com)
Ronn Patterson	Dolphin Charters	(www.dolphincharters.com)
Jeff Behrens	Fantasy Cruises	(www.smallalaskaship.com)
Ken Gerkin	The Boat Company	(www.theboatcompany.com)
Dan Liden	Snow Goose	(www.snowgoosealaska.com)
Jim Kyle	Alaska on the Home Shore	(www.homeshore.com)
Rick Fleischman	Sound Sailing	(www.soundsailing.com)

From: J Michael Fay [mailto:mfay@uuplus.net]

Sent: Friday, March 12, 2010 5:19 PM

Subject: Bill 295, What is the highest and best use of the Moser Bay Parcel: Please remove this parcel from bill or restrict development to long-term selective timber harvest.

Dear Representative Tuck

My name is Mike Fay (254-1902). My only home is on Long Arm, Moser Bay near Ketchikan. To see the steep, waterfront parcel deep in Moser Bay slated to be handed over to the University of Alaska scares the heck out of me and many of my neighbors. We live in Moser Bay, and many thousands more visit it every year, because it is one of the most beautiful, tranquil, and ecologically intact places in all of North America. Yet, it is a stone's throw from an international airport and about 20 minutes by boat from Ketchikan. It is of enormous scenic value, on which our local economy depends, and it is extremely popular with the population of Ketchikan.

The question is what is the highest and best use of this parcel? Moser Bay is one of the most visited places in all SE Alaska for recreation. People come from all over the globe to this exact spot by the thousands every year to witness the beauty, and to fish, crab, shrimp, hike, and sight see from boats and planes and on foot. The Salmon Falls boats pass by three times a day in the summer because we are the closest place around Ketchikan to see a pristine forest landscape and bay. This has real, long term economic value. To clear cut or to subdivide this parcel would completely undermine the highest and best use of this land which is to retain its pristine state.

The proceeds from logging it would be one off and pale in comparison with one year's tourist revenue. You can clear cut this forest once in 100 years. The timber is marginal, mostly small hemlock. The second growth will be low grade hemlock. Look at what happened to the now clear cut Slide Ridge just outside Ketchikan as well as another former University parcel in the Mountain Point area south of town. They have become permanent eye sores for all residents of Ketchikan and the millions of tourists that will visit Ketchikan over the next decade. Not to mention the ecological problems of slides that come with these cuts. In January I was amazed to see huge rivers of water coming right down Slide Ridge in the steep cut areas. There is no restoration, no management, just clear cut and let Alcan export the wood out in the round to Asia with almost no local benefit. I do not see this as the vision for the future.

I support guys like Larry Jackson, Tongass Forest Enterprises <http://www.akforestenterprises.com/>, who would love to see a steady flow of selectively harvested trees from the forest that can be transformed locally into products with great value-added for the next 100 years both employing local people and maintaining the scenic and ecological values. This is the smart future for this parcel.

You might be thinking "this is what everyone says", but this is not just one more parcel. The depths of Moser Bay are the heart of the recreational tourist industry in Ketchikan. There are at least 30 boats that visit the bay on every day of the summer for months. To mar this landscape would be a blunder of huge proportion.

I respectfully ask you to please remove the Moser Bay parcel from bill 295 or restrict development to long-term selective timber harvest only.

Mike Fay

Box 8561 Ketchikan, AK 99901
+1-907-254-1902

From: frances Jacobs [mailto:francestke@yahoo.com]
Sent: Tuesday, March 16, 2010 11:29 AM
Cc: Rep. Craig Johnson; Rep. Mark Neuman; Rep. Bryce Edgmon; Rep. Kurt Olson;
Paul_Seaton@legis.state.ak.us; Peggy_Wilson@legis.state.ak.us; David_Guttenberg@legis.state.ak.us;
Scott_Kawasaki@legis.state.ak.us; Chris_Tuck@legis.state.ak.us
Subject: The proposed transfer of State land within Tenakee city limits to the University of Alaska

Dear
Rep. Bill Thomas,

The proposed transfer of state land within Tenakee city limits to the University of Alaska is still in the pending legislation, despite the unanimous resolution of the Tenakee City Council calling for the elimination of both the 301 acre waterfront parcel at Indian River and the parcel near the harbor.

Although the last committee removed the harbor parcel (at least temporarily), the large Indian River parcel (C-34) is still there.

the proposed transfer would have a hugely disproportionate impact on this small community, while contributing very little to the overall U of A budget.

We support the City of Tenakee Springs position and ask that ALL proposed land transfers within the city limits of Tenakee Springs be eliminated from HB 295.

Respectfully,
Rudy
Ziel - Frances Jacobs

From: Steve Lewis or Rachel Myron [mailto:tenakeetwo@yahoo.com]
Sent: Tuesday, March 16, 2010 11:21 AM
Subject: HB 295---please remove Tenakee Springs parcels

Re: HB 295

Honorable Representative Mark Neuman:

As a long-time resident of Tenakee Springs, I request that you remove all the lands within the city of TenakeeSprings from HB 295. The resolution (attached) recently passed by the Tenakee Springs City Council expresses the feeling of most of us in Tenakee----we just can't afford the huge costs that developing these lands will impose on our tiny community, or the loss of flexibility to manage and develop our harbor facilities that may ensue.

Furthermore, stipulations contained in past legal settlements with the state seriously limit options for use by the University on lands along the Indian River corridor, stipulations that are enforceable, with legal costs borne by the state, and which dramatically reduce the value of this land to the University.

Thanks for listening and taking the needs, desires, and abilities of our small community into account. We look forward to hearing that HB 295 will proceed without the Tenakee parcels.

Sincerely,

Steve Lewis

PO-Box53
Tenakee Springs, AK 99841

From: Charles E. King [mailto:kingc@science.oregonstate.edu]
Sent: Tuesday, March 16, 2010 7:27 AM
To: Rep. Craig Johnson; Rep. Mark Neuman; Rep. Bryce Edgmon; Rep. Kurt Olson;
Paul_Seaton@legis.state.ak.us; Peggy_Wilson@legis.state.ak.us; David_Guttenberg@legis.state.ak.us;
Scott_Kawasaki@legis.state.ak.us; Chris_Tuck@legis.state.ak.us
Cc: Rep. Bill Thomas
Subject: University Land Disposition under HB 295

Honorable Friends on the House Resources Committee,

I write once again as a homeowner and registered voter in Tenakee Springs. Although removal of the Harbor parcel by the House Community and Regional Affairs Committee is appreciated, my previous arguments for removal of both parcels are still valid, but will not be repeated herein. Instead I will add my voice to that of our unanimous city council and urge you to consider that the University and State have little to gain, and much to lose by passage of HB 295. In our view what is at stake is the very character of our daily lives. While there are issues that might well justify such a mandate, this is not one of them and to make it so cheapens both our citizenry and the legislative process.

Respectfully yours,

Charles E. King
302 Tenakee Trail/PO Box 54
Tenakee Springs, AK 99841

From: DZ [fsdrz@yahoo.com]
Sent: Tuesday, March 16, 2010 9:26 PM
To: Rep. Craig Johnson; Rep. Mark Neuman; Rep. Bryce Edgmon; Rep. Kurt Olson; Rep. Paul Seaton; Rep. Peggy Wilson; "Representative_David_Guttenberg"@legis.state.ak.us; Rep. Scott Kawasaki; "Representative_Chris_Tuck"@legis.state.ak.us; Rep. Bill Thomas
Subject: [SPAM] Tenakee parcels in HB 295 are strongly opposed

3/16/2010

Dear Representative,

I am writing to let you know that I strongly oppose the Tenakee Parcel section included in the University of Alaska land reallocation in HB 295. Please remove the Tenakee Springs acreage from HB 295. I lived in Tenakee Springs for 17 years and return there often. The loss of this area of land would have a huge impact on the City of Tenakee and its residents.

The Tenakee Springs land included in this bill is valuable land used by the residents of the city for recreation, access, and subsistence. It is an area that has been used for generations and should remain a part of the City of Tenakee Springs.

Apparently, the U of A fiscal note states that the UofA predicts that in 20 years, when the university's land sales program is fully going, revenue from all the lands will only generate roughly 1% of the University's annual budget. Using some simple math $346 \text{ (acres of Tenakee parcel)} / 251,661 \text{ (total acres in 2005 lands list)} = 0.1\%$. 0.1% of 1% equals 0.001%. This is an estimate of possible annual benefit to the University from getting the Tenakee parcel. As you can see, the financial benefit of having this parcel included is miniscule.

Although I support the University of Alaska and realize that it needs financial support, I do not believe that this should come at the expense of small towns. Please remove the Tenakee Springs Parcel from HB 295.

Thank you for your attention to this incredibly important matter.

Sincerely,

Darcie Ziel

4130 Defiance Street
Anchorage Ak 99504

From: jkhwilson@gci.net on behalf of Karen Wilson [jkhwilson@gci.net]
Sent: Tuesday, March 16, 2010 9:13 PM
To: Rep. Mark Neuman
Subject: University Land Bill, HB 295

Dear Representative Neuman,

Our family lives in both Juneau and Tenakee. We are writing to voice our concerns over the proposed transfer of state land within Tenakee city limits to the University of Alaska (HB 295). We support the unanimous resolution of the Tenakee City Council calling for the elimination of both the 301 acre Indian River parcel and the acreage near the harbor from the bill. We appreciate the current removal of the harbor acreage, and ask that the Indian River lands also be removed.

The proposed transfer would have a tremendous impact on our very small community, potentially in many ways, and would have a minimal impact on the University's overall funding. The Indian River watershed provides critical forest and marine habitat for the subsistence lifestyles of residents and the land transfer and resulting development could seriously impact hunting and fishing stocks as well as public access to them. In addition, Tenakee lacks the infrastructure to deal with serious development and growth. Studies of potential hydropower development are ongoing, and the Indian River is the only viable, accessible source for adequate water flow.

People who have chosen to live in Tenakee do so because of the remote, subsistence, village lifestyle, the close-knit small community, and the beauty of the wild lands of the inlet. The proposed land transfer could have dramatic negative effects on a small community in exchange for minimal fundraising for the University.

Please support the removal of all Tenakee lands from HB 295.

Sincerely,

Jeff, Karen and Hannah Wilson

175 S. Franklin, #300, Juneau

P.O. Box 51, Tenakee Springs

From: Chris and Darius Mannino [chrisdarius.home@gmail.com]
Sent: Tuesday, March 16, 2010 7:29 PM
To: Rep. Mark Neuman
Cc: Rep. Bill Thomas
Subject: University Lands Bill HB295

Dear Representative Neuman,

As former residents of Tenakee Springs, who plan to return to live in Alaska within the next few years, we support the City of Tenakee Springs position and ask that all proposed land transfers within the city limits of Tenakee Springs be eliminated from HB 295. The proposed transfer would have a hugely disproportionate impact on this small community, while contributing very little to the overall University of Alaska budget. The sale of property in Sunny Cove, Tenakee Inlet would forever alter unfavorably the community of Tenakee Springs and its unique nature. We are in favor of supporting higher education, but not at the expense of small communities. The sale of property at this location would inevitably lead to a push for road connection to Hoonah, something the City of Tenakee Springs has always opposed, and something that the TTRA is supposed to protect. Regardless of the possible road connection, a sale of land of this size would unfavorably alter the nature of the Tenakee Springs community. There are so few small, roadless communities in our nation. Tenakee Springs is a truly special place. Please do not let the sale of this land change that forever.

Although land for sale in Tenakee is scarce, it is our opinion that the natural progression of transfer from private owner to private owner from time to time is greatly beneficial to maintaining the small size and unique character of the community. A large transfer of multiple pieces of property by the state or university would irrevocably alter Tenakee, and we would not want to see that happen. Regardless of the purpose, whether commercial or residential, we are opposed to this transfer. While we are not against the City of Tenakee initiating its own development projects, if that's what its citizens want, we feel that this particular land transfer is a large scale imposition of development on the City of Tenakee Springs.

Sincerely yours,
Chris & Darius Mannino
Los Angeles, CA

From: diane mccarty [diamccarty@yahoo.com]
Sent: Tuesday, March 16, 2010 6:53 PM
To: Rep. Mark Neuman
Subject: Tenakee and HB295

16 March 2010

Dear Representative

I am writing to encourage you to oppose including any Tenakee Spring land parcels in HB295.

As a long time resident of Tenakee Springs I know how detrimental this would be to the community. Tenakee does not have the resources to support what would happen if these parcels were included in this bill.

Please support Tenakee Springs and keep our community out of this bill

Thank you

Diane McCarty
1503 Newcastle St
Colorado Springs, CO 80907
719 264 1795

From: ccfishc@gci.net on behalf of Kim & Tracy Rivera [ccfishc@gci.net]
Sent: Tuesday, March 16, 2010 6:38 PM
To: Rep. Mark Neuman
Cc: Rep. Bill Thomas
Subject: PLEASE REMOVE TENAKEE PARCELS FROM HB 295

Dear Representative Neuman:

My husband and I have homes in Juneau and in Tenakee Springs. We cherish our lifestyle in the small community of Tenakee Springs. We support the position of our City Council there that ALL proposed land transfers within the city limits of Tenakee Springs be eliminated from HB 295. (We understand that the harbor parcel has been removed; it is also important to remove the Indian River C-34 parcel).

Please support us, the Tenakee Springs City Council, and all Tenakee residents in removing these parcels from the bill. Our lifestyle in Tenakee is jeopardized by including the parcels in the UA land trade.

The proposed transfer would have a hugely disproportionate impact on this small community, while contributing very little to the overall U of A budget.

- Fiscal Note 3 for HB 295 includes the following language: "in approximately 20 years UA anticipates annual investment earnings on new land sales to reach 1% of state general fund support or \$2.6M."
- In other words, if it passes, the Lands Grant will generate approximately 1% of the University's annual income, 20 years from now.
- The bill's original lands list included approximately 260,000 acres.
- The Indian River parcel is approximately 302 acres, which is roughly .0012% of the total acreage listed in the bill.
- Removing this .0012% from the bill would not be burdensome to the University of Alaska; removing the parcel would be insignificant to the University's overall funding.
- Transfer of this parcel would be VERY significant to Tenakee residents for a variety of reasons.

We sincerely thank you for considering our views and we urge you to act in support of the lifestyle and wishes of the Tenakee Springs community. Please remove our parcels from HB 295.

Sincerely,

Kim & Tracy Rivera

PO Box 541, Tenakee Springs, AK 99841

SB 225 and HB 295: Grant of State Land to the University of Alaska

Prepared by Department of Natural Resources, January 2010

Summary of Bills: Transfer 199,838 acres of state land to the University of Alaska and address the March 2009 Alaska Supreme Court ruling that struck down previous university land grant legislation (2005 HB 130 and 2000 SB 7), which dedicated land revenue to the University Endowment Trust. These bills convey the entire HB 130 land list as amended by the legislature, ratifies conveyances already in place, and directs land revenue to the General Fund instead of the university's endowment trust.

The land to be conveyed includes:

- 29 parcels located throughout SE Alaska
- 5 parcels in Southcentral, including tract at McCarthy in Wrangell St Elias National Park
- 18 parcels in Interior – including tracts along the Dalton Highway, the 90,000 acre Nenena oil/gas tract, and numerous educational properties.

The bills also:

- Exclude from transfer 9 parcels in SE that were withdrawn by the legislature in 2005 due to public opposition;
- Identify 9 parcels in SE that would go to UA only if not selected by new Boroughs as part of municipal entitlements;
- Include specific language addressing the March 2009 Supreme Court ruling and a one-year statute of limitations period.

The March 13, 2009 Supreme Court Decision

- The Alaska Supreme Court in *S.E. Alaska Conserv'n Council v. State*, 202 P.3d 1162 (Alaska 2009) held that 2000 SB 7 and 2005 HB 130 violated the dedicated funds clause of the Alaska Constitution by dedicating land revenue to the University's endowment trust
- The Court held that the trust provisions of the legislation reflected the key intent of the legislature to enhance the University's permanent endowment and therefore were not severable from the land conveyance provisions.
- The Court upheld provisions of the legislation that conveys a research forest (near Tanana) to the University because the research forest is not income property and was addressed independently in the legislation. The Court declined to address the other non-income properties on the conveyance list (which included miscellaneous educational and infrastructure properties).

Related Legislation

- House Bill 234 would convey 12 of the approximately 50 parcels on the HB 130 land list, including the noncontroversial educational properties and the Nenana oil and gas tract.

For more information contact:

Dick Mylius, DNR, Director of Division of Mining, Land and Water - 269-8600;

dick.mylius@alaska.gov

Heather Brakes, DNR Legislative Liaison, 465-4730, heather.brakes@alaska.gov

Explanation of Changes to CRA CS for HB295

1. Technical fix from EDU Committee amendment to remove Mite Cove and add back portion of the Pelican parcel. Page 8, line 22, Mite Cove is added to list of parcels removed. **Page 9, lines 29-31**, portion of Pelican parcel is added in place of Mite Cove. **Dick Mylius of DNR is here to speak to this change.**
2. **Page 9& 10**, - Covenants added to Sumdum parcel. After consideration of comments from DNR, including Judith Bittner who is the Chief History and Archaeology State Historic Preservation officer, and comments from the general public, and from adjacent land owner Sealaska, it was decided by the co-chairs to allow the Sumdum parcel to be allowed to transfer to the University with specific covenants to maintain cultural & historical characteristics of the area. **Dick Mylius of DNR is here to describe the covenants and answer any questions.**

(excuse Mr Mylius if he has come forward)

3. **Page 8, lines-23, 24,25**- 3 parcels in upper Southeast are added here, Excursion Inlet, Lynn Canal, and William Henry Bay. These parcels were pulled from the land bill on behalf of Representative Thomas. With us is **Planning Commissioner Robert Venables from the Haines Borough, on behalf of Borough Mayor, who can speak to these particular parcels.**
4. Page 8, line 26, 27-Adds the Tenakee Springs parcel surrounding the Boat Harbor area to the list of parcels to be removed from transfer. **Rep. Munoz can explain this removal.**

26-GH2829P
Bullock
3/8/10

CS FOR HOUSE BILL NO. 295(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the grant of certain state land to the University of Alaska; relating to**
2 **the duties of the Board of Regents; relating to deposits made to the Alaska permanent**
3 **fund received from certain lands conveyed to the University of Alaska; ratifying and**
4 **reauthorizing certain prior conveyances of land to the University of Alaska; making**
5 **conforming amendments; and providing for an effective date."**

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

7 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
8 to read:

9 **FINDINGS AND PURPOSE.** The legislature finds that

10 (1) an academically strong state university system is a cornerstone to the long-
11 term development of a stable population and to a healthy, diverse economy in the state;

12 (2) article VII, sec. 2 of the Constitution of the State of Alaska provides that
13 the University of Alaska shall have title to all real property conveyed to it and that the

1 legislature shall prescribe how university property shall be administered according to law;

2 (3) article VIII, sec. 9 of the Constitution of the State of Alaska authorizes the
3 legislature to provide for the grant of state lands and interests in those lands;

4 (4) it is in the best interests of the state and the University of Alaska that the
5 university take ownership of a significant and substantial portfolio of land in order to further
6 the interests of public higher education and economic development in the state;

7 (5) renewable resources should be managed on a sustained yield basis, taking
8 into account the total land grant;

9 (6) transferring to the University of Alaska a significant and substantial
10 portfolio of land furthers the interests of public higher education by allowing campus
11 development and expansion, by facilitating academic research, and by fostering economic
12 development for the well-being of the University of Alaska and the state;

13 (7) the Alaska Supreme Court's ruling in Southeast Alaska Conservation
14 Council v. State, 202 P.3d 1162 (Alaska 2009) invalidated ch. 136, SLA 2000 and ch. 8,
15 FSSLA 2005 because depositing revenues from land conveyed to the University of Alaska in
16 the university endowment trust fund violated the dedicated funds section, art. XI, sec. 7, of the
17 Constitution of the State of Alaska; the Alaska Supreme Court also held that, with the
18 exception of the provision conveying the university research forest, the land conveyance
19 provisions of the legislation could not be severed from the provisions that dedicated the
20 revenue from the land to the university's endowment trust, and ordered that any land
21 conveyed to the University of Alaska under the legislation be reconveyed to the state;

22 (8) it is in the best interests of the state and the University of Alaska to

23 (A) address directly the Alaska Supreme Court's ruling and enact
24 curative legislation that conveys land to the University of Alaska without the
25 unconstitutional dedication of revenue from the conveyed land to the University of
26 Alaska's endowment trust; and

27 (B) authorize conveyance to the University of Alaska of the same land
28 identified in ch. 8, FSSLA 2005;

29 (9) the state and the University of Alaska have expended substantial effort and
30 money in connection with conveying lands to the university under ch. 136, SLA 2000 and ch.
31 8, FSSLA 2005 before the Alaska Supreme Court's ruling in Southeast Alaska Conservation

1 Council v. State, 202 P.3d 1162 (Alaska 2009), and it is in the best interests of the state and
2 the University of Alaska to preserve that effort and money by ratifying the conveyances that
3 had occurred before the Alaska Supreme Court ruling;

4 (10) through the amendment of AS 14.40.491 to explicitly define as university
5 receipts the revenue received by the University of Alaska from lands conveyed to the
6 university under AS 14.40.365, the legislature retains unfettered discretion to appropriate
7 university receipts as it sees fit, without restrictions, on an annual basis; and that preserving
8 the legislature's discretion to appropriate the receipts on an annual basis is in the best interests
9 of the University of Alaska and the state.

10 * Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 LEGISLATIVE INTENT. It is the intent of the legislature

13 (1) to respond to the Alaska Supreme Court's ruling in Southeast Alaska
14 Conservation Council v. State, 202 P.3d 1162 (Alaska 2009), by passing legislation that
15 conveys land to the University of Alaska and provides for management of revenue from that
16 land as university receipts over which the legislature retains unrestricted authority to
17 appropriate as it sees fit;

18 (2) to ratify the conveyances that were executed under ch. 136, SLA 2000 and
19 ch. 8, FSSLA 2005 before the Alaska Supreme Court's ruling so that the university retains
20 clear title to that land;

21 (3) if any provision of this Act or the conveyance of any parcel of land or class
22 of lands under this Act is found to be an unlawful dedication of funds in violation of art. IX,
23 sec. 7 of the Constitution of the State of Alaska or otherwise unlawful, that the land
24 conveyances to the University of Alaska under this Act continue to the fullest extent possible;

25 (4) that the University of Alaska receive clear title to the land identified in
26 AS 14.40.365, even though proceeds from those lands are not deposited into the University of
27 Alaska's endowment trust fund and are instead subject to appropriation by the legislature each
28 year in its discretion, without prior limitation upon the legislature's use and appropriation of
29 the funds; and

30 (5) to have a stable University of Alaska system that provides a wide range of
31 land-related curricula and extracurricular activities, including those activities that enhance

1 civic partnerships through community-based land management; expansion of campuses and
2 training sites; and land management for economic development and benefit to the University
3 of Alaska and the state.

4 * Sec. 3. AS 14.40.170(a) is amended to read:

5 (a) The Board of Regents shall

6 (1) appoint the president of the university by a majority vote of the
7 whole board, and the president may attend meetings of the board;

8 (2) fix the compensation of the president of the university, all heads of
9 departments, professors, teachers, instructors, and other officers;

10 (3) confer such appropriate degrees as it may determine and prescribe;

11 (4) have the care, control, and management of

12 (A) all the real and personal property of the university; and

13 (B) land

14 (i) conveyed to the Board of Regents by the
15 commissioner of natural resources in the settlement of the claim of the
16 University of Alaska to land granted to the state in accordance with the
17 Act of March 4, 1915 (38 Stat. 1214), as amended, and in accordance
18 with the Act of January 21, 1929 (45 Stat. 1091), as amended; and

19 (ii) conveyed to [THE BOARD OF REGENTS IN
20 TRUST FOR] the University of Alaska by the commissioner of natural
21 resources under AS 14.40.365;

22 (5) keep a correct and easily understood record of the minutes of every
23 meeting and all acts done by it in pursuance of its duties;

24 (6) under procedures to be established by the commissioner of
25 administration, and in accordance with existing procedures for other state agencies,
26 have the care, control, and management of all money of the university and keep a
27 complete record of all money received and disbursed;

28 (7) adopt reasonable rules for the prudent trust management and the
29 long-term financial benefit to the university of the land of the university;

30 (8) provide public notice of sales, leases, exchanges, and transfers of
31 the land of the university or of interests in land of the university;

1 (9) administer, manage, market, and promote a postsecondary
2 education savings program, including the Alaska Higher Education Savings Trust
3 under AS 14.40.802 and the Alaska advance college tuition savings fund under
4 AS 14.40.803 - 14.40.817.

5 * **Sec. 4.** AS 14.40.291(a) is amended to read:

6 (a) Notwithstanding any other provision of law, university-grant land, state
7 replacement land that becomes university-grant land on conveyance to the university,
8 land conveyed to [THE BOARD OF REGENTS IN TRUST FOR] the University of
9 Alaska under AS 14.40.365, and any other land owned by the university is not and
10 may not be treated as state public domain land. Land conveyed to [THE BOARD OF
11 REGENTS IN TRUST FOR] the University of Alaska under AS 14.40.365 shall be
12 managed in accordance with [AS NONTAXABLE TRUST LAND UNDER]
13 AS 14.40.365 - 14.40.367 and policies of the Board of Regents.

14 * **Sec. 5.** AS 14.40.365 is repealed and reenacted to read:

15 **Sec. 14.40.365. University land grant.** (a) Except as provided in (b) of this
16 section, no more than two years after the effective date of this Act, the commissioner
17 of natural resources shall convey to the University of Alaska, by quitclaim deed, the
18 ~~state land identified for conveyance to the university and described in the document~~
19 titled "University of Alaska Land Grant List 2005," dated January 12, 2005.

20 (b) As soon as practicable after June 30, 2055, the commissioner of natural
21 resources shall convey to the University of Alaska, by quitclaim deed, the state land
22 described as the "University Research Forest" and identified for conveyance to the
23 university in the document titled "University of Alaska Land Grant List 2005," dated
24 January 12, 2005.

25 (c) As soon as practicable after the receipt of patent from the United States,
26 but not before the land is otherwise required to be conveyed under this section, the
27 commissioner of natural resources shall convey to the University of Alaska, by
28 quitclaim deed, federal land that has been selected for conveyance to the state under
29 the Alaska Statehood Act but is subject to a federal mining claim, and that is identified
30 in the document titled "University of Alaska Land Grant List 2005," dated January 12,
31 2005, for conveyance to the university upon the state's acquisition of patent.

1 (d) Notwithstanding AS 38.05.125(a), and except as otherwise provided in this
2 section, the transfer of ownership of land from the commissioner of natural resources
3 to the University of Alaska under this section includes the interest of the state in the
4 coal, ores, minerals, fissionable materials, geothermal resources, and fossils, oil, and
5 gas that may be in or on the land.

6 (e) Land conveyed under this section to the University of Alaska is subject to
7 any valid possessory interest or other valid existing right, including any lease, license,
8 contract, prospecting site, claim, sale, permit, right-of-way, Native allotment, or
9 easement held by another person, including a federal, state, or municipal agency, on
10 the effective date of this section.

11 (f) Before conveying land under this section, the commissioner of natural
12 resources shall reserve access under AS 38.05.127, but other provisions of AS 38.04
13 and AS 38.05 do not apply to the commissioner's preparation for conveyance of land
14 to the University of Alaska under this section. In addition to access under
15 AS 38.05.127, the commissioner may reserve in the conveyance document existing
16 offshore uses such as aquatic fish farm sites, anchorages for vessels, fish buying
17 stations, trails, roads, and other access routes that provide public access to adjacent
18 land and public waterways; however, an easement along tidewater reserved by the
19 commissioner under AS 38.05.127 may not exceed 25 feet.

20 (g) In addition to rights or an interest held by a person under (e) of this
21 section, land conveyed to the University of Alaska under this section

22 (1) is subject to

23 (A) sec. 6(i) of the Alaska Statehood Act (P.L. 85-508, 72 Stat.
24 339);

25 (B) AS 19.10.010;

26 (C) any easement, right-of-way, or other access under former
27 43 U.S.C. 932 (sec. 8, Act of July 26, 1866, 14 Stat. 253);

28 (D) the provisions of any memorandum of agreement entered
29 into between the University of Alaska and the commissioner of natural
30 resources governing shared benefits or costs associated with land to be
31 conveyed to the University of Alaska;

1 (E) any interest transferred to the state by quitclaim deed dated
2 June 30, 1959, under authority of the Alaska Omnibus Act (P.L. 86-70, 73
3 Stat. 141); and

4 (2) excludes the mineral estate on land that is subject to a valid state
5 mining claim.

6 (h) As soon as practicable after the extinguishment, release, or expiration of a
7 valid state mining claim located on land to be conveyed under this section, but not
8 before the land is otherwise required to be conveyed under this section, the
9 commissioner of natural resources shall convey the mineral estate excluded from
10 conveyance under (g)(2) of this section.

11 (i) The responsibility for the management of land conveyed to the University
12 of Alaska under this section vests with the Board of Regents for the University of
13 Alaska on the date of recording that conveyance.

14 (j) Any income derived from land conveyed to the University of Alaska under
15 this section accruing after the date of conveyance, including any income accruing from
16 an existing lease, license, contract, prospecting site sale, permit, right-of-way,
17 easement, or trespass claim shall be received by the University of Alaska and
18 accounted for as university receipts.

19 (k) Notwithstanding any other provision of this section, within 10 years after
20 final conveyance of land under this section, the Board of Regents may reconvey to the
21 Department of Natural Resources land

22 (1) containing hazardous waste that was present on the land before
23 conveyance under this section;

24 (2) on which is located a historic or archeological site that is subject to
25 management under AS 41.35; or

26 (3) that the Board of Regents and the commissioner of natural
27 resources jointly agree is in the best interests of the state and the university to
28 reconvey.

29 (l) After the effective date of this section and before the conveyance of a
30 parcel of land to the University of Alaska under this section, the commissioner of
31 natural resources may not convey, without consent of the university, any irrevocable

1 interest in a parcel that is required to be conveyed to the University of Alaska under
2 this section.

3 (m) The commissioner of natural resources may make minor adjustments to
4 the maps or legal descriptions of the state land identified for conveyance to the
5 university and described in the document titled "University of Alaska Land Grant List
6 2005," dated January 12, 2005, to correct omissions or errors.

7 (n) Notwithstanding (a) of this section, the following state land described in
8 the document titled "University of Alaska Land Grant List 2005," dated January 12,
9 2005, may not be conveyed to the University of Alaska under this section:

10 (1) Parcel Number CS.DI.1001, Duke Island;
11 (2) Parcel Number MF.1002, Idaho Inlet;
12 (3) Parcel Number CS.KI.1001, Kelp Island;
13 (4) Parcel Number HA.CH.1001, Haines-Chilkoot;
14 (5) Parcel Number KT.1004, Neets Creek;
15 (6) Parcel Number MA.KR.1001, Kodiak Rocket Range;
16 (7) Parcel Number ST.1002, Pelican, except that the portion of Parcel
17 Number ST.1002, Pelican that is described as unit C-18 in the Northern Southeast
18 Area Plan adopted by the commissioner of natural resources on October 15, 2002, may
19 be conveyed to the University of Alaska subject to (q) of this section;

20 (8) Parcel Number PA.1001, Port Alexander;
21 (9) Parcel Number ST.1002, Warm Springs Bay;
22 (10) Parcel Number MF.1001, Mite Cove;
23 (11) Parcel Number NS.EX. 1002, Excursion Inlet;
24 (12) Parcel Number JU.1002, Lynn Canal;
25 (13) Parcel Number JU.1001, William Henry Bay; and
26 (14) the portions of United States Survey 2459 and United States
27 Survey 6855 that are within Parcel Number ST.1003, Tenakee Springs.

28 (o) Notwithstanding (a) of this section, the state land identified in this
29 subsection and described in the document titled "University of Alaska Land Grant List
30 2005," dated January 12, 2005, may not be conveyed to the University of Alaska
31 under this section if the land is included in a borough formed before July 1, 2012, that

1 includes Petersburg. If a borough is not formed before July 1, 2012, land described in
2 this subsection shall be conveyed to the University of Alaska on July 1, 2012. If a
3 borough is formed before July 1, 2012, and the borough does not select land described
4 in this subsection before January 1, 2016, the land not selected by the borough shall be
5 conveyed to the University of Alaska on June 30, 2016. The following land is subject
6 to this subsection:

- 7 (1) Parcel Number SD.1001, Beecher Pass;
- 8 (2) Parcel Number SD.1001, Favor Peak;
- 9 (3) Parcel Number CS.TL.1001, Three Lake Road;
- 10 (4) Parcel Number SD.1001, Read Island;
- 11 (5) Parcel Number SD.1001, Whitney Island.

12 (p) Notwithstanding (a) of this section, the state land identified in this
13 subsection and described in the document titled "University of Alaska Land Grant List
14 2005," dated January 12, 2005, may not be conveyed to the University of Alaska
15 under this section if the land is selected by the City and Borough of Wrangell. If the
16 borough does not select land described in this subsection before January 1, 2013, the
17 land not selected by the borough shall be conveyed to the University of Alaska on
18 June 30, 2013. The following land is subject to this subsection:

- 19 (1) Parcel Number CS.EW.1001, Earl West Cove;
- 20 (2) Parcel Number CS.OV.1001, Olive Cove; and
- 21 (3) Parcel Number SD.1001, Thoms Place.

22 (q) Notwithstanding (a) of this section, the state land identified in this
23 subsection and described in the document titled "University of Alaska Land Grant List
24 2005," dated January 12, 2005, may not be conveyed to the University of Alaska
25 under this section if the land is included in a borough formed before July 1, 2012. If a
26 borough is not formed before July 1, 2012, the land described in this subsection shall
27 be conveyed to the University of Alaska on July 1, 2012. If a borough is formed
28 before July 1, 2012, and the borough does not select land described in this subsection
29 before January 1, 2016, the land not selected by the borough shall be conveyed to the
30 University of Alaska on June 30, 2016. The following land is subject to the provisions
31 of this subsection: that portion of Parcel Number ST.1002, Pelican that is described as

unit C-18 in the Northern Southeast Area Plan adopted by the commissioner of natural resources on October 15, 2002.

(r) The state land identified as Parcel Number SD.1001, Sumdum in the document titled "University of Alaska Land Grant List 2005," dated January 12, 2005, that is transferred to the University of Alaska in (a) of this section,

(1) may not be open to commercial timber harvest or mineral development;

development including but not ltd. to

(2) must be preserved for the purpose of historical, cultural, and scientific research and education and must be accessible for public interpretive study and education;

(3) may not be used for a purpose inconsistent with the significance of the parcel and adjoining land for the preservation of Alaska Native cultural knowledge and history.

(4) It is intended that these covenants run with the land

* Sec. 6. AS 14.40.366 is repealed and reenacted to read:

Sec. 14.40.366. Management requirements for university land. (a) Before the conveyance or the disposal of an interest in the land to a third party, land conveyed to the University of Alaska under AS 14.40.365 shall be managed in a manner that, to the extent practicable, permits reasonable activities of the public, including historic recent public uses, that do not interfere with the use or management of the land by the university.

(b) For land conveyed to the University of Alaska under AS 14.40.365, the Board of Regents shall

(1) seek public comment on proposals for land development, exchange, or sale; and

(2) adopt policies that require the preparation of land development plans and land disposal plans.

(c) Before the Board of Regents of the University of Alaska offers a parcel of land for sale under this section, the board shall offer first refusal to the closest municipality.

(d) The Board of Regents shall adopt policies requiring public notice before approval of land development plans and land disposal plans. The policies must require

1 that the notice be provided not less than 30 days before the proposed action and that
2 the notice be

3 (1) sent to local legislators, municipalities, and legislative information
4 offices in the vicinity of the action and at other locations as the university may
5 designate;

6 (2) published in newspapers of general circulation in the vicinity of the
7 proposed action at least once each week for two consecutive weeks; and

8 (3) published on state and university public notice Internet websites.

9 (e) In this section, "development, exchange, or sale" does not include the grant
10 of an easement or right-of-way or the development of a campus facility.

11 * Sec. 7. AS 14.40.367 is repealed and reenacted to read:

12 **Sec. 14.40.367. Confidential records.** Notwithstanding AS 40.25.100 -
13 40.25.295 (Alaska Public Records Act), on a determination that it is in the best interest
14 of the University of Alaska or on the request of the person who has provided the
15 information, the president of the university may keep the following confidential:

16 (1) the name of a person applying for the sale, lease, or other disposal
17 of university land or an interest in university land;

18 (2) before the issuance of a notice of intent to award a contract relating
19 to a sale, lease or disposal of university land or an interest in university land, the
20 names of the participants and the terms of their offers;

21 (3) all geological, well, geophysical, engineering, architectural, sales,
22 market, cost, appraisal, timber cruise, gross receipts, net receipts, or other financial
23 information relating to university land or an interest in university land and considered
24 for, offered for, or currently subject to disposal or a contract;

25 (4) cost data and financial information submitted by an applicant in
26 support of applications for bonds, leases, or other information in offerings and
27 ongoing operations relating to management of university land;

28 (5) applications for rights-of-way or easements across university land;
29 and

30 (6) requests for information about or applications by public agencies
31 for university land that is being considered for use for a public purpose.

1 * **Sec. 8.** AS 14.40 is amended by adding a new section to read:

2 **Sec. 14.40.369. Statute of limitations.** A person may not bring any judicial
3 action challenging AS 14.40.365 - 14.40.367 or any conveyance authorized under
4 AS 14.40.365 unless the action is commenced no later than one year after the effective
5 date of this Act.

6 * **Sec. 9.** AS 14.40.400(a) is amended to read:

7 (a) The Board of Regents shall establish a separate endowment trust fund in
8 which shall be held in trust in perpetuity all

9 (1) net income derived from the sale or lease of the land granted under
10 the Act of Congress approved January 21, 1929, as amended; and

11 (2) [NET INCOME DERIVED FROM THE SALE, LEASE, OR
12 MANAGEMENT OF THE LAND CONVEYED TO THE BOARD OF REGENTS
13 IN TRUST FOR THE UNIVERSITY OF ALASKA UNDER AS 14.40.365;
14 HOWEVER, THE AMOUNT DEPOSITED IN THE ENDOWMENT TRUST FUND
15 UNDER THIS PARAGRAPH RESULTING FROM MINERAL LEASE
16 ROYALTIES AND ROYALTY SALES PROCEEDS MAY NOT BE LESS THAN
17 25 PERCENT OF ALL SUCH MINERAL LEASE ROYALTIES AND ROYALTY
18 SALES PROCEEDS RECEIVED BY THE UNIVERSITY; AND

19 (3)] monetary gifts, bequests, or endowments made to the University
20 of Alaska for the purpose of the fund.

21 * **Sec. 10.** AS 14.40.491 is amended to read:

22 **Sec. 14.40.491. Definition of university receipts.** In AS 14.40.120 -
23 14.40.491, "university receipts" includes

24 (1) student fees, including tuition;

25 (2) receipts from university auxiliary services;

26 (3) recovery of indirect costs of university activities;

27 (4) receipts from sales and rentals of university property;

28 (5) federal receipts;

29 (6) gifts, grants, and contracts;

30 (7) receipts from sales, rentals, and the provision of services of
31 educational activities; [AND]

1 (8) receipts attributable to amounts distributed from university
2 endowments established and managed under AS 14.40.280 and from the endowment
3 trust fund established and managed under AS 14.40.400; and

4 (9) receipts from lands conveyed to the University of Alaska by the
5 commissioner of natural resources under AS 14.40.365.

6 * Sec. 11. AS 29.45.030(a) is amended to read:

7 (a) The following property is exempt from general taxation:

8 (1) municipal property, including property held by a public corporation
9 of a municipality, [OR] state property, property of the University of Alaska, or land
10 that is in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L.
11 84-830, 70 Stat. 709, except that

12 (A) a private leasehold, contract, or other interest in the
13 property is taxable to the extent of the interest;

14 (B) notwithstanding any other provision of law, property
15 acquired by an agency, corporation, or other entity of the state through
16 foreclosure or deed in lieu of foreclosure and retained as an investment of a
17 state entity is taxable; this subparagraph does not apply to federal land granted
18 to the University of Alaska under ~~AS 14.40.380 or 14.40.390, [OR] to other~~
19 ~~land granted to the university by the state to replace land that had been granted~~
20 ~~under AS 14.40.380 or 14.40.390, or to land conveyed by the state to the~~
21 university under AS 14.40.365;

22 (C) an ownership interest of a municipality in real property
23 located outside the municipality acquired after December 31, 1990, is taxable
24 by another municipality; however, a borough may not tax an interest in real
25 property located in the borough and owned by a city in that borough;

26 (2) household furniture and personal effects of members of a
27 household;

28 (3) property used exclusively for nonprofit religious, charitable,
29 cemetery, hospital, or educational purposes;

30 (4) property of a nonbusiness organization composed entirely of
31 persons with 90 days or more of active service in the armed forces of the United States

1 whose conditions of service and separation were other than dishonorable, or the
2 property of an auxiliary of that organization;

3 (5) money on deposit;

4 (6) the real property of certain residents of the state to the extent and
5 subject to the conditions provided in (e) of this section;

6 (7) real property or an interest in real property that is exempt from
7 taxation under 43 U.S.C. 1620(d), as amended;

8 (8) property of a political subdivision, agency, corporation, or other
9 entity of the United States to the extent required by federal law; except that a private
10 leasehold, contract, or other interest in the property is taxable to the extent of that
11 interest unless the property is located on a military base or installation and the
12 property interest is created under 10 U.S.C. 2871 - 2885 (Military Housing
13 Privatization Initiative), provided that the leaseholder enters into an agreement to
14 make a payment in lieu of taxes to the political subdivision that has taxing authority;

15 (9) natural resources in place including coal, ore bodies, mineral
16 deposits, and other proven and unproven deposits of valuable materials laid down by
17 natural processes, unharvested aquatic plants and animals, and timber.

18 * ~~Sec. 12. AS 29.65.030(d) is repealed and reenacted to read:~~

19 (d) For the purpose of determining the general land grant entitlement under (a)
20 of this section, the maximum total acreage of vacant, unappropriated, unreserved land
21 within the boundaries of the municipality between the date of its incorporation and
22 two years after that date shall be increased by the amount of land located within the
23 boundaries of the municipality that is transferred to the University of Alaska under
24 AS 14.40.365.

25 * ~~Sec. 13. AS 37.13.010(a) is amended to read:~~

26 (a) Under art. IX, sec. 15, of the state constitution, there is established as a
27 separate fund the Alaska permanent fund. The Alaska permanent fund consists of

28 (1) 25 percent of all mineral lease rentals, royalties, royalty sale
29 proceeds, net profit shares under AS 38.05.180(f) and (g), 25 percent of all mineral
30 lease rentals, royalties, royalty sale proceeds, net profit shares derived from lands
31 conveyed to the University of Alaska under AS 14.40.365 and 25 percent of all

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

bonuses derived by the University of Alaska from mineral leases on these lands, and 25 percent of [AND] federal mineral revenue sharing payments received by the state from mineral leases issued on or before December 1, 1979, and 25 percent of all bonuses received by the state from mineral leases issued on or before February 15, 1980;

(2) 50 percent of all mineral lease rentals, royalties, royalty sale proceeds, net profit shares under AS 38.05.180(f) and (g), and federal mineral revenue sharing payments received by the state from mineral leases issued after December 1, 1979, and 50 percent of all bonuses received by the state from mineral leases issued after February 15, 1980; and

(3) any other money appropriated to or otherwise allocated by law or former law to the Alaska permanent fund.

* Sec. 14. AS 14.40.368 is repealed.

* Sec. 15. The uncodified law of the State of Alaska is amended by adding a new section to read:

RATIFICATION OF PRIOR CONVEYANCES. All of those interests in lands that were conveyed to the university under ch. 136, SLA 2000 and ch. 8, FSSLA 2005, before the Alaska Supreme Court's ruling in Southeast Alaska Conservation Council v. State, 202 P.3d 1162 (Alaska 2009) are ratified and are deemed to have been conveyed under the authority of this Act.

* Sec. 16. The uncodified law of the State of Alaska is amended by adding a new section to read:

SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the application of this Act to any person or circumstance is held invalid, the remainder of this Act and the application to other persons or circumstances are not affected.

* Sec. 17. This Act takes effect immediately under AS 01.10.070(c).

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES OFFICE OF THE COMMISSIONER

SEAN PARNELL, GOVERNOR

- P.O. BOX 111000
JUNEAU, ALASKA 99811-1000
PHONE: (907) 465-2400
FAX: (907) 465-3886
- 550 WEST 7TH AVENUE, SUITE 1400
ANCHORAGE, ALASKA 99501-3650
PHONE: (907) 269-8431
FAX: (907) 269-8918

February 8, 2010

Sectional Analysis

House Bill 295 – “An Act relating to the grant of certain state land to the University of Alaska; relating to the duties of the Board of Regents; relating to deposits made to the Alaska permanent fund received from certain lands conveyed to the University of Alaska; ratifying and reauthorizing certain prior conveyances of land to the University of Alaska; making conforming amendments; and providing for an effective date.”

CSHB 295 - This analysis has been updated to include CSHB 295, passed out of the House Education Committee.

Section 5 (p) was amended to reflect a deferred conveyance date to January 1, 2013 rather than December 1, 2011.

Section 5 (q) was amended to delete parcel PA 1002, Mite Cove and substitute “~~parcel C-18~~”, within the Pelican area. Please see the note below within this section for further explanation of the Committee’s intent.

Section 1 – Findings and Purpose – Explains why legislation is necessary. Paragraphs (7) – (10) specifically address issues raised by Alaska Supreme Court regarding previous legislation.

Section 2 – Legislative Intent – Clarifies the intent of the Legislature to:

- respond to the Alaska Supreme Court decision in *S.E. Alaska Conserv’n Council v. State*, 202 P.3d 1162 (2009).
- convey state land to the University even though revenue from the land will be deposited in the general fund and be subject to annual appropriation by the Legislature.
- ratify conveyances that occurred under authority of SB 7 and HB 130.
- that the land should proceed even if any other provision in the bill is found to violate the dedicated funds clause of the Alaska Constitution.

Section 3 – Amends AS 14.40.170(a) by deleting the phrase “THE BOARD OF REGENTS IN TRUST FOR” before “the University” specifying the land conveyed under this legislation cannot be considered trust land managed by the Board of Regents.

Section 4 – Amends AS 14.40.291(a) similar to Section 3.

Section 5 – Creates a new AS 14.40.365 to replace the statute the Supreme Court found to be unconstitutional in its ruling in *Southeast Alaska Conservation Council v. State*, 202 P.3d 1162 (Alaska 2009). Subsectional analysis of new AS 14.40.365 follows:

- (a) Provides that DNR will convey land to University of Alaska by quitclaim deed

- survey requirements. The two-year period should not be difficult for DNR to meet because most of the work to issue the deeds was already completed after the 2005 legislation.
- (b) Defers conveyance of the University Research Forest in Tanana Valley State Forest until 2055 (50 years from passage of 2005 legislation). This deferral was requested by the University as it allows the continued use of this area as Research Forest by University while at the same time allowing continued small timber sales and forestry management activities by DNR Division of Forestry.
 - (c) Allows that when federal mining claims that currently exist as inholdings to parcels conveyed by the state to the University are terminated and the land subsequently conveyed to the state (DNR), that DNR will in turn convey this land to the University.
 - (d) Ensures that the mineral estate is also conveyed to the University. This is an exception to AS 38.05.125 which requires, for most conveyances, DNR retain the mineral rights in state ownership due to provisions in Section 6(i) in the Alaska Statehood Act. Since the University is a state entity, transfer of mineral estate to the University does not violate the 6(i) provision.
 - (e) Requires that conveyances to the University recognize and protect all valid existing rights.
 - (f) Requires that DNR reserve access to and along navigable and public waters as required in AS 38.05.127, but limits the width of these easements on parcels along tidewater to a maximum of 25 feet (a provision specifically inserted by the legislature in the 2005 bill). These easements by regulation would otherwise have a 50-foot minimum width. This subsection also specifies that other provisions of AS 38.04 and AS 38.05 do not apply to these conveyances to the University.
 - (g) ~~Sets-out-additional-limitations-or-requirements-regarding-the-land-conveyed-to the University, including Section 6(i) of the statehood act that prohibits the state's alienation of mineral estate; makes conveyance subject to RS 2477 and Omnibus Act rights of way; and excludes from the conveyance to the University any valid existing state mining claims.~~
 - (h) Requires that upon the termination of a state mining claim located within a parcel conveyed to the University under this bill, DNR will transfer that land to the University
 - (i) Establishes the date of the recording of a parcel as the time when the University takes over management responsibility for land transferred under this act.
 - (j) Establishes that upon conveyance to the University, all revenue and receipts accrue to the University as University receipts;
 - (k) Allows the University to return land to DNR up to ten years after conveyance if it contains hazardous waste; is located on a historic or archeological site; or the University and DNR agree to the re-conveyance.
 - (l) Requires University concurrence with any DNR conveyance of an irrevocable interest in a parcel to be conveyed to the University.
 - (m) Allows the Commissioner of DNR to make minor boundary adjustments to correct omissions and errors.
 - (n) Removes nine (9) parcels from the land list originally agreed to by DNR and the University. These 9 parcels were included in the original land list submitted to the legislature in 2005. They were removed by the legislature during committee review of the bill based upon public and community concerns.
 - (o) Defers conveyance of five parcels located within the potential boundaries of a Petersburg Borough so that if a Borough forms before July 1, 2012 (two years), these parcels could be selected by a future Borough as part of its municipal entitlement under AS 29.65. If a borough does not form or the land is not

provision was inserted in the 2005 legislation to specifically address this concern raised by the Cities of Wrangell and Petersburg during the 2005 legislative hearings.

- (p) Defers conveyance of three parcels located within the City and Borough of Wrangell pending possible selection by the new borough under its municipal entitlement (AS 29.65). Provides the Borough until January 1, 2013 to select the land. A provision to defer these selections was inserted in the 2005 legislation to specifically address potential borough formation, a concern raised by the cities of Wrangell and Petersburg during the 2005 legislative hearings. Wrangell formed a borough after the 2005 legislation, but has not yet filed its land selections with DNR.
- (q) Defers conveyance of one parcel located within the potential boundary of a Northern Chichagof Island Borough so that if a Borough forms before July 1, 2012 (two years), this parcel could be selected by a future Borough as part of its municipal entitlement under AS 29.65. If a borough does not form or the land is not selected by a future Borough, the land will be conveyed to the University. This provision was inserted in the 2005 legislation to specifically address this concern raised during the 2005 legislative hearings. **NOTE:** this provision was amended in House Education to delete the reference to parcel PA 1002, Mite Cove and substitute "Parcel C-18". The intent of the amendment was to delete parcel MF 1001, Mite Cove from the land list and insert that portion of a parcel previously deleted, parcel ST 1002, Pelican, back into the list. The parcel to be added back is that portion of Parcel 1002 identified in the DNR Northern southeast area Plan as Unit C-18. DNR is working with the sponsor of the amendment to draft a revised amendment to correctly capture the intent of the House Education Committee.

Section 6 – Repeals and reenacts AS 14.40.366 as passed in 2005. Sets forth management requirements for university land, including preservation of historic recent public uses, public notice and comment opportunities for land development or disposal plans, and right of first refusal to closest municipality.

Section 7 – Repeals and reenacts AS 14.40.367 as passed in 2005. Exempts certain proprietary and business sensitive information related to university land disposals from the Alaska Public Records Act.

Section 8 – Establishes a one-year statute of limitations for parties wishing to bring a lawsuit regarding this legislation.

Section 9 – Requires that revenue generated from the conveyed land be handled as University receipts subject to annual appropriation by the Legislature. This section deletes the provision in HB 130 that required revenue from the conveyed land be deposited in the University Endowment Trust, thereby correcting the dedicated funds violation found by the Alaska Supreme Court in *S.E. Alaska Conserv'n Council v. State*, 202 P.3d 1162 (2009).

Section 10 – Defines University receipts to include land transferred under this new legislation.

Section 11 – Specifies that University land conveyed under this bill is exempt from general taxation.

Section 12 – Ensures that a municipal entitlement of a future city or borough is not reduced by the conveyance of land to the University under this legislation.

Section 13 - Requires that 25% of mineral revenue from University lands granted under this legislation be deposited into the Permanent Fund.

Section 14 - Restores the repeal of AS 14.40.368 regarding encumbrances and trespasses on land to be conveyed. This statute was enacted by SB 7 and repealed by HB 130. This section confirms that AS 14.40.368 is to remain repealed.

Section 15 - Ratifies conveyances made to the University under the 2005 legislation, so that DNR does not have to re-issue deeds.

Section 16 - Adds a severability clause.

Section 17 - Establishes an immediate effective date.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

SEAN PARNELL, GOVERNOR

- P.O. BOX 111000
JUNEAU, ALASKA 99811-1000
PHONE: (907) 465-2400
FAX: (907) 465-3886
- 550 WEST 7TH AVENUE, SUITE 1400
ANCHORAGE, ALASKA 99501-3650
PHONE: (907) 269-8431
FAX: (907) 269-8918

February 8, 2010

Representative Bob Herron, Co-Chair
House Community & Regional Affairs
State Capitol, Rm 411
Juneau, Alaska 99801

Representative Cathy Munoz, Co-Chair
House Community & Regional Affairs
State Capitol, Rm 409
Juneau, Alaska 99801

Re: House Bill 295 – University Land Grant

Dear Representatives Herron and Munoz:

Please accept this request for your consideration to schedule HB 295 before the House Community & Regional Affairs at your earliest convenience.

This bill would convey approximately 199,838 acres of state land to the University of Alaska, and specify that revenue generated by the University of Alaska's management of the land be subject to appropriation each year by the legislature.

Legislation passed in 2000 and 2005 made certain land grants to the University of Alaska and specified that the revenue generated from those lands would be deposited into the University endowment trust fund. In March 2009 the Alaska Supreme Court found these statutes to violate the dedicated funds section of the Alaska Constitution, art. IX, sec. 7.

This bill seeks to remedy those issues identified by the Court by specifying that the revenue generated from the land is to be accounted for as university receipts and therefore subject to appropriation each year by the legislature. It also ratifies and reauthorizes the land conveyances authorized in the previously enacted legislation. The land to be conveyed under this bill is the same as what was to be conveyed to the University of Alaska in the final 2005 legislation (ch. 8, FSSLA 2005), with the exception of two parcels that were conveyed under separate statutory authority and the university research forest.

The bill was amended in House Education Committee by removing one parcel at Mite Cove on Lisianski Inlet and by adding a portion of a parcel previously deleted, parcel ST 1002, Pelican, back into the list. The parcel to be added back is that portion of Parcel

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."

1002 identified in the DNR Northern Southeast Area Plan as Unit C-18. The amendment that was adopted by House Education Committee failed to do what they intended so DNR is working with the Sponsor of the amendment to draft a revised amendment for consideration by House CRA to correctly capture the intent of the House Education Committee.

If you have any questions regarding the bill, feel free to contact Samantha Carroll, Department of Natural Resources Special Assistant at 269-8434, or Dick Mylius, Director of Division of Mining, Land, and Water at 269-8625.

Sincerely,



Thomas E. Irwin
Commissioner

Parcel Name	Parcel Number -- 2010 Land Use List	DNR Land Use Plan	Land Designation in Plan	Notes
Earl West Cove ¹	PT.1004	CSEAP	General Use	Management intent indicates parcel to be used for multiple uses, including settlement and future timber sales.
Mite Cove ²	MF.1001	NSEAP	Dispersed Recreation	Management intent indicates that the parcel is to be used for public purposes; not appropriate for settlement.
Moser Bay	CS.MB.1001	CSEAP	Settlement, General Use	Management intent indicates western part of parcel to be managed for settlement; remainder is General use. Note: anadromous stream is Habitat.
Olive Cove ³	CS.OV.1001	CSEAP	General Use, Dispersed Rec.	Adjoins state subdivision. Management intent indicates that portions of parcel may be appropriate for settlement.
Sumdum	SD.1001	NSEAP	Dispersed Recreation	Management intent indicates that only development related to recreation uses would be appropriate.
Tenakee Springs	ST.1003	NSEAP	Public Facilities, Settlement/ Commercial	Management intent indicates that development appropriate near harbor and, in some inland locations, for commercial, industrial, and road right-of-way purposes. Areas not used for this purpose should remain undeveloped.
Thoms Place ⁴	SD.1001	NSEAP	Settlement, General Use	Management intent indicates that settlement should occur along coast. Timber harvest in General Use areas not appropriate except as related to land development. Adjoins state subdivision to south.

CSEAP – Central Southeast Area Plan

NSEAP – Northern Southeast Area Plan

¹ Affected by legislative provision allowing land to be conveyed to a borough under certain conditions.

² See footnote 1.

³ See footnote 1.

⁴ See footnote 1.

Identification of Parcels – 2005 Land List

Parcels were identified according to the needs of the University and the restrictions of state area plans. DNR also established some sideboards of properties that would not be considered, such as producing oil and gas properties (including the entire North Slope), areas where DNR had already started work on land sales, timber parcels critical to the DNR Forestry sales program and sustained yield calculations, parcels selected by municipalities, etc. (this is not a complete list). Three types of properties were identified as needed by the University.⁵

Investment Properties (73,865 acres). DNR and the University initially reviewed all available land throughout the state and all applicable area plans. Generally, both parties agreed that it would be preferable, except in cases related to educational development and research and oil and gas utilization, to exclude parcels that were designated in area plans as generally inappropriate for development or could not be conveyed to individuals or municipalities based on plan or statutory restrictions. Designations that included Water Resources, Habitat, and Forestry were avoided; these designations cannot, for example, be conveyed to municipalities under the Municipal Entitlement Act. Designations that provided for development of some type or are acceptable for municipal conveyance were used as the basis for initial selection. Our review therefore focused on state land designated Agriculture, Settlement, General Use (a multiple use designation) and, to a lesser extent, Public Recreation where some type of recreation development was envisaged. The management intent associated with these parcels (which sometimes constrains use and development) as well as specific parcel knowledge were then used to reduce the inventory of parcels to that contained in the 2005 Land List. In all cases DNR required that the entirety of state land in an area of selection be included; this avoided the selection of just the best areas (high-grading), leaving the state with areas of limited worth.

Educational Properties (35,973 acres). Parcels that augmented the holdings of current educational facilities (Sitka, Juneau, and Fairbanks) were included. Also included were parcels important to water and water quality research and forest research and management. The former included large areas near Fairbanks as well as portions of the Tanana Valley State Forest. The latter was conveyed as a University Research Forest under the previous legislation.

Oil and Gas Properties (90,000 acres). A large area near Nenana was included on the basis that this area has oil and gas potential and may be able to generate revenue.

⁵ The acreage estimates given reflect the proposals of the 2005 Land List. Some parcels have been conveyed to the University. Especially significant is the University Research Forest (51,820 acres).

Southeast AK Conservation Council v. State, 202 P.3d 1162, 1171 (Alaska 2009).

Thus, even when the University has title to land, "only the legislature can make laws effecting the disposal of land, not the Board of Regents."

Our case law establishes that University lands are state lands. *Article VII, section 2* establishes the University, declares it a "body corporate," provides that the University "shall have title to all real and personal property now or hereafter set aside for or conveyed to it," and states that "[i]ts property shall be administered and disposed of according to law." We considered the meaning of *article VII, section 2* in *State v. University of Alaska*. [624 P.2d 807, 814] There, we held that the state could take land that Congress had granted to the University to be held in trust for it under the federal 1929 act, but that the state had to compensate the University with monetary damages or equivalently valuable land. Our opinion emphasized *article VII, section 2's* command that "property shall be administered and disposed of according to law," and noted that "'according to law' refer[s] to the legislature's power to make laws." Thus, even when the University has title to land, "only the legislature can make laws effecting the disposal of land, not the Board of Regents." We further observed that "[t]he natural resources article of the Alaska Constitution grants extensive powers to the legislature to control lands," which makes "clear that [the University lands received under the 1929 act] 'belong' to the state." The conclusion we reached in *State v. University of Alaska*, that University land is state land, applies even more readily to the present case because the University land involved here is not shielded by a federal trust obligation. Statutory language treating University lands differently from other state land does not overcome this constitutionally based conclusion.

Constitutional provisions referred to in *Southeast AK Conservation Council v. State*, 202 P.3d 1162, 1171 (Alaska 2009):

Article VII. HEALTH, EDUCATION AND WELFARE

SECTION 2. State University. The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. *Its property shall be administered and disposed of according to law.* [Emphasis added.]

Article VIII. NATURAL RESOURCES

SECTION 2. General Authority. The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

What law applies to the administration and disposal of land conveyed to the university?

Excerpts from *Southeast AK Conservation Council v. State*, 202 P.3d 1162, 1171 (Alaska 2009), quoted above:

Our opinion emphasized *article VII, section 2's* command that "property shall be administered and disposed of according to law," and noted that "'according to law' refer[s] to the legislature's power to make laws." *Thus, even when the University has title to land, "only the legislature can make laws effecting the disposal of land, not the Board of Regents."*

Statutory language treating University lands differently from other state land does not overcome this constitutionally based conclusion.

"Statutory language treating University lands differently from other state land does not overcome this constitutionally based conclusion."

**Chapter 38.04. POLICY FOR USE AND CLASSIFICATION OF STATE LAND
SURFACE**

Sec. 38.04.005. Policy.

...

(f) Land owned by the Board of Regents of the University of Alaska is not subject to the provisions of this chapter.

Chapter 38.05. ALASKA LAND ACT

Sec. 38.05.030. Exceptions.

...

(f) Land owned by the Board of Regents of the University of Alaska is not subject to this chapter.

....

Additional problem with the above two excerpts: the Board of Regents does not own land. The board has "care, control, and management of land." CSHB 295(ED

Sec. 14.40.170. Duties and powers of Board of Regents. (a) The Board of Regents shall

...

(4) have the care, control, and management of

(A) all the real and personal property of the university; and

(B) land

(i) conveyed to the Board of Regents by the commissioner of natural resources in the settlement of the claim of the University of Alaska to land granted to the state in accordance with the Act of March 4, 1915 (38 Stat. 1214), as amended, and in accordance with the Act of January 21, 1929 (45 Stat. 1091), as amended; and

(ii) conveyed to the Board of Regents in trust for the University of Alaska by the commissioner of natural resources under AS 14.40.365;

....

What law would apply for the oil and gas leasing on land conveyed to the university under the bill? See AS 43.05.180 for oil and gas leasing on state land.

Permanent Fund Issue:

Sec. 12 of CSHB 295(EDC) only applies to leases entered into before dates in the past:

* **Sec. 12.** AS 37.13.010(a) is amended to read:

(a) Under art. IX, sec. 15, of the state constitution, there is established as a separate fund the Alaska permanent fund. The Alaska permanent fund consists of

(1) 25 percent of all mineral lease rentals, royalties, royalty sale proceeds, net profit shares under AS 38.05.180(f) and (g), **25 percent of all mineral lease rentals, royalties, royalty sale proceeds, net profit shares derived from lands conveyed to the University of Alaska under AS 14.40.365 and 25 percent of all bonuses derived by the University of Alaska from mineral leases on these lands, and 25 percent of** [AND] federal mineral revenue sharing payments received by the state from mineral leases issued on or before December 1, 1979, and 25 percent of all bonuses received by the state from mineral leases issued on or before February 15, 1980;

(2) 50 percent of all mineral lease rentals, royalties, royalty sale proceeds, net profit shares under AS 38.05.180(f) and (g), and federal mineral revenue sharing payments received by the state from mineral leases issued after December 1, 1979, and 50 percent of all bonuses received by the state from mineral leases issued after February 15, 1980; and

(3) any other money appropriated to or otherwise allocated by law or former law to the Alaska permanent fund.

The difference between AS 37.13.010(a)(1) and (2) is the time period when the applicable leases were issued. In AS 37.13.010(a)(1), the leases were issued on or before December 1, 1979 and February 15, 1980; in AS 37.13.010(a)(2), the relevant leases were issued after December 1, 1979 and February 15, 1980.

FIX: Either

(1) Treat university land as state land and make AS 37.13.010(a)(2) apply (50%)

or

(2) Add a new paragraph to AS 37.13.010(a) providing for payments and receipts from university leases with an appropriate percentage equal to or above the 25 percent required under Art. IX, sec. 15, Constitution of the State of Alaska.

CITY OF TENAKEE SPRINGS

Don Pegues
MAYOR

P.O. Box 52
Tenakee Springs, Alaska 99841

March 3, 2010

House Community & Regional Affairs Committee

The Honorable Cathy Munoz, Co-Chair
State Capitol Room 409
Juneau AK, 99801

The Honorable Bob Herron, Co-Chair
State Capitol Room 411
Juneau AK, 99801

Dear Representatives Munoz and Herron:

I am writing in regard to HB 295, which is scheduled to be heard before the House Community & Regional Affairs Committee next week. That bill provides for the transfer of designated lands to the University of Alaska, as listed in the "University of Alaska Land Grant List 2005." Among the lands recommended for transfer are those contained in ST 1003, which fall within our city boundaries. The City was opposed to this proposed transfer in 2005, and still opposes it today. The Tenakee Springs City Council recently adopted Resolution 2010-16, expressing the community's desire to have ST-1003 removed from the list of lands to be granted to the University of Alaska.

This is not the first time these parcels have been the center of controversy. In 1977, when the U.S. Forest Service proposed a road, log dump and harvest of three timber units within the corporate boundaries of Tenakee Springs, the City's objections led to a Memorandum of Understanding between the City of Tenakee Springs, the State of Alaska and Alaska Pulp Corporation. That MOU, in part, provide that the Alaska Department of Natural Resources would convey to the City lands selected by the State while some lands would be retained by the State. When the conveyances did not occur, the City sued the State. That litigation was resolved in a Judgment¹ against the State in 1981, adopting a Stipulation for Settlement entered into by the parties. That Judgment was subsequently reaffirmed and amended by the court in 1984 and 1986, again by stipulation of the parties.

The Stipulation for Settlement provides that the State "convey to the City . . . fee simple title to all selected lands within the City's boundaries conveyed to the state by the Bureau of Land Management, except for the sites and acreages set out below." The Settlement goes on to

1 The Judgment from the Superior Court orders that "the failure or refusal of either party to comply with the terms of the Stipulation for Settlement, the other party shall be entitled to specific performance, special damages sustained by reason of the other party's non-performance, and costs and attorney's fees incurred in enforcing this judgment."

designate specific parcels that would remain with the State but with restrictions on their use or be transferred to the City for specified uses.

Two of those lands specifically excepted from the transfer to the City were lands designated as tracts C30 and C34 in the Northern Southeast Area Plan, adopted October 15, 2002. In 2005, DNR took the position HB 130 that tract C30 was not among the parcels in the 2005 list. The City is relying on DNR's position that C30 is, similarly, not included now in HB 295. However, if for some reason C30 is considered included in the 2010 legislation, the City objects. In reference to C30, DNR has noted:

The classification of parcels within the Tenakee community is greatly affected by a court order dated March 9, 1981 that identifies state lands for conveyance to the community and assigns uses to the lands retained by the state. This parcel is affected by paragraph 1.4 of that order, which designates it as a "public facilities reserve".

With the restriction on C30 that it be used only as a "public facilities reserve," it is unlikely that the University would desire to possess it with such restrictions.

As to C34, DNR observed:

This parcel includes all of those areas within Tenakee affected by paragraph 1.2 of the court order. It consists of two parts: an interior part within sections 15 and 22 situated eastward and upslope of the community, and a part within section 23 that stretches along the coast. The classification of parcels within the Tenakee community is affected by a court order dated March 9, 1981 that identifies state lands for conveyance to the community and assigns uses to the lands retained by the state. Paragraph 1.2 designates this parcel for "commercial, industrial, road right-of-way, and borrow pits".

Lastly, there are two smaller parcels, designated as tracts C31 and C32 in the Northern Southeast Area Plan, that comprise part of the ST 1003 lands. These parcels did not transfer from BLM to the State until 1986 and 2003, respectively. These delays were because of the existence of un-adjudicated claims to the land at the time the remaining selected lands were transferred to the City in 1982. Those two parcels, selected by and transferred to the State under the Statehood Act, are subject to the same obligation to transfer them to the City under the terms of the Settlement. To that end, the City is considering a quiet title action to resolve that oversight.

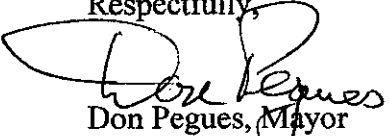
It appears that transfer of these parcels would not promote the intent of the legislation: to provide clear title to the lands and provide for management of revenue from that land as university receipts. Ownership of C31 and C32 is in dispute, and the remaining parcels are subject to the restrictions set forth in the Settlement. Consequently, the purposes of the proposed land transfer would be frustrated, if not unobtainable. Further, this community is very concerned about the potential increased burden for new services that may be placed upon us. Extending

power lines, improved access and snow removal are just a few of the possible things that would overwhelm our limited budget.

A fiscal note to the bill from the University of Alaska indicates that the 20-year out annual projected income from the total new land grant might produce 1% of the annual income required by the University. The acreage in Tenakee comprises only .11% of the total land grant in HB 295, meaning the income derived from this land would be less than .0013 percent of the University's annual requirement. When considering the restrictions the University would take this land subject to, the potential burden to the City far outweighs the gain to the University.

We ask that ST 1003 be removed from HB 295, and appreciate your attention to this matter.

Respectfully,



Don Pegues, Mayor
City of Tenakee Springs

Cc: Representative Harris
Representative Cissna

Representative Keller
Representative Gardner

Representative Millett

Enclosure: Resolution 2010-16

Terry Harvey

From: Rep. Cathy Munoz
Int: Wednesday, February 03, 2010 3:10 PM
To: Terry Harvey
Subject: FW: HB 295 - Hello from Pelican!
Attachments: Comments on HB 295 to HEDU cmt.doc

Terry, please add to our file on the univ. lands bill. Cathy

From: Deb Spencer [mailto:dspencerak@yahoo.com]
Sent: Tuesday, February 02, 2010 11:04 PM
To: Rep. Bryce Edgmon; Rep. Cathy Munoz; Rep. Bob Buch
Subject: HB 295 - Hello from Pelican!

Hello All,
Attached please find some follow-up comments to my testimony at Friday's House Education Committee Hearing. I was the first (nervous) person to testify via teleconference.

I'm concerned that this bill will displace our fish-buying business, Shoreline, Inc. We've anchored in front of the Mite Cove parcel for 25 years and provide vital support for the troll fleet. Private ownership of the uplands would threaten our use of shorelines from the beach and a waterline from the uplands.

I'm also concerned that DNR's Northern Southeast Area Plan (NSEAP) is being disregarded by this bill. Please take a moment to read the attached letter. Louie Flora, staff to Rep. Wilson, has information and maps about a potential land substitution for the Mite Cove parcel.

Thank you for your consideration. Please contact me for any further information.

Regards,

Deb Spencer
Owner, Shoreline, Inc.
735-2495

Terry Harvey

From: Rep. Cathy Munoz
Sent: Thursday, February 18, 2010 4:26 PM
To: Terry Harvey
Subject: FW: sumdum parcelt in hb295 (sanford cove)

Terry, please keep his written testimony in the file on the bill. Cathy

From: Tim Lydon [mailto:t_lydon@yahoo.com]
Sent: Thursday, February 18, 2010 10:15 AM
To: Rep. Cathy Munoz; Rep. Bob Herron; Rep. John Harris; Rep. Wes Keller; Rep. Charisse Millett; Rep. Sharon Cissna; Rep. Berta Gardner
Cc: barbara lydon; hans baertle; bill bailey; shannon bailey; jeff behrens; dan blanchard; bryce brockaway; gary carlson; ken gerkin; joel hanson; sean janes; mike jones; jim kyle; dan liden; christine jeffrey smith; john swanson; ben swanson; spirit walker; geoff wilson; christine@northwestnavigation.com; info@sikumi.com; randy@bluewateradventures.ca; trips@dolphincharters.com; info@beyondak.com; dennis@yachtalaska.com; Jon Horn; kevin hood; alerijaj@hotmail.com; daven@seacc.org; mary.irvine@acsalaska.net
Subject: sumdum parcelt in hb295 (sanford cove)

Greetings Committee members. Thank you again for the opportunity to testify this morning about the Sumdum parcel included in the University Lands Bill, HB 295. As I tried to express in my testimony, the Sumdum parcel sits squarely in the middle of a federally designated wilderness that is important to many residents, business people and visitors to Southeast Alaska. It's also of great importance to salmon, bears, birds and other wildlife. Privatizing and developing the Sumdum parcel would have a deleterious effect on a wide array of users and resources.

Please include in today's testimony the statement below from the following 17 Southeast Alaska commercial tour businesses. These operators have taken the time and energy to put together this statement. They feel strongly about leaving the Sumdum parcel undeveloped. I hoped to present their statement in the course of my testimony today, but time did not allow for it.

I hope the committee recognizes the importance of this parcel to this wide array of people and businesses. Please delete the parcel from HB295. Thank you.

STATEMENT:

The undersigned seventeen commercial tour companies bring thousands of visitors to Southeast Alaska every year. Our businesses provide guided hunting and fishing, kayak expeditions, and week-long excursions aboard small and mid-size vessels. Our segment of Alaska's tourism industry provides vital and unique economic benefits to southeast Alaska, and many of us are local business people. We stand out among other segments of the tourism industry because many of us provision our excursions locally, and a high number of our clients dine and seek local accommodations before and after their trips. University of Alaska research shows businesses like ours pump millions of dollars into the Southeast economy annually.

Bringing clients to wild Alaskan landscapes is the backbone of our businesses, and it's the reason for our concern over the Sumdum parcel. The Sumdum parcel is in Sanford Cove, in the heart of the Tracy Arm-Fords

Terror and Chuck River Wilderness Areas. For each of us, the area is a highlight of the services we provide. Many of us use Sanford Cove as a safe and scenic anchorage. With bears, wolves, salmon and cultural ruins, it is a common location for walks ashore, fishing, hunting and camping. Not only for our commercial clients, but for many independent and local travelers, too.

Tracy Arm-Fords Terror Wilderness is especially unique because it currently contains no lodges, private cabins, or other developments. Some of us have operated in southeast Alaska for several decades, long enough to know that such undeveloped anchorages are increasingly rare.

Privatization of the Sundum parcel would displace many of us from long-standing business activities. It would also displace many independent and local recreationists and mar an undeveloped landscape. But removing the Sanford Cove parcel from House Bill 130 would have only a minor impact on university funding, one that could be compensated by other means.

Thank you for your consideration, and please help us maintain current use of this important part of southeast Alaska.

Sincerely,

John Swanson, President, Southeast Alaska Wilderness Tours Association (SAWTA)

SAWTA represents the following ten southeast Alaska commercial tour companies:

Geoff Wilson	Alaska Yacht Charters
Richard Friedman	Alaskan Song
Christine Smith	Northwest Navigation
John Swanson	All Aboard Yacht Charters
Bill and Shannon Bailey	Pacific Catalyst
Meg Swimlear	Sikumi
Randy Burke	Bluewater Adventures
Butch Laughlin	Alaska Fly n' Fish Charters

Gary Carlson Spirit Walker Expeditions

Dennis Rogers Alaska Sea Adventures

The letter is also signed by the following companies:

Dan Blanchard American Safari Cruises

Ronn Patterson Dolphin Charters

Jeff Behrens Fantasy Cruises

Ken Gerkin The Boat Company

Dan Liden Snow Goose

Jim Kyle Alaska on the Home Shore

Rick Fleischman Sound Sailing

Terry Harvey

From: Rep. Cathy Munoz
Int: Wednesday, February 03, 2010 3:10 PM
To: Terry Harvey
Subject: FW: HB 295 - Hello from Pelican!
Attachments: Comments on HB 295 to HEDU cmt.doc

Terry, please add to our file on the univ. lands bill. Cathy

From: Deb Spencer [mailto:dspencerak@yahoo.com]
Sent: Tuesday, February 02, 2010 11:04 PM
To: Rep. Bryce Edgmon; Rep. Cathy Munoz; Rep. Bob Buch
Subject: HB 295 - Hello from Pelican!

Hello All,

Attached please find some follow-up comments to my testimony at Friday's House Education Committee Hearing. I was the first (nervous) person to testify via teleconference.

I'm concerned that this bill will displace our fish-buying business, Shoreline, Inc. We've anchored in front of the Mite Cove parcel for 25 years and provide vital support for the troll fleet. Private ownership of the uplands would threaten our use of shorelines from the beach and a waterline from the uplands.

I'm also concerned that DNR's Northern Southeast Area Plan (NSEAP) is being disregarded by this bill. Please take a moment to read the attached letter. Louie Flora, staff to Rep. Wilson, has information and maps about a potential land substitution for the Mite Cove parcel.

Thank you for your consideration. Please contact me for any further information.

Regards,

Deb Spencer
Owner, Shoreline, Inc.
735-2495

Terry Harvey

From: Rep. Cathy Munoz
ent: Friday, February 19, 2010 10:20 AM
To: Terry Harvey
Subject: FW: HB 295 University Lands
Attachments: Letter of Objection.doc; Executive Order.TIF

Terry, please include in our committee file on HB 295. Cathy

From: Carolyn [mailto:sharkey@acsalaska.net]
Sent: Friday, February 19, 2010 9:57 AM
To: Rep. Cathy Munoz
Cc: Kendra Kloster; Bill Martin; JB Martin
Subject: HB 295 University Lands

Please find attached a document requesting that all Tenakee lands be withdrawn from HB 295. The document is self-explanatory and has been unanimously approved by the Tenakee Traditional Council. We are also attaching a copy of the Executive Order 7179.

We ask this for a second time. Our traditional lands are very sacred to us. We met with the Governor and his concern was enough to give us hope that our request could be honored.

If you have any questions, please do not hesitate to contact myself or any of our Council members. If you feel it necessary for me to testify at the hearing, please, let me know and I will make the time.

Gu nul' cheesh!

John Martin, Sr.
Chairman
Tenakee Traditional Council
780-6195 or
209-0029

Terry Harvey

From: Rep. Cathy Munoz
Sent: Friday, March 05, 2010 9:43 AM
To: Terry Harvey
Subject: FW: re HB 295

From: Charles E. King [mailto:kingc@science.oregonstate.edu]
Sent: Friday, March 05, 2010 8:34 AM
To: Rep. Cathy Munoz; Rep. John Harris; Rep. Wes Keller; Rep. Charisse Millett; Rep. Sharon Cissna; Rep. Berta Gardner; Rep. Bob Herron
Subject: re HB 295

Honorable Friends on the House Community and Regional Affairs Committee,

I write once again as a homeowner and registered voter in Tenakee Springs. My previous arguments are still valid, but will not be repeated herein. Instead I will add my voice to that of our unanimous city council and urge you to consider that the University and State have little to gain, and much to lose by passage of HB 295. In our view what is at stake is the very character of our daily lives. While there are issues that might well justify such a mandate, this is not one of them and to make it so cheapens both our citizenry and the legislative process.

Respectfully yours,

Charles E. King
302 Tenakee Trail/PO Box 54
Tenakee Springs, AK 99841

Terry Harvey

From: Rep. Cathy Munoz
Sent: Sunday, March 07, 2010 10:05 AM
To: Terry Harvey
Subject: FW: HB 295

-----Original Message-----

From: Joan McBeen [mailto:joanmcbeen@yahoo.com]
Sent: Friday, March 05, 2010 4:04 PM
To: Rep. Cathy Munoz
Subject: HB 295

Dear Representative Cathy Munoz,

Please amend HB 295 and remove all Tenakee parcels from the selection of the University. I agree with Resolution 2010-16 passed unanimously by the City Council to remove these parcels.

The development of these parcels would create a burden to our infrastructure and the financial responsibilities would be passed on to our citizens.

Thank you for this opportunity to testify.
Joan McBeen

Terry Harvey

From: Rep. Cathy Munoz
Sent: Sunday, March 07, 2010 10:06 AM
To: Terry Harvey
Subject: FW: re HB 295

From: Charles E. King [mailto:kingc@science.oregonstate.edu]
Sent: Friday, March 05, 2010 8:34 AM
To: Rep. Cathy Munoz; Rep. John Harris; Rep. Wes Keller; Rep. Charisse Millett; Rep. Sharon Cissna; Rep. Berta Gardner; Rep. Bob Herron
Subject: re HB 295

Honorable Friends on the House Community and Regional Affairs Committee,

I write once again as a homeowner and registered voter in Tenakee Springs. My previous arguments are still valid, but will not be repeated herein. Instead I will add my voice to that of our unanimous city council and urge you to consider that the University and State have little to gain, and much to lose by passage of HB 295. In our view what is at stake is the very character of our daily lives. While there are issues that might well justify such a mandate, this is not one of them and to make it so cheapens both our citizenry and the legislative process.

Respectfully yours,

Charles E. King
302 Tenakee Trail/PO Box 54
Tenakee Springs, AK 99841

Terry Harvey

From: Rep. Cathy Munoz
Sent: Sunday, March 07, 2010 10:04 AM
To: Terry Harvey
Subject: FW: [SPAM] UNIVERSITY LAND BILL

From: Stan Moberly [mailto:stan.moberly@bigpond.com]
Sent: Saturday, March 06, 2010 3:18 PM
To: Rep. Cathy Munoz; Rep. Bob Herron
Cc: Rep. John Harris; Rep. Wes Keller; Rep. Charisse Millett; Rep. Sharon Cissna; Rep. Berta Gardner
Subject: [SPAM] UNIVERSITY LAND BILL

Dear Rep. Munoz & Herron, co-chairs of the House Community & Regional Affairs Committee:

I am writing to request you honor the Tenakee Springs City Council's request to have all proposed land transfers within the city limits of Tenakee Springs be eliminated from HB 295.

Removing this very small amount of land from the bill would not be burdensome to the University of Alaska; i.e. removing the parcel would be insignificant to the University's overall funding.

However, transfer of those lands for University fund-raising would be VERY significant to our city. Removing the lands within the city limits of Tenakee Springs is a chance to do something positive for one of the small villages in the State. We have struggled to keep the city viable and our long range plan includes utilization of the lands in question which are in the city limits. Please help us by honoring our City Council's request. If the State is ever to achieve the goal of having remote villages being more capable of "standing on their own feet" you have to help us!

Thank you for your consideration.

Sincerely,

Stan Moberly

606 E. Tenakee Avenue
Tenakee Springs, AK 99841 USA

07-736-2251

stan.moberly@attglobal.net

No Habitat: No <"}}}}><

**THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES**

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

2 FIRST JUDICIAL DISTRICT AT JUNEAU

3 CITY OF TENAKEE SPRINGS,
4 a Second Class City,

5 Plaintiff,

6 v.

7 STATE OF ALASKA,

8 Defendant.

9 No. 1JU-80-1666

10 STIPULATION FOR SETTLEMENT

11 It is hereby stipulated by and between the parties
12 that all claims of the plaintiff set forth in its complaint
13 dated December 4, 1980 are hereby compromised and settled in
14 full according to the following terms:

15 1. The state agrees to convey to the City on or
16 before July 1, 1981 fee simple title to all selected lands
17 within the City's boundaries conveyed to the state by the
18 Bureau of Land Management, except for the sites and acreages
19 set out below. The land to be conveyed to the City, and the
20 sites and acreages to be retained by the state, are set out
21 in Exhibit 1 to this stipulation, which is expressly made a
22 part of this agreement. As reflected in Exhibit 1, the state
23 shall convey to the City fee simple title to 2958 acres, more
24 or less, provided, however, that it is understood that it is
25 the intent of the parties that the City receive under this
26 stipulation fee simple title to all selected lands within
27 the City's boundaries conveyed to the state by the Bureau
28 of Land Management, except for the sites and acreages set
29 out below, regardless of whether the acreage received by the
30 city under this stipulation is more or less than 2958 acres.
31 The state shall retain 1027 acres, more or less. All sites
32 and acreages retained by the state will be subject to existing

1 rights-of-way and easements. As reflected in Exhibit 1, the
2 state shall retain the following sites and acreages for the
3 purposes designated:

4 L.L. Public recreation area at Indian River
5 201 acres more or less, described as follows:

6 All state owned uplands lying within:

7 T.47S., R.63E., C.R.M.

8 Sec. 15 SE 1/4 SW 1/4, SW 1/4 SW 1/4 SE 1/4

9 Sec. 22 E 1/2 NW 1/4, N 1/2 NE 1/4 SW 1/4,

10 W 1/2 W 1/2 NE 1/4, S 1/2 NE 1/4 SW 1/4 NE 1/4,

11 SE 1/4 SW 1/4 NE 1/4, N 1/2 SE 1/4,

12 S 1/2 SE 1/4 NE 1/4, S 1/2 N 1/2 SE 1/4 NE 1/4;

13 And excluding:

14 All state owned uplands lying within:

15 T.47S., R.63E., C.R.M.

16 Sec. 22 S 1/2 SW 1/4 NE 1/4, NW 1/4 SW 1/4 NE 1/4,

17 N 1/2 NE 1/4 NW 1/4 SE 1/4, N 1/2 NW 1/4

18 NW 1/4 SE 1/4,

19 Containing 40 acres, more or less.

20 The net acreage to be retained by the state is 201 acres, more
21 or less. The 40 acres, more or less, to which the City shall
22 receive title encompasses the campground presently maintained
23 by the City. The City will have a continuing responsibility
24 to maintain the campground and to provide for its use for
25 public recreation purposes only. Any other use will result
26 in reverter to the state. Further, the City may not manage
27 the campground in a way so as to interfere with the state's
28 tourism and recreation objectives as determined by the Com-
29 missioner of Natural Resources for the 201 acres, more or less,
30 which the state will retain pursuant to this agreement. It
31 is understood that, should the campground eventually receive
32

1 substantial use by tourists, title to the campground, and
2 responsibility for its maintenance, may, subject to the state's
3 concurrence, be transferred to the state.

4 1.2. Commercial, industrial, road right-of-way
5 and borrow pits; 261 acres, more or less. It is understood
6 that the state will allow the removal of reasonable amounts
7 of material under reasonable conditions from all borrow pits,
8 for the purpose of personal use in residential improvement or
9 construction, driveway construction and landscaping. The
10 land to be retained by the state for commercial, industrial,
11 road right-of-way and borrow pit purposes is described as
12 follows:

13 All state owned uplands lying within:

14 T.47S., R.63E., C.R.M.

15 Sec. 15 SE 1/4 SE 1/4, E 1/2 SW 1/4 SE 1/4,

16 NW 1/4 SW 1/4 SE 1/4

17 Sec. 22 NE 1/4 NE 1/4 NE 1/4

18 Sec. 23 W 1/2 NW 1/4, SE 1/4 NW 1/4,

19 W 1/2 NE 1/4 NW 1/4, SE 1/4 NE 1/4 NW 1/4,

20 S 1/2 NW 1/4 NE 1/4, SW 1/4 NE 1/4,

21 W 1/2 SE 1/4 NE 1/4, NW 1/4 NE 1/4 SE 1/4,

22 Containing 261 acres, more or less.

23 1.3. State land disposal; 245 acres, more or
24 less, described as follows:

25 All state owned uplands lying within:

26 T.47S., R.63E., C.R.M.

27 Sec. 24 N 1/2 N 1/2, N 1/2 S 1/2 NW 1/4,

28 N 1/2 SW 1/4 NE 1/4, SE 1/4 NE 1/4,

29 Containing 245 acres, more or less.

30 1.4. Public facilities reserve; 40 acres, more
31 or less, described as follows:

1 All state owned uplands lying within:
2 T.47S., R.63E., C.R.M.
3 Sec. 21 S 1/2 SE 1/4 NE 1/4
4 Sec. 22 S 1/2 SW 1/4 NW 1/4, NW 1/4 SW 1/4,
5 Containing 40 acres, more or less.

6 1.5. Airport and personal use timber; 280
7 acres, more or less. It is understood that the state will
8 allow removal of reasonable amounts of timber under reasonable
9 conditions, for the purpose of personal use in residential
10 improvement or construction. The land to be retained by the
11 state for these purposes is described as follows:

12 All state owned uplands lying within:
13 T.47S., R.63E., C.R.M.
14 Sec. 15 SW 1/4 SW 1/4
15 Sec. 16 SE 1/4, E 1/2 SW 1/4,
16 Containing 280 acres, more or less.

17 1.6. The lands described in ADL No. 101700,
18 consisting of 1 acre, more or less.

19 2. As provided in the September 26, 1977 Memorandum
20 of Understanding, attached as Exhibit A to the complaint,
21 fee simple title to the tidelands and submerged lands described
22 in ADL No. 101019 will be transferred to the City. The
23 lands shall be used for public purposes only. Any other use
24 will result in reverter to the state.

25 3. As provided in the September 26, 1977 Memorandum
26 of Understanding, the state will expeditiously consider the
27 City's application for conveyance of tidelands and submerged
28 lands adjacent to any selected lands conveyed to the state by
29 the Bureau of Land Management. This paragraph applies to tide-
30 lands and submerged lands other than those described in ADL
31 No. 101019, the conveyance of which is provided for in para-
32 graph 2 above.

1 4. It is understood that conveyance of lands to the
2 City under this stipulation will be accomplished without either
3 party having to bear survey costs.

4 5. The state will grant pipeline rights-of-way to
5 the City according to normal procedures. The state recognizes
6 that the City is considering a hydroelectric and domestic
7 water supply project near Indian River; the state acknowledges
8 that the purpose of its retention of land in the public recrea-
9 tion area at Indian River does not preclude a pipeline right-
10 of-way.

11 6. All state land sales will be subject to local
12 zoning ordinances to the extent authorized by law.

13 7. This stipulation is to be construed subject to
14 the September 26, 1977 Memorandum of Understanding, attached
15 to the complaint as Exhibit A. The parties hereby reaffirm
16 the provisions of that Memorandum of Understanding.

17 8. The parties will bear their own costs and
18 attorney's fees.

19 9. The state agrees that judgment may be immediately
20 entered in favor of the City on the terms set out in this
21 stipulation, and the parties agree that upon failure or refusal
22 of either party to comply with the terms of this stipulation,
23 the other party shall be entitled to specific performance,
24 special damages sustained by reason of the other party's non-
25 performance, and costs and attorney's fees incurred in enforcing
26 the terms of this stipulation.

27 DATED this 21st day of February, 1981.

28 WILSON LA CONDON
29 ATTORNEY GENERAL

30 BY: Ann E. Meyers
31 Assistant Attorney General
32 Attorneys for defendant

CARPENETTI & COUNCIL

BY: W. T. Council
William T. Council
Attorneys for plaintiff

STIPULATION FOR SETTLEMENT

Page 5

EXHIBIT B

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

1
2
3 CITY OF TENAKEE SPRINGS,)
4 a Second Class City,)
5 Plaintiff,)
6 v.)
7 STATE OF ALASKA,)
8 Defendant.)

No. 1JU-80-1666

JUDGMENT

9
10 The parties to this action have entered into a
11 Stipulation for Settlement dated ~~December 27, 1980~~ ^{February 26, 1981}, agreeing
12 that judgment may be entered against the defendant State of
13 Alaska as set out in that Stipulation for Settlement.

14 IT IS ORDERED that the parties shall comply with
15 the terms set out in the Stipulation for Settlement.

16 IT IS FURTHER ORDERED that upon the failure or
17 refusal of either party to comply with the terms of the
18 Stipulation for Settlement, the other party shall be en-
19 titled to specific performance, special damages sustained
20 by reason of the other party's non-performance, and costs
21 and attorney's fees incurred in enforcing this judgment.

22 DATED this 9th day of March, 1981.

Thomas B. Stewart
Superior Court Judge

25 Submitted by:
26 CARPENETTI & COUNCIL

27 By William T. Council
28 Attorney for City
of Tenakee Springs.

29 Approved as to form and
30 content by:

31 WILSON L. CONDON
ATTORNEY GENERAL

32 BY Ann E. Brennan

310 STEWARD STREET, SUITE 203
JUNEAU, ALASKA 99801
upon receipt

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

CITY OF TENAKEE SPRINGS,
a Second Class City,
Plaintiff,

STATE OF ALASKA
State of Alaska, District

v.

STATE OF ALASKA,
Defendant.

BARBARA A. HOWE, Clerk
No. IJU-80-1686

JUDGMENT

The parties to this action have entered into a Stipulation for Settlement dated December 7, 1980, agreeing that judgment may be entered against the defendant State of Alaska as set out in that Stipulation for Settlement.

IT IS ORDERED that the parties shall comply with the terms set out in the Stipulation for Settlement.

IT IS FURTHER ORDERED that upon the failure or refusal of either party to comply with the terms of the Stipulation for Settlement, the other party shall be entitled to specific performance, special damages sustained by reason of the other party's non-performance, and costs and attorney's fees incurred in enforcing this judgment.

DATED this 9th day of March, 1981

Thomas B. Stewart
Superior Court Judge

Submitted by:
CARPENETI & COUNCIL
By: William T. Council
Attorney for City
of Tenakee Springs

CERTIFICATION

The undersigned certifies that on the 9th day of March, 1981, a true copy of this document was served on the following attorneys:
William T. Council
and
Sharon Walker
By: Sharon Walker

Approved as to form and content by:

WILSON L. CONDON
ATTORNEY GENERAL

CARPENETI & COUNCIL
Attorneys at Law

310 Seventh Street, Suite 303
Juneau, Alaska 99801
(907) 586-7265

SEP 27 1977

CITY OF TENAKEE SPRINGS

By: *[Signature]*
MEMORANDUM OF UNDERSTANDING

SUBJECT

The subject of this Memorandum is a proposal by Alaska Lumber and Pulp Company for timber harvesting and associated activities and developments pursuant to a long term contract with the United States Forest Service. Alaska Lumber and Pulp Company proposes to operate in the vicinity of the City of Tenakee Springs. The State of Alaska, Alaska Lumber and Pulp Company, and the City of Tenakee Springs recognize that multiple stipulations are necessary in order to permit the proposed operations to proceed in a climate of consensus and cooperation. This Memorandum sets forth said stipulations and constitutes an agreement by the parties to observe them in good faith.

PARTIES

The parties to this Memorandum are the State of Alaska (State), the City of Tenakee Springs (City), and the Alaska Lumber and Pulp Company (AL&P) (including its agents, employees, subsidiaries, and subcontractors).

JURISDICTION

Each party pledges to comply with and carry out the stipulations to the fullest extent possible regardless of whether it has complete jurisdiction or authority over the subject matter of each stipulation.

DEFINITIONS

(1) The "operating area" means that portion of Chichagof Island southeast of a line from the mouth of Ten Mile Creek on Tenakee Inlet to the mouth of Freshwater Creek on Freshwater Bay, together with adjacent tidelands and submerged lands.

(2) The "five year plan" means the timber harvesting plan set forth in the Final Environmental Impact Statement for the Alaska Lumber and Pulp Company 1976-1981 Operating Period for the operating area, together with those additional elements, plans, and details represented to the City and the public.

(3) The "Indian River Road" means the road to be constructed for harvesting and removing timber from the Indian River drainage to Sunny Cove on Tenakee Inlet.

(4) The "dump site" means the log storage/transfer site to be located at Sunny Cove on Tenakee Inlet.

(5) The "Pavlov River Road" means the road to be constructed from the Pavlov River drainage to Kennel Creek on Freshwater Bay.

STIPULATIONS

(1) Timber Harvesting/Associated Developments

(a) Timber harvesting and associated developments will be permitted in the Indian River drainage in the amount and at the locations previously specified. Harvested timber will be removed via the Indian River Road to the dump site at Sunny Cove. Except for those individuals who are or who become permanent residents of

the City, loggers and other AL&P personnel involved in the Indian River operation will reside at the logging camp at Corner Bay. However, one caretaker will be permitted to reside at a single wood frame dwelling to be constructed by AL&P on the worksite adjacent to the Indian River Road.

(b) Present and future timber harvesting and associated developments in the Pavlov River drainage and the Kennel Creek area shall be carried out consistent with understandings reached by the Alaska Department of Fish and Game and United States Forest Service.

(2) Duration of Operations

Timber harvesting and associated developments in the operating area shall be completed by December 31, 1981. Additional timber harvesting using the Indian River Road or the dump site at Sunny Cove shall not be permitted until January 1, 1986, unless the consent of the City and the State is previously obtained after public hearing, and in no event until January 1, 1986. This does not apply to timber harvesting required by the existing contract between AL&P and the Forest Service in the event of disease or blowdown to the extent necessary to remove it. Future plans for logging operations in the Tenakee Area shall be coordinated with the City, the Alaska Department of Fish and Game and other concerned agencies and organizations to the extent their interest may be affected.

(3) Consistency with Plans

(a) Timber harvesting and associated activities in the Indian

river drainage shall be confined to those described in the five year plan and other materials presented to the public describing proposed operations in the area. Substantial modifications affecting the interests of the City shall be cleared with the City and the State prior to implementation; this does not apply to modifications resulting from the Interdisciplinary Team process unless said interests are affected.

(b) Modifications of plans for timber harvesting and associated developments in Pavlov River drainage and Kennel Creek area, to the extent they affect understandings reached with the Alaska Department of Fish and Game, shall be coordinated with said Department.

(4) Road Connections

Except for the Indian River Road, no roads shall be constructed to terminate at the Sunny Cove dump site or elsewhere within the limits of the City or immediately adjacent thereto until January 1, 1996, unless consented to by the City and the State. No road shall be constructed which connects the City of Hoonah or any other community or settlement to the operating area in a manner which would cause an influx of persons into the City until January 1, 1996, unless prior consent of the City and the State is obtained. The Indian River Road will be retired following the five year plan (December 31, 1981) and made impassable to motor vehicles (including ORV's and ATV's) except as may be required for access to potential domestic water supply developments or other facilities and uses as formally requested by the City. The directive of the preceding sentence may be modified by a subsequent cooperative agreement between the City, the State, and the US Forest Service governing access to and use of the Indian River Road and general management objectives for the area.

Roadbeds and roadsides will be seeded or similarly treated where the likelihood of erosion or instability problems exists.

(5) Water Quality

The Indian River will not be subjected to any impacts which result in a violation of applicable State and Federal water quality standards, or which would otherwise impair its capability to serve as a source of domestic water supply. AL&P will, at its own expense, purchase and install water quality monitoring equipment [turbidometer] satisfactory to the City at a location specified by the City; monitoring will be conducted by the City, which may request the assistance of the Department of Environmental Conservation. In the event of deterioration in the quality of the water in contravention of this stipulation appearing to result from the operations of AL&P, AL&P shall restore said water to a condition sufficient to meet the first sentence of this stipulation as soon as possible and at its own expense.

(6) Blasting

Blasting activities in conjunction with the construction and maintenance of the Indian River Road and adjacent sites shall be carried out with the use of a sequential timer, and only between the hours of 8AM and 5PM. Prior notice of blasting activities shall be posted at a conspicuous place in the City. AL&P will employ guards or take other necessary measures to insure the safety of residents in the area of blasting activities.

(7) Tidelands and Corps of Engineers Permits

The State will issue tidelands permits for the dump site at Sunny Cove and for the camp/dump site at Kennel Creek; said permits may recite or otherwise refer to the stipulations in this memorandum as well as understandings previously reached with the Alaska Department of Fish and Game. The State will recommend to the U.S. Army Corps of Engineers that permits issue to AL&P for the dump site at Sunny Cove and for the camp/dump site at Kennel Creek.

(8) Conveyances

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

(9) Trail Maintenance

The trail east of Tenakee Springs will be properly maintained and protected by AL&P against impacts which would render it impassable or difficult to use. The trail may be reconstructed and relocated as may be required to the satisfaction of the City. AL&P will construct a log protection structure or other suitable installations in the worksite area and at the intersection of the trail with the Indian River Road (to be in place annually only during the winter

months) sufficient to prevent snowdrifts.

(10) Worksite

The worksite shall be restored by ALSP to a natural condition to the fullest extent possible following completion of timber harvesting operations. The area will be bladed and seeded and debris will be burned.

(11) Regulation of Motor Vehicles

The City may establish speed limits and other traffic regulations consistent with Title 29, Alaska Statutes, for the segment of the Indian River Road lying within City limits, which regulations shall be complied with by all vehicles (including those operated by ALSP).

(12) Noise Control

Vehicles and other machinery operated by ALSP will be muffled so as to comply with State, Federal and local standards for noise control and otherwise to the fullest extent possible in view of the residential nature of the area.

(13) Monitoring

The State and City will periodically monitor and inspect operations in the vicinity of the city to insure compliance with this Memorandum.

(14) Future Operations

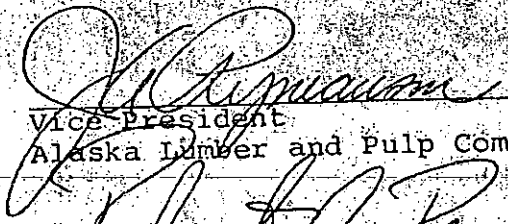
In the event a road is constructed connecting the Indian River drainage with the mouth of Ten Mile Creek on Tenakee Inlet, said road shall be used in any future operations to remove timber from the Indian River and adjacent drainages in lieu of the Indian River

Road/Sunny Cove log storage site.

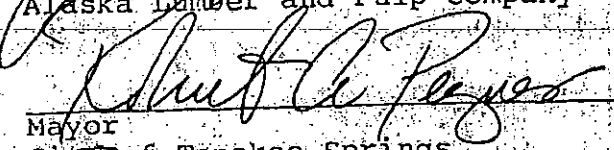
MODIFICATION

The parties recognize that the essence of their mutual endeavor is to prevent (or where unpreventable, to minimize) adverse social and environmental impacts unacceptable to the residents of the City. It is, therefore, the intent of the parties that any subsequent modification of this Memorandum shall be consistent with this objective and shall require the agreement of all parties.

DATED this 26th day of September,
1977, at Juneau, Alaska.



Vice-President
Alaska Lumber and Pulp Company



Mayor
City of Tenakee Springs



Commissioner
Alaska Department of Natural Resources

Terry Harvey

From: Rep. Cathy Munoz
Sent: Monday, February 15, 2010 2:01 PM
To: Mfay
Cc: Terry Harvey
Subject: RE: Re : Removal of MOSER BAY PARCEL from HOUSE BILL NO. 295

Dear Michael, thank you for contacting me. HB 295 is scheduled for a hearing in the Community and Regional Affairs committee on Thursday at 8:00 a.m. I would recommend that you contact Rep. Johansen to see if he is interested in offering an amendment on this parcel. I will be sure to include your comments in the committee file that will be presented to the CRA members on Thursday. If you have questions about the bill or the process, please contact Terry Harvey in my office at 465-5392. Thanks again, Cathy Munoz

-----Original Message-----

From: Mfay [mailto:mfay@uuplus.net]
Sent: Friday, February 12, 2010 10:47 PM
To: Rep. Cathy Munoz
Subject: Re : Removal of MOSER BAY PARCEL from HOUSE BILL NO. 295

Re : Removal of MOSER BAY PARCEL from HOUSE BILL NO. 295, University of Alaska Lands Bill

Dear Representative Munoz,

My name is Mike Fay. My only home is on Long Arm, Moser Bay, north of Ketchikan. To see the parcel of land deep in Moser Bay handed over to the University of Alaska scares the heck out of me and my neighbors. We live in Moser Bay, and many thousands more visit it every year, because it is one of the most beautiful, tranquil, and ecologically intact places in all of North America. Yet is a stone's throw from an international airport and about 20 minutes by boat from Ketchikan. It is of enormous scenic value that our local economy depends on.

The bottom line is this place is already one of the most popular spots in all SE Alaska for recreation. People come from all over the globe to this exact spot by the thousands every year to witness the beauty, and to fish, crab, shrimp, hike, and sight see from boats and planes and on foot. That represents millions of dollars a year for the local and Alaskan economy and lots of jobs for charter boats, fishing guides, airplanes. As places like this become more rare on Earth the value of keeping this parcel untouched is going to increase exponentially.

To log or to subdivide this particular parcel would completely undermine the highest and best use of this land which is to retain its natural beauty. The proceeds from logging are one off, and pale in comparison with one year's tourist revenue. You can cut this forest once in 100 years, killing the recreational value of the land that will produce more and more every year for 100 years. Look at what happened to the now clear cut Slide Ridge near Whipple Creek as well as another former University parcel in the Mountain Point area south of town. They have become permanent eye sores for the tens of millions of tourists that will visit Ketchikan over the next decade. Not to mention the ecological nightmare of slides and silatation that have come with these cuts. In January I was amazed to see huge rivers of water coming right down the side of these very steep cuts. Come to

Ketchikan and look at these slides. Look at how long it is going to take for timber to come back. We will never, ever get the cedar back, only weedy Hemlock forest. No restoration, no management just clear cut and send out the wood in the round and benefit a very few. I just do not see this as the vision for the future of my home town.

You might be thinking "that is what everyone says", but this is not just one more parcel. The depths of Moser Bay are the heart of the recreational tourist industry in Ketchikan. There are at least 30 boats that visit the bay on every day of the summer for months. To mar this landscape would be a blunder of huge proportion.

I implore you to remove the Moser Bay Parcel from the University of Alaska lands bill and to permanently preserve it as a DNR managed property for its landscape values.

If this land is handed over to the University I will protest with vigor any effort to log it. It is mostly hemlock located on very steep slopes. And in any case the majority of wood that leaves Ketchikan is still exported in the round, creating few jobs locally, but good revenues for a very few who have political connections. If we lose this battle I will move, selling my land and my home at a loss because its value will certainly evaporate with any logging plan that goes into this area. Why not let the people who live here decide the fate of this land? Clear cut is not an option here. Using my connections with National Geographic I would be willing to work with the State to increase tourist revenue, and to publicize this incredible place.. I am sure that most students at U of A would agree with our opinion.

Resident Moser Bay,

J. Michael Fay

Box 8561 Ketchikan, AK 99901

907-254-1902

mfay@ngs.org



ALASKA COASTAL QUEST

2-11-10

Representative Paul Seaton
Alaska State Legislature
Juneau, Alaska

Dear Representative Seaton:

I understand that you recently held hearings on the University Lands bill, HB 295. I would like to encourage you to delete Hook Arm on Dall Island from this legislation. Almost all of the outer coast of Dall Island is wilderness. The U.S. Forest Service recognizes this by placing in a scenic recreation category. Allowing Hook Arm to be sold for development destroys the wilderness integrity of the outer coast of this magnificent island. As a charter boat operator specializing in ecotourism, I see this area as having tremendous economic potential for water oriented outdoor wilderness recreation.

Yours truly,

Dale Pihlman

T'INAA GEI TLINGIT NATION

A Sovereign Tribe

February 17, 2010

The Tenakee Traditional Council is, once again, serving notice to all entities claiming a present or future interest in uplands, submerged lands, and waters in the vicinity of Tenakee, Alaska, that it protests and gives notice of objection to any proposed conveyance of an interest in such lands, including proposed conveyances of ADL 107311 and ADL 107312 to the City of Tenakee Springs and/or to the University of Alaska.

These traditional lands, waters and resources have been occupied by, used by, and claimed by the Tenakee Tribe as original Tlingit inhabitants. These lands, waters and resources were not conveyed to any other entity by the Tenakee Tribe at any time, nor has it been abandoned. The Tenakee Tribe has consistently and strongly objected to any such conveyance. The Tenakee Tribe never agreed to any provisions of the Alaska Native Claims Settlement Act or any other statute purporting to divest it of its interest in those lands. Moreover, the Tlingit village of Tenakee Springs was not granted land selection rights under ANCSA or any compensation for any taking of its lands. We maintain our inherent and aboriginal rights to those lands, waters and resources and because the Tenakee Tribe has been a sovereign Tribe since before the arrival of the non-natives on our lands, we intend to exercise our right as a sovereign tribe to maintain our land so as to confirm the existing title of the Tenakee Tribe. Any conveyance of rights to these lands, waters and resources is done subject to the superior and prior claim of the Tenakee Tribe to such lands, waters or resources. Any trespass upon those lands, waters or resources is objected to and is without the permission, explicit or implicit, of the T'inaa Gei Tlingit Nation.

President Hoover, in 1930, signed the Tongass National Forest document that listed Tenakee as a village. This is documented proof of the village's existence. The area proclaimed for Tenakee was much larger than the 17 acres set aside by President Roosevelt in 1935.

President Roosevelt recognized the existence of the Tenakee Tribe in 1935 by issuing an Executive Order 7179 to ensure that the Tribe was not disturbed in perpetuity! The Tenakee land has never been owned by the federal government. BLM surveyed it for the

P.O. Box 20403
Juneau, Alaska 99802

Telephone: (907) 780-6195
Fax: (907) 780-6195

E-Mail: sharkey@acsalaska.net

President of the United States so that our village people would not be bothered and to avoid controversies about ownership of the land. This land belongs to the Tenakee Tribe in perpetuity. The President referred to this Executive Order as a Skookum Paper. Now the state of Alaska has taken it upon themselves to change the content and the intent of the Executive Order. Our elders and Clan Leaders used to state that "everyone knows who this land belongs to." In a visit to Washington, D.C. Senator Ted Stevens stated that this claim has never been disputed.

There was a report done by the University of Alaska Fairbanks for the Southeast Alaska Landless Coalition referred to as the ISER Report. Tenakee is included in that report and gives a very clear description of the Tenakee Tribe's land and resource holdings.

The U.S. Solicitor's office expressed an opinion that went against the President's proclamation that the Tenakee land would belong to the blood descendants of the Tenakee land. The Solicitor stated "you can say anything you want to say to me, Congress can undo your opinion and make you like it."...which meant that Congress can take our land if it so wishes.

We have made several attempts to obtain relevant documents regarding the Tenakee Tribal lands to no avail. We have been informed by BIA that under the Freedom of Information Act, we have the right to file suit if our request is ignored. There is no stipulation as to how extensive the search has to be. We are aware that there is a deed. It was shown to us by a former BIA employee. Yet, we've been told that there are no documents. The same answer we received regarding the Executive Order, a copy of which is attached.

Tenakee is not listed under the Tlingit-Haida Court of Claims (Judgment Funds) nor is it a listed village under ANCSA.

As stated earlier, there are only three ways that trust land can be taken from the Indian Nation:

- An act of abandonment
- An act of conquest (war); or
- A specific act of Congress WITH the consent of the owner Clan.

ANCSA also went against the Presidential proclamation of 1935 claiming that the ANCSA settlement included all Executive Orders in the bargaining with their treaties.

No one, aside from Tribal descendants, can just arbitrarily negotiate the Tenakee trust land. The Solicitor's opinion was that all Executive Order land was lost when ANCSA was initiated including the 7179 land. It was gone without any of the blood descendants knowing about that transaction. The Department of the Interior is mandated to include

Page Three

the Realty Division on land transactions of this nature. Were they actually involved? If they were involved, did they look out for the best interests of the Tenakee Tribe?

Page Three

Executive Order 7179 land was never in the hands of the federal government. How can the State take the land from the federal government and arbitrarily give it up for sale when it never belonged to them in the first place. If our Congressional Delegation move from their homes in Alaska, does that give title to the State, thereby, allowing the land to be put up for sale? I think not! There is no difference except that this is Indian Trust Land.

We request that Tenakee land be withdrawn from the Governor's Lands Bill, HB 295 and SB 225. We are available to answer any questions that you may have.

John Martin, Sr.
Chairman
TENAKEE TRADITIONAL COUNCIL

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 8, 2010

FURTHER REFERRALS: Resources
Finance

Date of Committee Action: 3.9.10

The COMMUNITY AND REGIONAL AFFAIRS Committee considered:

HB 295

HOUSE BILL NO. 295

"An Act relating to the grant of certain state land to the University of Alaska; relating to the duties of the Board of Regents; relating to deposits made to the Alaska permanent fund received from certain lands conveyed to the University of Alaska; ratifying and reauthorizing certain prior conveyances of land to the University of Alaska; making conforming amendments; and providing for an effective date."

HB 295-UNIVERSITY LAND GRANT

Recommends it be replaced with HCS or CS for HB 295 (CRA)
 For Senate Bills with new title: Technical Title New Title: HCR Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 DHS
 LWF
 LAW
 LEG
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u>				
<small>*Assigned by Chief Clerk's Office</small>				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
UA		X		
DNR			X	
REV				X

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Heidi Keller			X	
	Heidi Keller			X	
Chair:	Murray			X	
Chair:	HERRON			X	

Rob Earl

From: Kaci Schroeder
Sent: Monday, March 08, 2010 11:01 AM
To: Rob Earl
Subject: FW: Haines Lands Selection - HB 273
Attachments: HB 273 Haines Borough Land Selection Maps 3-7-10.pdf; HB 273 Haines Lands Selection description 3-7-10.doc

Here are the maps of the selections that we got from the Borough. When Haines formed a Borough they did not get all of their statutory lands and have worked with DNR to select lands that they could use towards their total land entitlement.

If you need anything more, please let me know. I have a grueling hearing this afternoon, but should be able to focus on this after that.

Kaci Schroeder Hotch
Legislative Aide to Rep. Thomas
State Capitol, Rm 501
Juneau, AK 99801
1-888-461-3732
(907) 465-3732
fax: (907) 465-2652

"In things pertaining to enthusiasm,
no man is sane who does not know how to be insane on proper occasions.
- Henry Ward Beecher

From: Mark Earnest [mailto:mearnest@haines.ak.us]
Sent: Sunday, March 07, 2010 2:00 PM
To: Rep. Bill Thomas
Cc: Kaci Schroeder; 'Steve Ritzinger'; 'Julie Cozzi'
Subject: Haines Lands Selection - HB 273

Dear Bill,

Attached are materials related to possible lands selections for Haines Borough via HB 273. There are maps for each of the proposed parcels, William Henry Bay property, Lynn Sisters property, Excursion Inlet properties, and Chilkoot Lake area. It should be noted that the first three properties are part of the University of Alaska lands selection within the Haines Borough, which are included in existing but separate legislation. Should the University land bill be amended to exclude these lands or not approved, these lands would then become available for the Borough. We do not have a good description nor do we know the status of the Chilkoot Lake lands. Bruce was unable to remotely access detailed maps from Talkeetna on Saturday when he called. These lands can be evaluated first thing Monday morning to determine their eligibility and possible acreage for selection.

Note: please disregard the last page of the pdf and instead use the word document.

Mark

STATE OF ALASKA/ FRANK MURKOWSKI, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
Division of Mining, Land and Water

550 West 7th Ave.; Suite 1070
Anchorage, AK 99501
Telephone: (907) 269-8600

March 31, 2005

The Honorable Representative Bill Thomas
State Capitol, Room 428
Juneau, AK 99801-1182

Dear Representative Thomas:

Thank you for forwarding Mayor Wilson's letter that discussed the City of Tenakee Springs' concerns about the University Lands Bill, HB 130. I would like to take the opportunity to address her concerns.

US 2459: 17-acres near the Tenakee Springs Harbor

Mayor Wilson provides that she believes that a parcel of land near the Tenakee Springs Harbor has been dropped from the bill. That is incorrect. Rather, we have used another solution to solve the issue for the City.

Earlier this year, the Department had told the Tenakee Springs that it would not process a lease application for a 17-acre tract near the Tenakee Harbor pending the Legislature's consideration of HB 130 and possible conveyance of the tract to the University of Alaska. At your request, I told you and I told Mayor Wilson separately by phone that DNR would be happy to adjudicate the application before any conveyance to the University.

Thus, assuming that the City does apply for the lease, and assuming that after public notice and comment DNR finds that the lease is in the best interest of the state, Tenakee will have a long-term lease to the parcel. If so, that lease becomes a valid existing right and if the land is conveyed to the University, the University would become the owner of the property, subject to the City's lease. I do not believe that the University would be a less congenial lessor; and in any case the City's rights would remain protected under the lease.

I testified to this effect during the House Resources Committee hearing on March 2nd, and I have attached the legislative transcript from that testimony to this letter.

I am pleased that we were able to find a solution to this concern.

Stipulation for Settlement of March 9, 1981

Mayor Wilson's letter provides a copy of a 1981 Stipulation for Settlement between the City and the State of Alaska. The settlement ended a lawsuit over Tenakee's municipal entitlement. I believe there is some confusion over the lands to which the settlement applies, and to the meaning of "retain in state ownership."

To what land does the Stipulation apply? The Stipulation of Settlement applies only to parcel C-34 in the Northern Southeast Area Plan. It does not apply to other lands proposed in HB 130.

HB 130 proposes to convey two parcels near Tenakee Springs to the University. The parcel nearest the Harbor includes parcels designated as C-31 and C-32 in the Northern Southeast Area Plan. The Stipulation of Settlement *does not* apply to these two parcels. It does apply to parcel C-30, as Mayor Wilson's letter indicates. However C-30 is not proposed for conveyance to the University.

HB 130 also proposed to convey what is designated as C-34 in the Northern Southeast Area Plan. The Stipulation of Settlement *does* apply to this parcel. The Stipulation of Settlement requires that the parcel will be retained by the state for "commercial, industrial, road right-of-way and borrow pit purposes."

Retained by the State. I would like to discuss the meaning of "retained by the state" in the context of the Stipulation of Settlement. While we have not completed a detailed review of the litigation that led up to the Stipulation, the court suit ended by this Stipulation was about Tenakee's municipal entitlement. The Stipulation provides that certain lands would be conveyed to the City and that certain lands would not be conveyed to the City and would instead be "retained by the state."

We note that it would be highly unusual, if not historically unique, for the Department to agree to retain a parcel of state land permanently in state ownership, absent an applicable directive from the legislature or a compelling constitutional imperative. Therefore, we believe that the phrase "retained by the state" communicates merely the proposition that the land simply would not be conveyed to Tenakee Springs as part of its municipal entitlement.

The settlement does not say or even imply that the state would never under any circumstances sell or transfer those lands. If that had been the intent, the Stipulation would almost certainly have outlined a process for doing so, as is characteristic of these types of Stipulations. Its purpose of the Stipulation was to settle the municipal conveyance question that was in litigation. Thus, after brief consultation with the Department of Law, we believe that the Stipulation of Settlement does not bind DNR from disposing of title.

However, even if, after further review, we find the above interpretation to be in error, and the lands must be retained by *the state*, the University is an agency of the state. Conveying land to the University of Alaska does not convey it out of state ownership. It is solely a transfer between agencies of the state, and is therefore not barred by the Stipulation of Settlement.

Letter to Representative Thomas
Page 3 of 4
3/31/05

Management Purposes. We believe the provision in the paragraph 1.2 of the Stipulation settlement reflects the proposition that at the time of settlement the Department had the intention to continue existing uses of the parcel for the removal of reasonable amounts of material under reasonable conditions while the land remains in state ownership. However, we do not read the stipulation as a categorical commitment to permanently make those uses available even in the event that such uses become, for example, unreasonable when viewed together with the Department's obligation to manage these lands for other competing purposes, or a legislative determination to convey them to the University of Alaska. To the extent we are incorrect on this score, the University, of course, would be bound to permit the specified reasonable uses under its management.

Further, the management purposes outlined in the Stipulation of Settlement for parcel C-34 — “Commercial, industrial, road right-of-way and borrow pits” — are development purposes appropriate for University ownership and management. Should further review confirm that the state may not dispose of its title, the Stipulation of Settlement is a valid existing right that the University must respect. But these uses are appropriate for University management.

Summary. In summary, the Stipulation of Settlement provided by the City of Tenakee does not apply to the parcel proposed for transfer near the boat harbor, and does not restrict the legislature's ability to convey the remaining parcel, C-34, to University management. In fact, the purposes outlined in the Stipulation of Settlement are appropriate for University ownership and management.

Thank you for this opportunity to review the concerns. Please let me know if you have additional questions,

Sincerely,

Bob Loeffler
Director

cc: Senator Al Kookesh
Representative Mike Chenault
Representative Bruce Weyhrauch
Mayor Shelly Wilson, City of Tenakee Springs
Ed Collazzi, DNR
Janet Burleson Baxter, DNR

University of Alaska Land Grant List 2005



Alaska Department of Natural Resources
January 12, 2005

Revised 2010

STATE OF ALASKA

SEAN PARNELL, GOVERNOR

□ 550 WEST 7TH AVENUE, SUITE 1400
ANCHORAGE, ALASKA 99501-3650
PHONE: (907) 269-8431
FAX: (907) 269-8918

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

January 13, 2010

Dear Interested Alaskan:

This document, **University of Alaska Land Grant List 2005**, provides a description of state land proposed for transfer to the University of Alaska under legislation requested by Governor Parnell. The new legislation would transfer 199,838 acres of state land managed by the Department of Natural Resources to the University of Alaska.

The legislation ratifies and reauthorizes the land conveyances in legislation enacted in 2000 (ch. 136, SLA 2000) and 2005 (ch. FSS08, SLA 2005). These statutes were found by the Alaska Supreme Court in *Southeast Alaska Conservation Council & Tongass Conservation Society v. State of Alaska & University of Alaska*, 202 P.3d 1162 (Alaska 2009), to violate Article IX, section 7 (the dedicated funds clause) of the Alaska Constitution, because the statutes specified that revenue generated from the University's management of the land was to be deposited in the University's endowment trust fund. The new legislation addresses this by specifying that revenue generated by the University of Alaska's management of this land will be managed as University receipts, subject to appropriation each year by the legislature.

The new legislation requested by the Governor directs DNR to convey specific lands to fulfill the intent of previous legislations.

The types of land proposed for conveyance to the University are summarized below:

Type of Property	Approximate Acreage
Investment Properties, Southeast Alaska	34,643
Investment Property, other than Southeast	39,222
Nenana Basin Oil & Gas	90,000
Education Properties	35,973
Total	199,838

The parcels identified in the proposed legislation are the same parcels as those identified in the 2005 legislation (ch. FSS08, SLA 2005); and are described in the

attached document. This land list was arrived at after more than a year of intense work by DNR and the University to identify land that may be conveyed to the University without unreasonably conflicting with programs associated with, and uses of, state land managed by DNR.

This document lists all of the parcels originally considered in the 2005 legislation, but the proposed legislation removes some of these parcels from further consideration. Specifically, the land list in the proposed legislation reflects changes made by the legislature during the 2005 session, including the legislature's decision to drop certain parcels that were on the original list provided in January 2005. The bill also includes language added by the legislature to protect land for possible municipal entitlement selections by the City and Borough of Wrangell and a possible borough in the Petersburg area. In addition, two parcels were conveyed under separate statutory authority. The following table indicates which parcels have been removed from consideration in the proposed legislation and which parcels are deferred to address potential municipal entitlements.

The prior land conveyance statutes included a provision for establishment of a university research forest. This provision is not included in this bill because the Alaska Supreme Court found that the provision in the prior legislation could be severed from the unconstitutional dedication provisions, and it was therefore upheld as constitutional.

Sincerely,



Thomas E. Irwin
Commissioner

LAND
LIST
MAPS

University of Alaska
Land Grant List 2005
(revised 2010)
Summary

Total Acreage:

199,838

Type	Acres
Educational Properties	35,973
Nenana Basin Oil and Gas	90,000
Southeast Alaska Investment Properties	34,643
Other Investment Properties (excluding SE)	39,222
Total	199,838

	Percent
Educational Properties	18.0%
Nenana Basin Oil and Gas	45.0%
Southeast Alaska Investment Properties	17.3%
Other Investment Properties (excluding SE)	19.6%
Total	100.0%

Region	Acres
Southeast	34,655
Southcentral	14,230
Northern Interior	150,953
Total	199,838

	Percent
Southeast	17.3%
Southcentral	7.1%
Northern Interior	75.5%
Total	100.0%

University of Alaska Land Grant List 2010

Parcel #	Name	Approx. Area in Acres
Non-producing Oil and Gas Resources		
	Nenana Gas Basin Tracts - Mineral *	90,000
	Nenana Gas Basin Tracts - Land ** *	90,000
	2010 Revised Oil and Gas Resources, Subtotal	90,000
Investment Properties		
Northern/ Interior Region		
DH.IS.1001	Dalton Highway MP 48 to 54	1,360
DH.SR.1001	Dalton Highway MP 345 to 347	880
MA.HR.1001	Haul Road Nodes-Coldfoot	1,700
M1.JC.1001	Jarvis Creek (Mineral)	16,000
FA.JC.1001	Jennie M. Creek C	5
N1.LS.1001	Lake Snohomish	740
NZ.FA.1003	Noyes Slough (See Fairbanks Area Parcels map)	7
N5.RS.1001	Summit Lake (Parks Highway)	960
N1.WT.1001	West Twin Lake	1,560
N5.WL.1001	Wien Lake	1,780
	2010 Revised Northern Interior Region Subtotal	24,992
Southcentral Region		
SU.DC.1001	Deception Creek	280
SU.FP.1001	Frying Pan Lake	450
MA.MC.1001	McCarthy-Nizina	12,500
SU.WC.1001	Willow Creek Road	1,000
	2010 Revised Southcentral Region Subtotal	14,230
	2010 Revised Investment Properties Total	39,222

* The mapped extent of the parcel exceeds this amount, but will be reconfigured when the Remote Staking for Teklanika II has been completed to equal approximately 90,000 acres.

** The University will provide, at no charge to the state, reasonable access to the state land and resources west and north of the Nenana parcel.

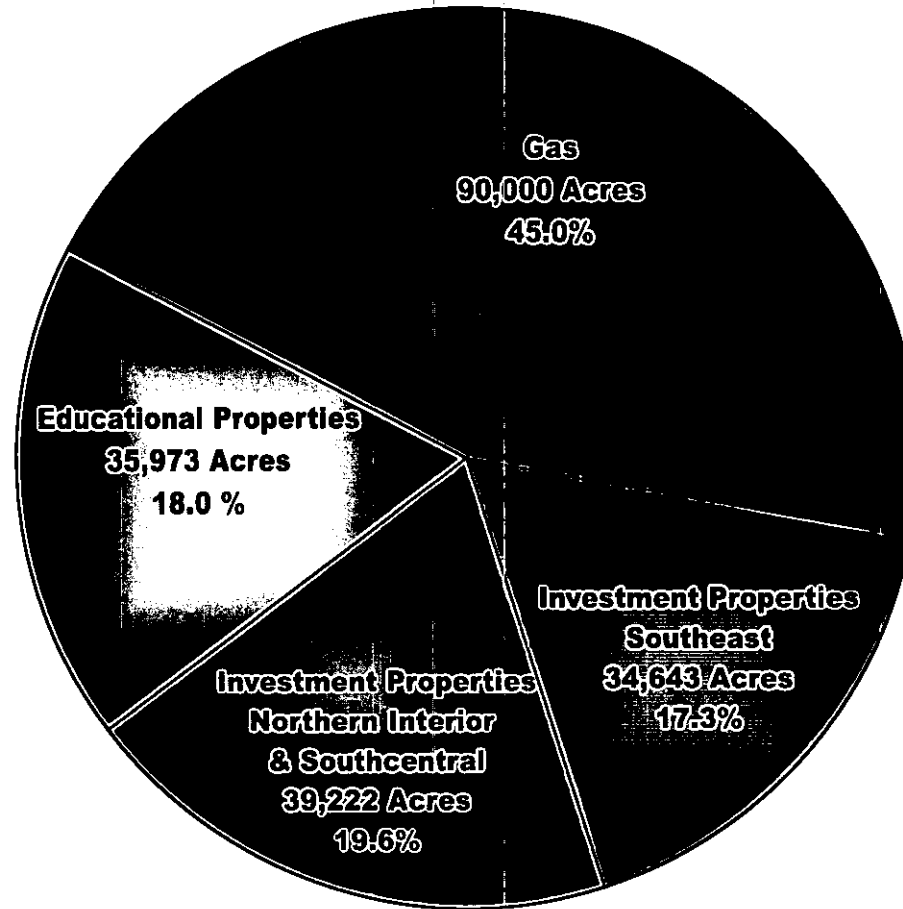
University of Alaska Land Grant List 2010

Parcel #	Name	Approx. Area in Acres
Southeast Alaska		
SD.1001	Beecher Pass	1,193
PA.1002	Biorka Island	438
KT.1002	Cleveland Peninsula	4,055
PW.CC.1001	Coffman Cove	1,984
CS.DI.1001	<i>Duke Island DELETED FROM 2005 LAND LIST BY LEGISLATURE</i>	-1,440
CS.EW.1001	Earl West Cove	3,564
PW.ED.1001	Edna Bay	250
PW.EC.1001	El Capitan North	1,847
PW.ES.1005	El Capitan South	865
NS.EX.1002	Excursion Inlet	477
SD.1001	Favor Peak	1,290
HA.CH.1001	<i>Haines - Chilkoot DELETED FROM 2005 LAND LIST BY LEGISLATURE</i>	-60
CR.1001	Harris Road Junction	320
PW.HO.1001	Hollis	622
PW.HK.1001	Hook Arm	1,280
MF.1002	<i>Idaho Inlet DELETED FROM 2005 LAND LIST BY LEGISLATURE</i>	-539
JU.NL.1001	Ivanhoe	120
CS.KI.1001	<i>Kelp Island DELETED FROM 2005 LAND LIST BY LEGISLATURE</i>	-535
CS.LE.1001	Leask Cove	460
JU.LM.1001	Lena Creek	610
NS.NS.1001	Lisianski Peninsula	1,443
JU.1002	Lynn Canal	1,358
NS.MI.1001	Middle Island	665
PA.1002	Mite Cove	320
PW.MS.1001	Moira Sound/Nowiskay Cove	160
CS.MB.1001	Moser Bay	906
PW.NA.1001	Naukati Sound	937
KT.1004	<i>Neets Creek DELETED FROM 2005 LAND LIST BY LEGISLATURE</i>	-1,500
CS.OV.1001	Olive Cove	450
ST.1002	<i>Pelican DELETED FROM 2005 LAND LIST BY LEGISLATURE</i>	-851
PA.1001	<i>Port Alexander DELETED FROM 2005 LAND LIST BY LEGISLATURE</i>	-267
PA.1001	Port Conclusion (See Port Alexander map)	10
PW.PD.1001	Port Delores	1,100
SD.1001	Read Island	706
CS.RB.1001	Rowan Bay	665
SD.1001	Sumdum	5
ST.1003	Tenakee Springs	346

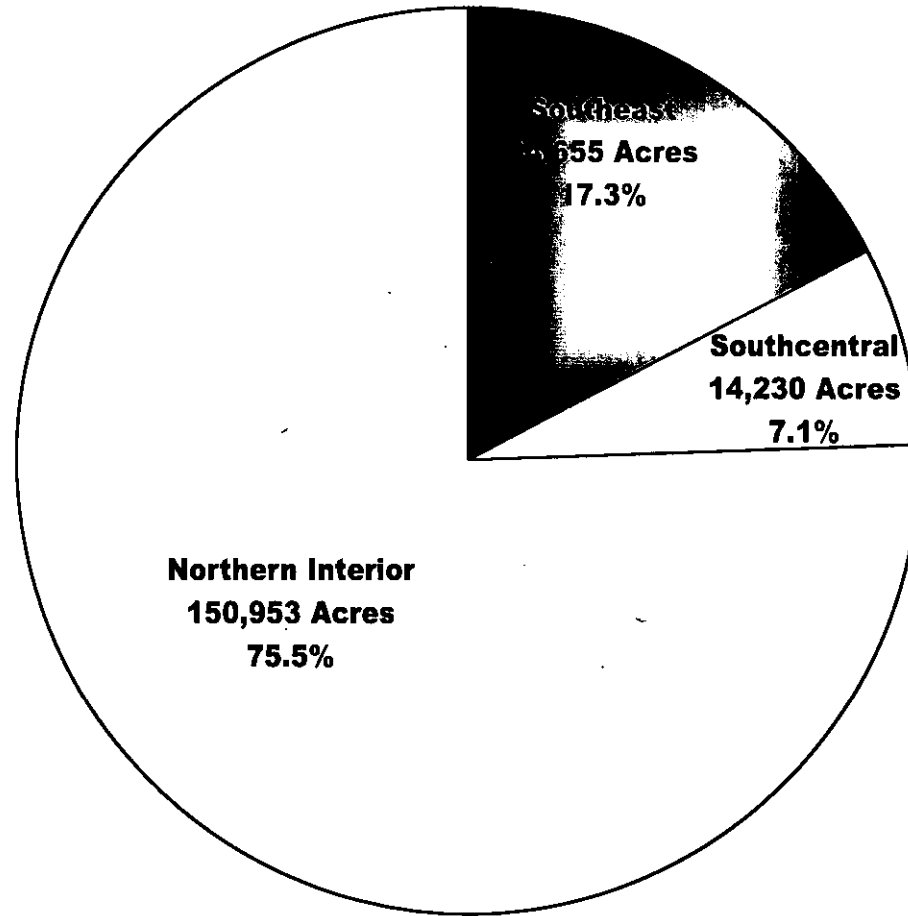
University of Alaska Land Grant List 2010

Parcel #	Name	Approx. Area in Acres
SD.1001	Thoms Place	2,360
PW.TH.1001	Thorne Bay	2,557
CS.TL.1001	Three Lake Road	640
CS.WA.1001	Ward Cove	3
ST.1002	<i>Warm Springs Bay DELETED FROM 2005 LAND LIST BY LEGISLATURE</i>	-267
SD.1001	Whitney Island	316
JU.1001	William Henry Bay	321
	2010 Revised Southeast Region Subtotal	34,643
Educational Properties		
JU.AU.1002	Auke Weir	6
LG.PC.01	Caribou-Poker Creeks Drainage	24,250
MA.XS.1001	Delta Ag & Forestry Exp. Station	363
N2.FA.1004	<i>Fairbanks Parking Garage/Court House COURTHOUSE CONVEYED UNDER OTHER AUTHORITY</i>	-1
NZ.FA.1004	<i>Key Bank Site CONVEYED UNDER OTHER AUTHORITY</i>	-1
MA.KR.1001	<i>Kodiak Rocket Range DELETED FROM 2005 LAND LIST BY LEGISLATURE</i>	-2,880
MA.PF.1002	Poker Flat (Special Use Area)	6,680
MA.PF.1001	Poker Flat Lease	533
MA.SF.1001	Silver Fox Mine	120
ST.1001	Sitka Campus	6
TV.RF.1001	Tok Research Forest	4,015
TV.TV.1001	<i>University Research Forest CONVEYED UNDER HB 130</i>	-51,820
	2010 Revised Educational Properties Subtotal	35,973
2010 REVISED TOTAL		199,838

Resource Distribution of Parcels 2010 Land List

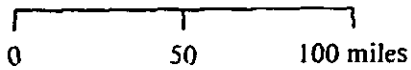
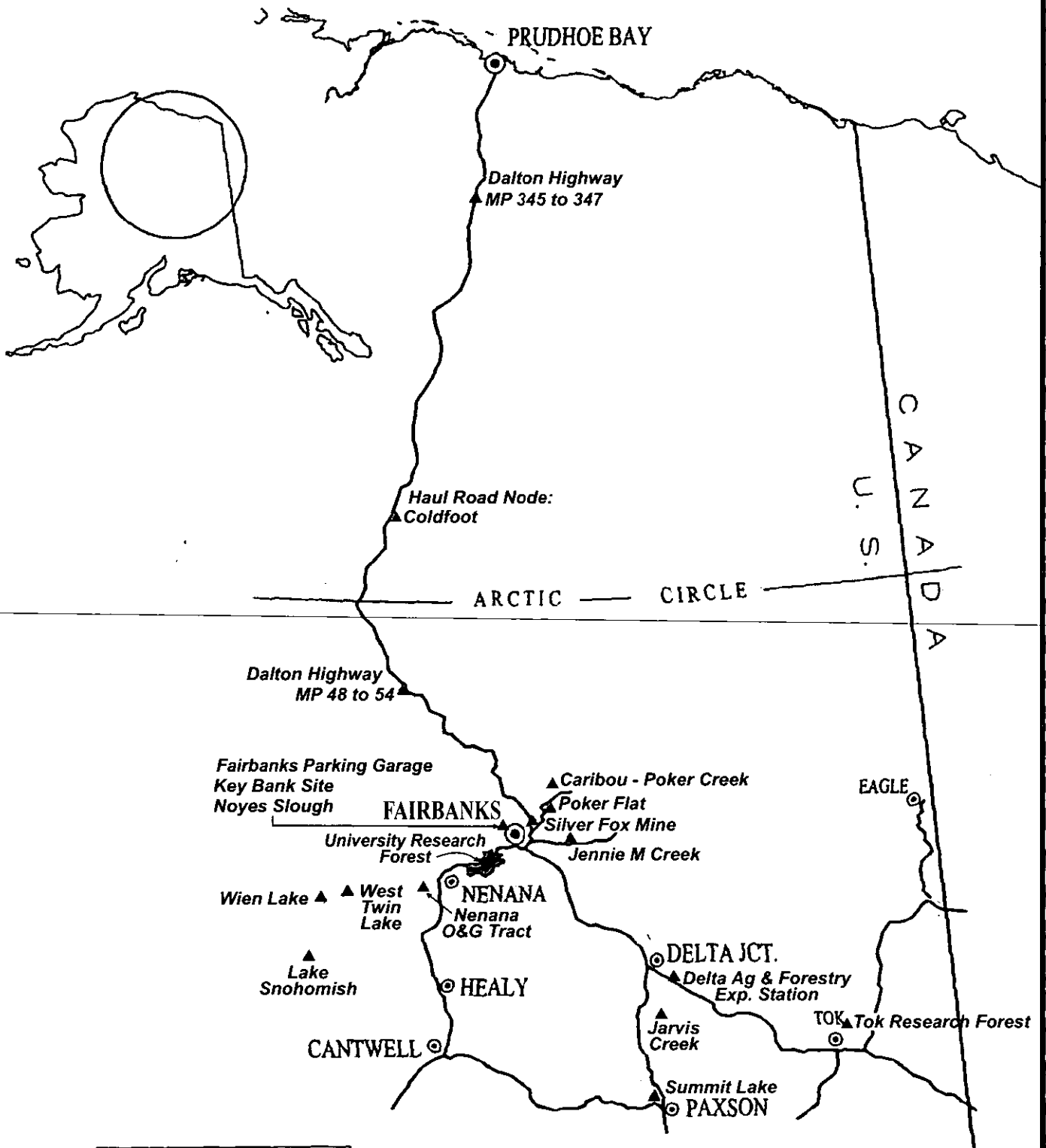


Region Distribution of Parcels 2010 Land List

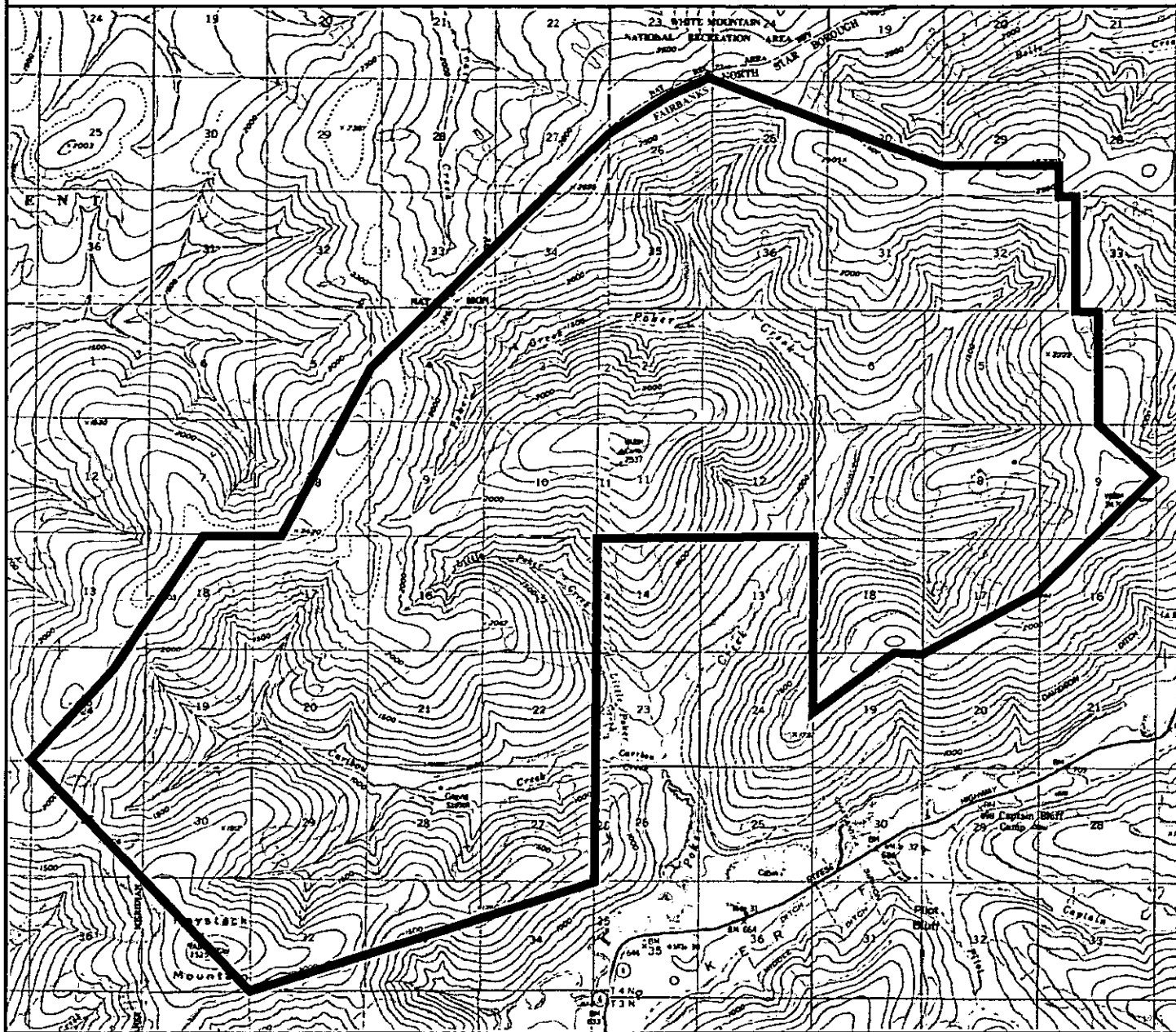


NORTHERN -
INTERIOR
MAPS

NORTHERN - INTERIOR REGION



Caribou-Poker Creeks Watershed



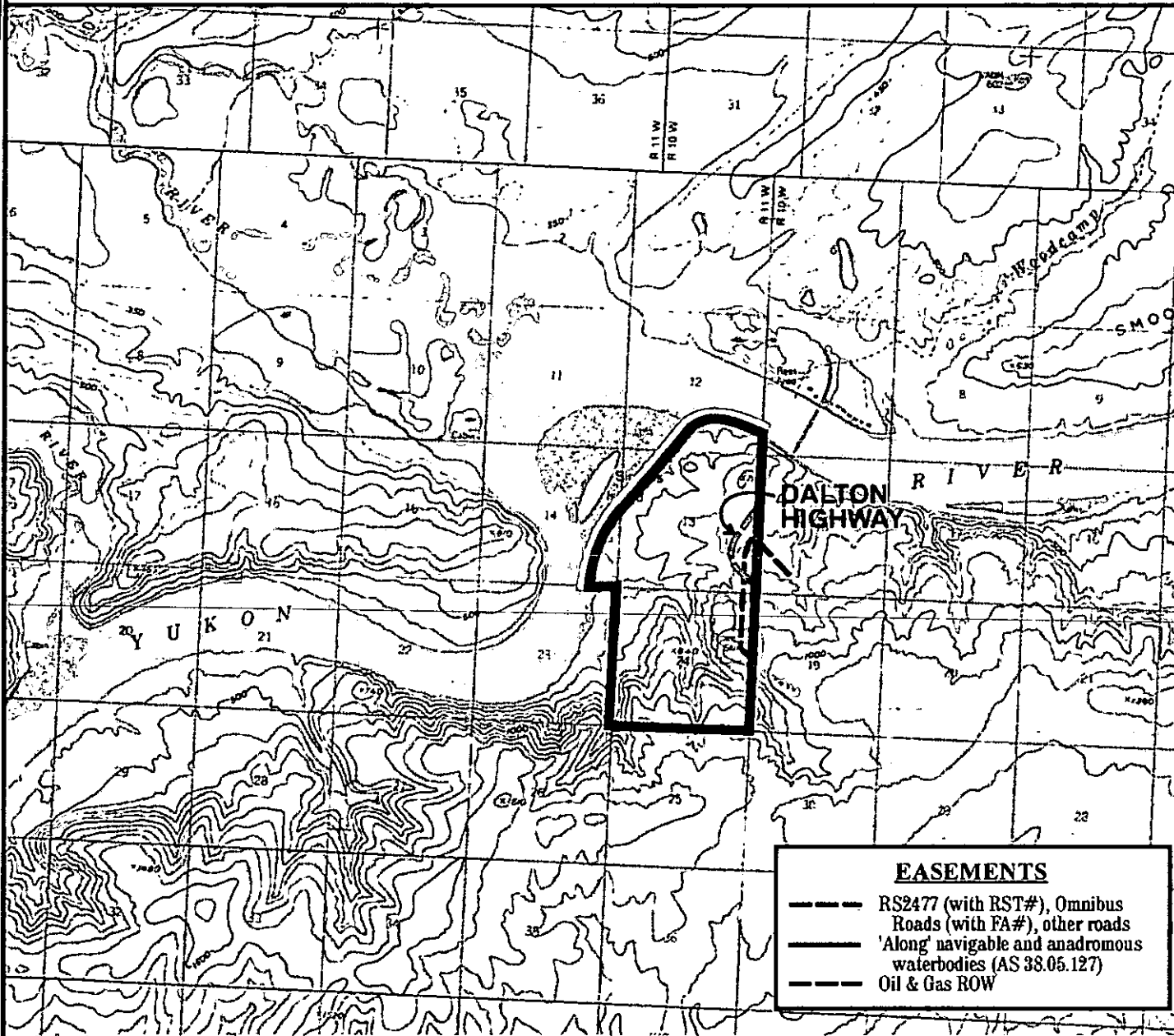
Prepared by: DNR
 Source USGS Livengood A1, A-2
 Date: 12/2004

one mile

Meridian	Township	Range
F	04N	1E-2E

Dalton Highway MP 48 to 54

DH.YR.1001



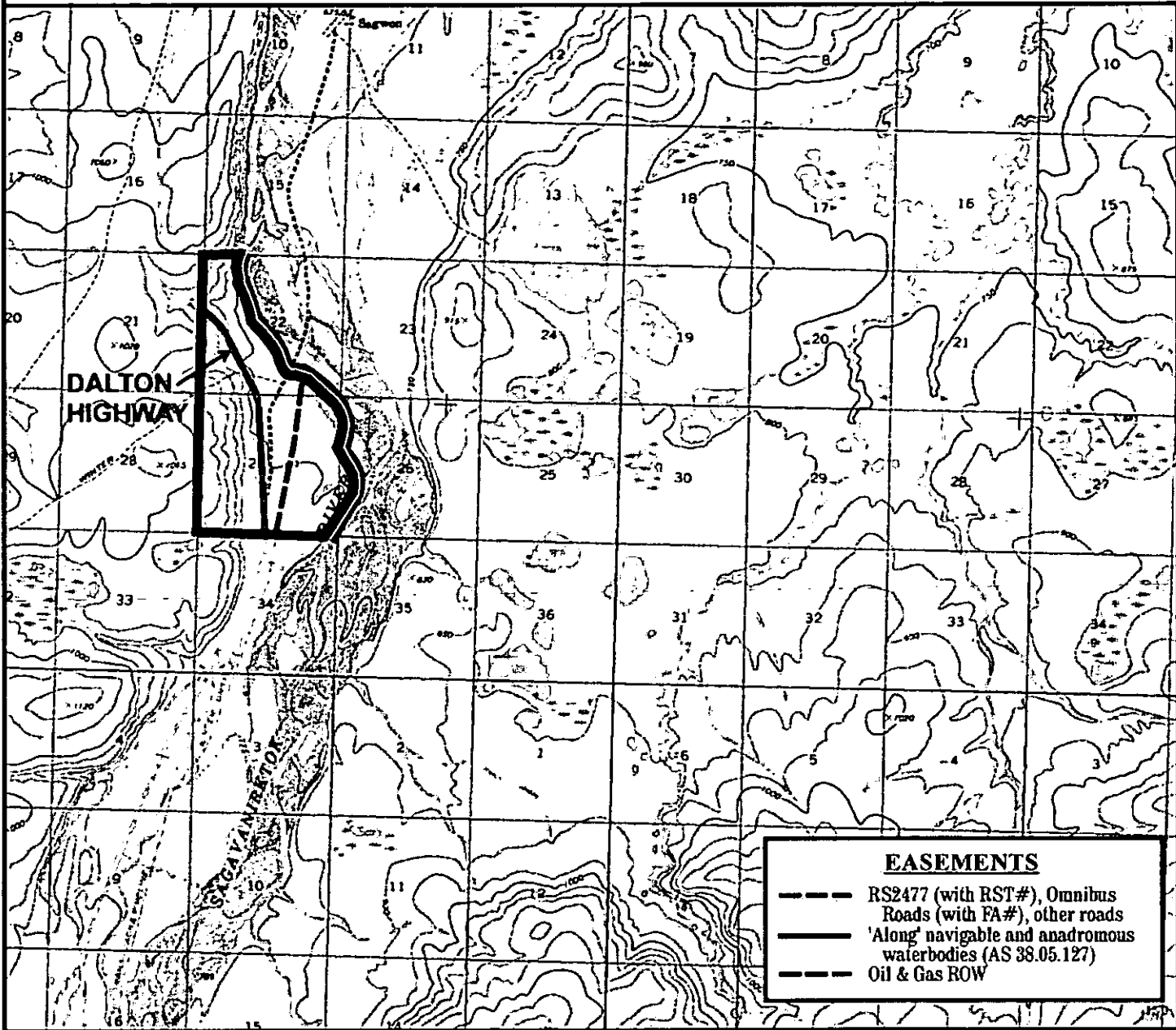
Prepared by: DNR
Source USGS Livengood D-6
Date: 12/2004

one mile

Meridian	Township	Range
FM	12N	10-11W

Dalton Highway MP 345 to 347

DH.SR.1001



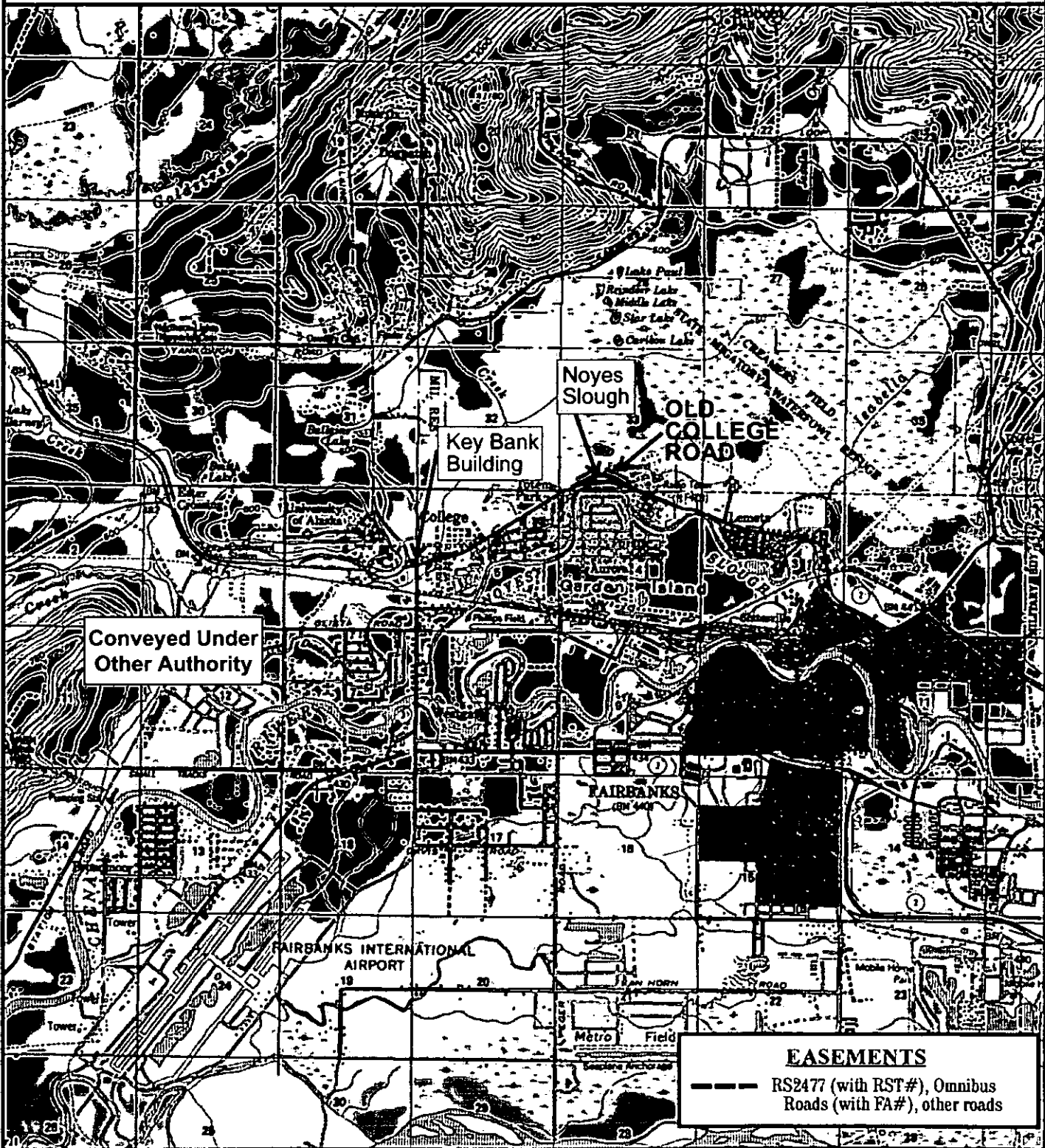
Prepared by: DNR
 Source USGS Sagavanirktok B-3
 Date: 12/2004

— one mile —

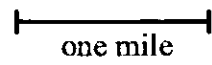
Meridian	Township	Range
UM	IS	14E

Fairbanks Area Parcels

N2.FA.1003
N2.FA.1004



Prepared by: DNR
Source USGS Fairbanks D2
Date: 12/2004

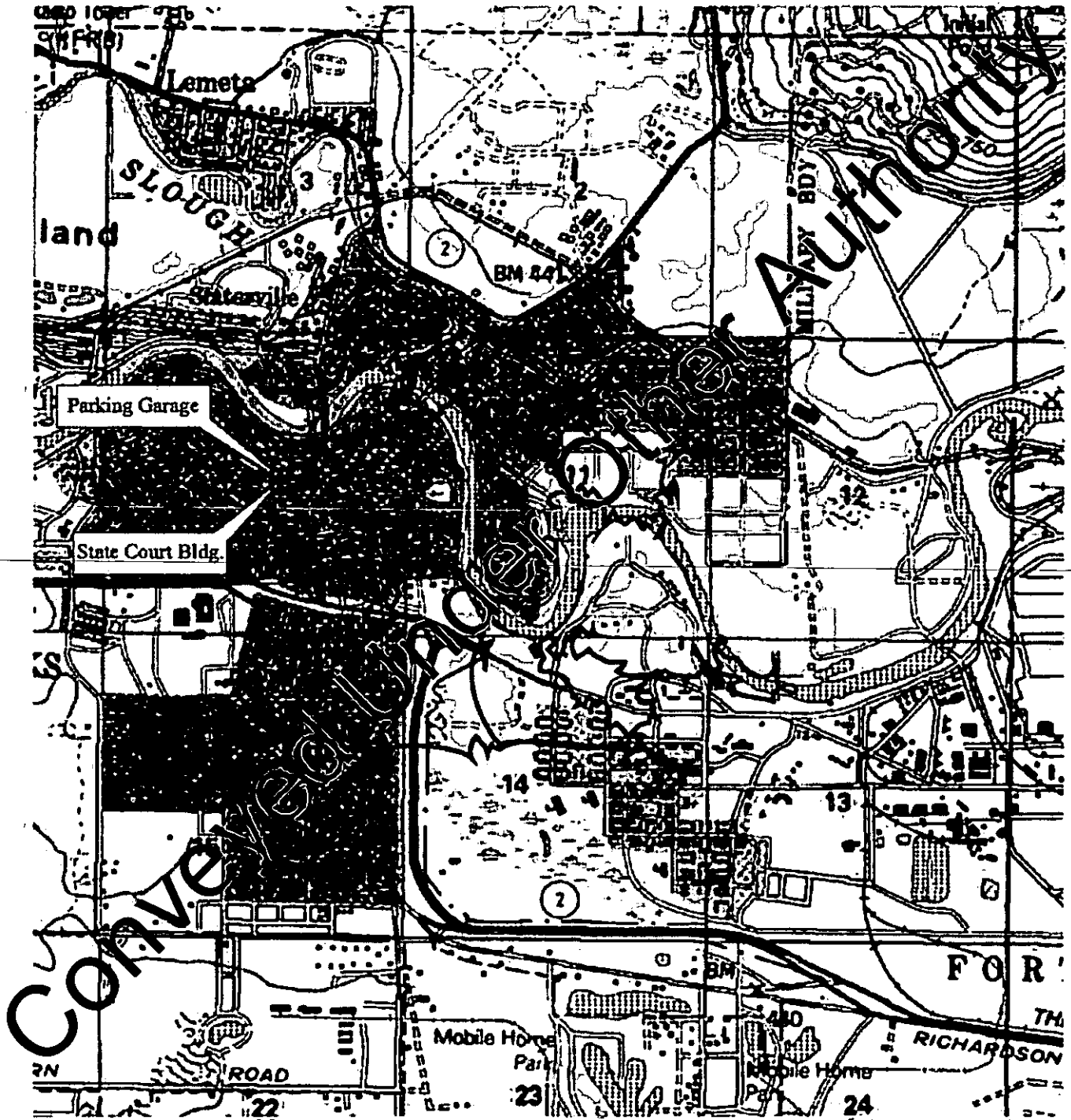


Meridian	Township	Range
FM	1N-1S	1W

Fairbanks Downtown Parcels

N2.FA.1001 Parking Garage

N2.FA.1002 Old State Court Building



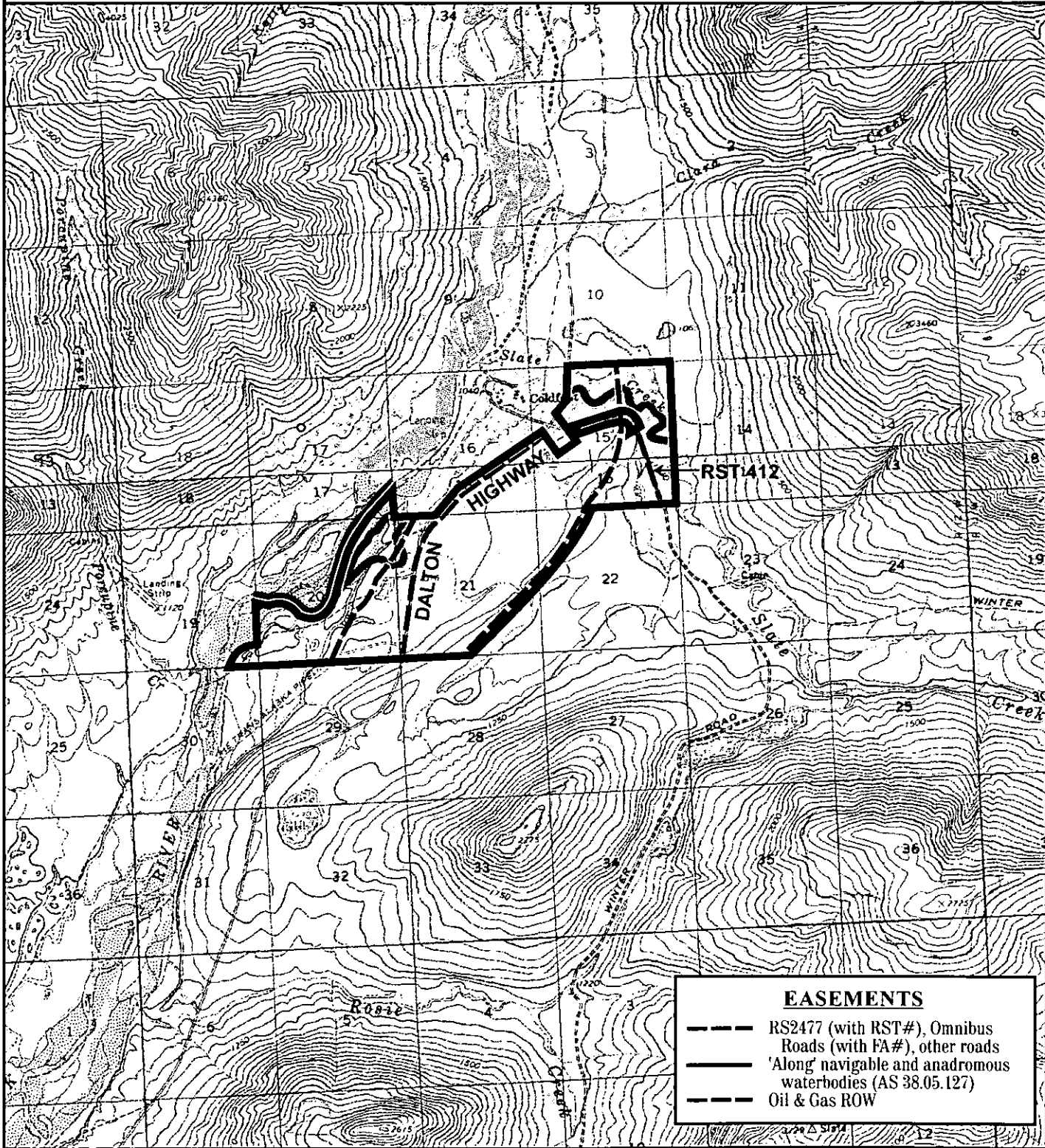
Prepared by: DNR
Source USGS Fairbanks D-2
Date: 12/2004

1/2 mile

Meridian Township Range
F 1S 1W

Haul Road Nodes - Coldfoot

MA.HR.1001



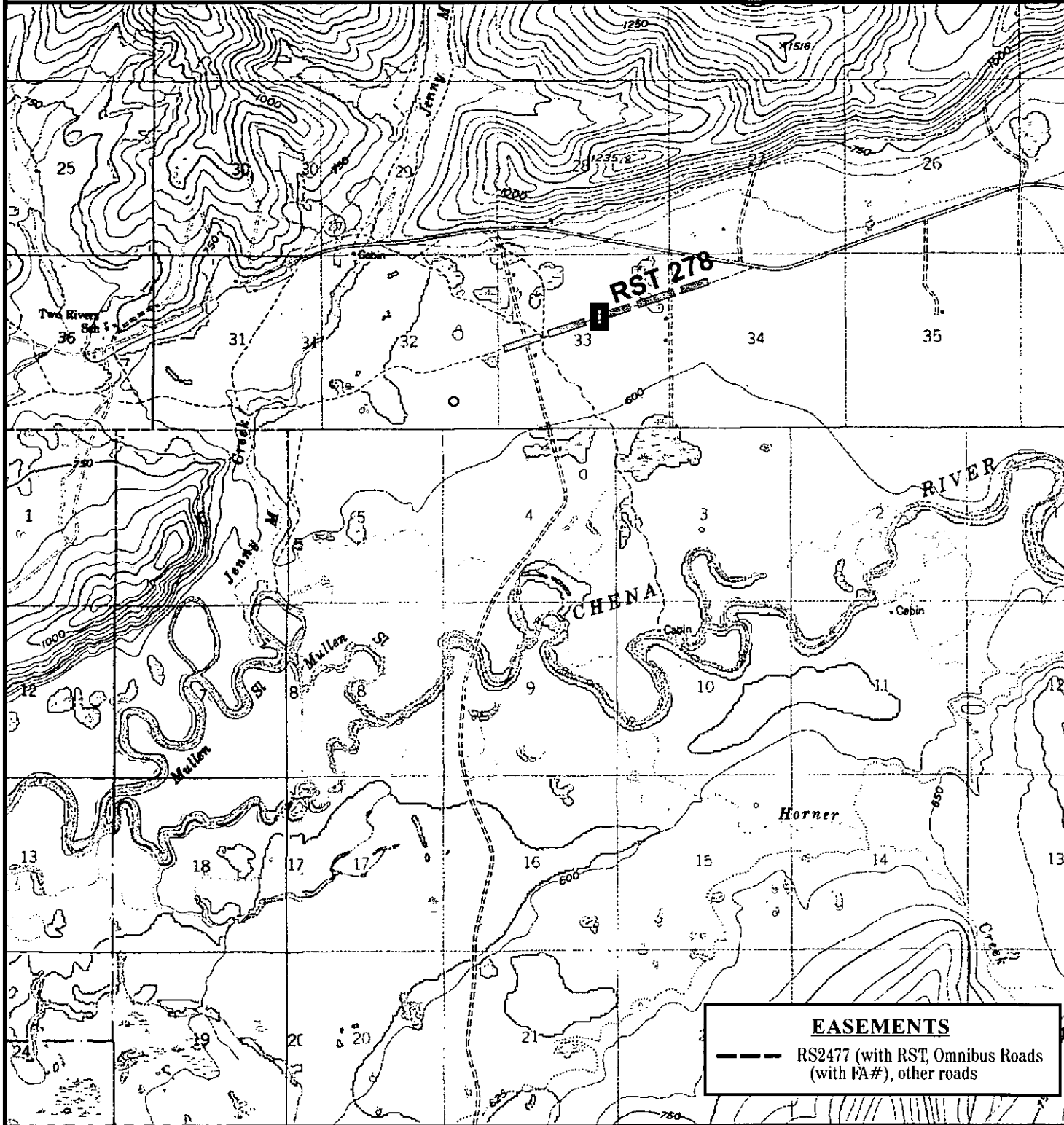
Prepared by: DNR
Source USGS Wiseman A-1, B-1
Date: 12/2004

— one mile —

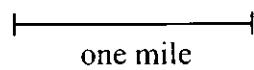
Meridian Township Range
FM 28N 12W

Jennie M. Creek C

FA.JC.1001



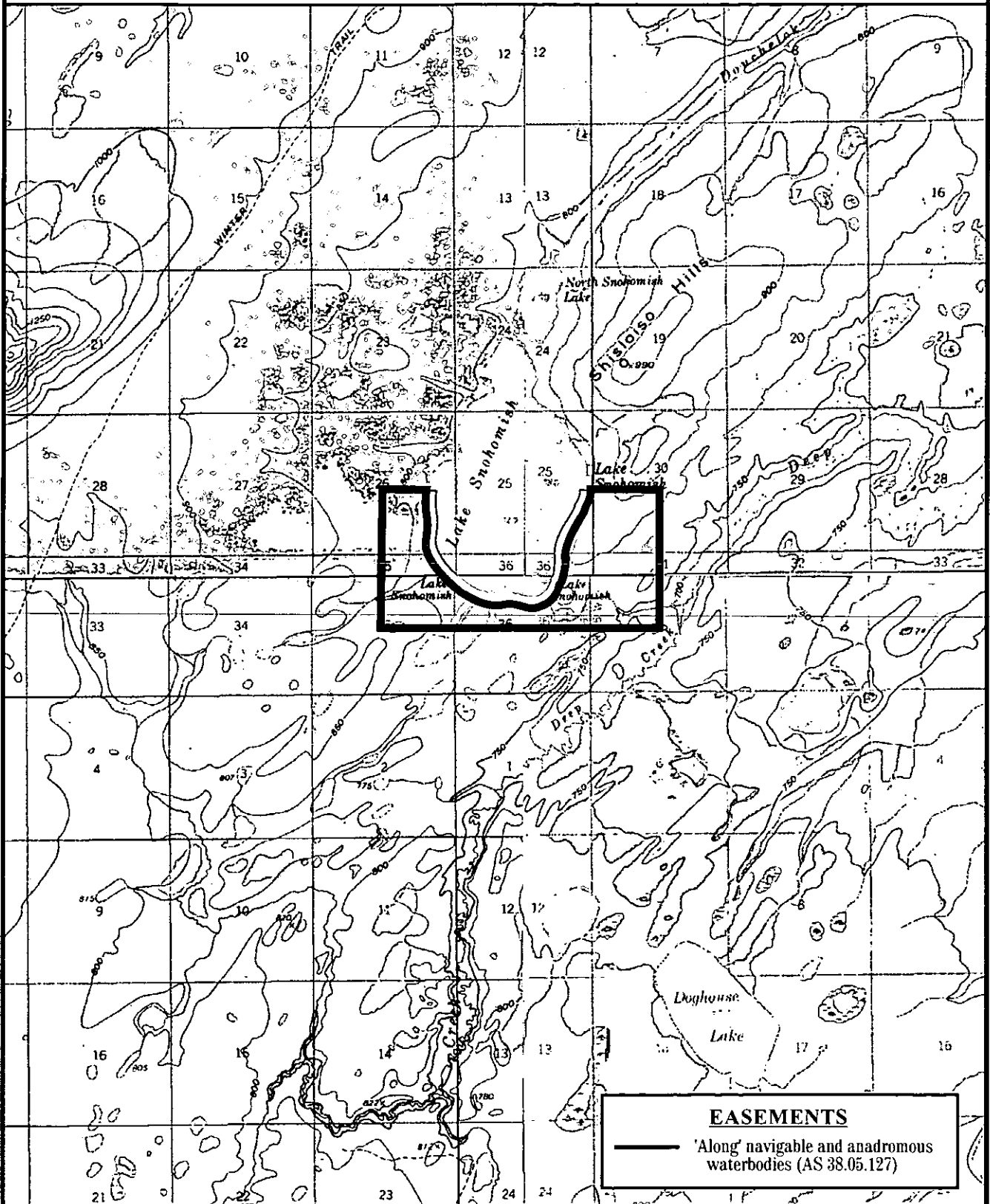
Prepared by: DNR
Source USGS, Big Delta D-6, Fairbanks D-1
Date: 12/2004



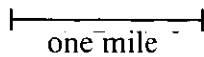
Meridian Township Range
FM 1N 4E

Lake Snohomish

N1.LS.1001

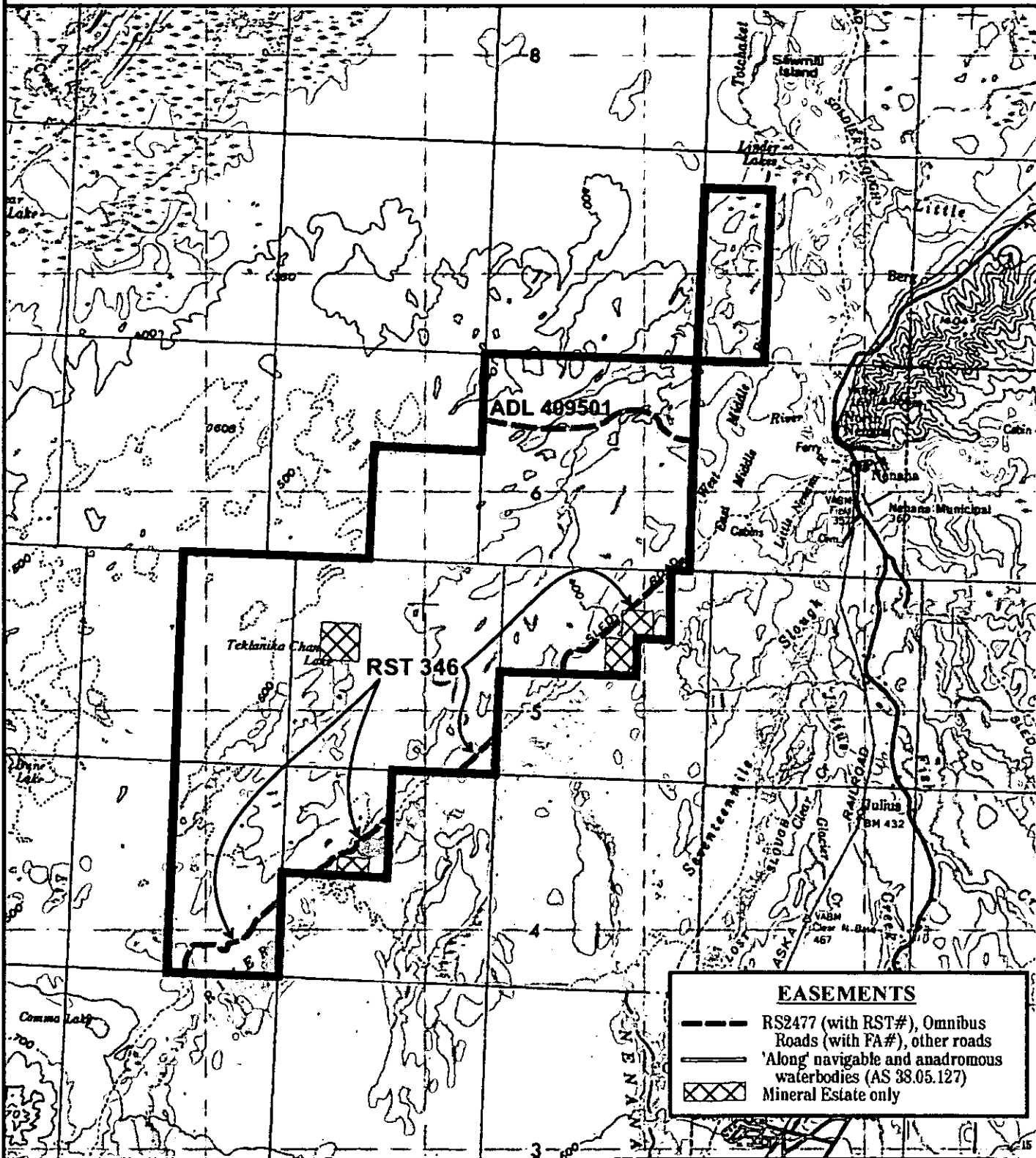


Prepared by: DNR
Source USGS, Mt. McKinley D-5,
D-6, C-5, C-6 Date: 12/2004



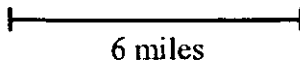
Meridian Township Range
FM 13S R25W-26W

Nenana Oil & Gas Tract



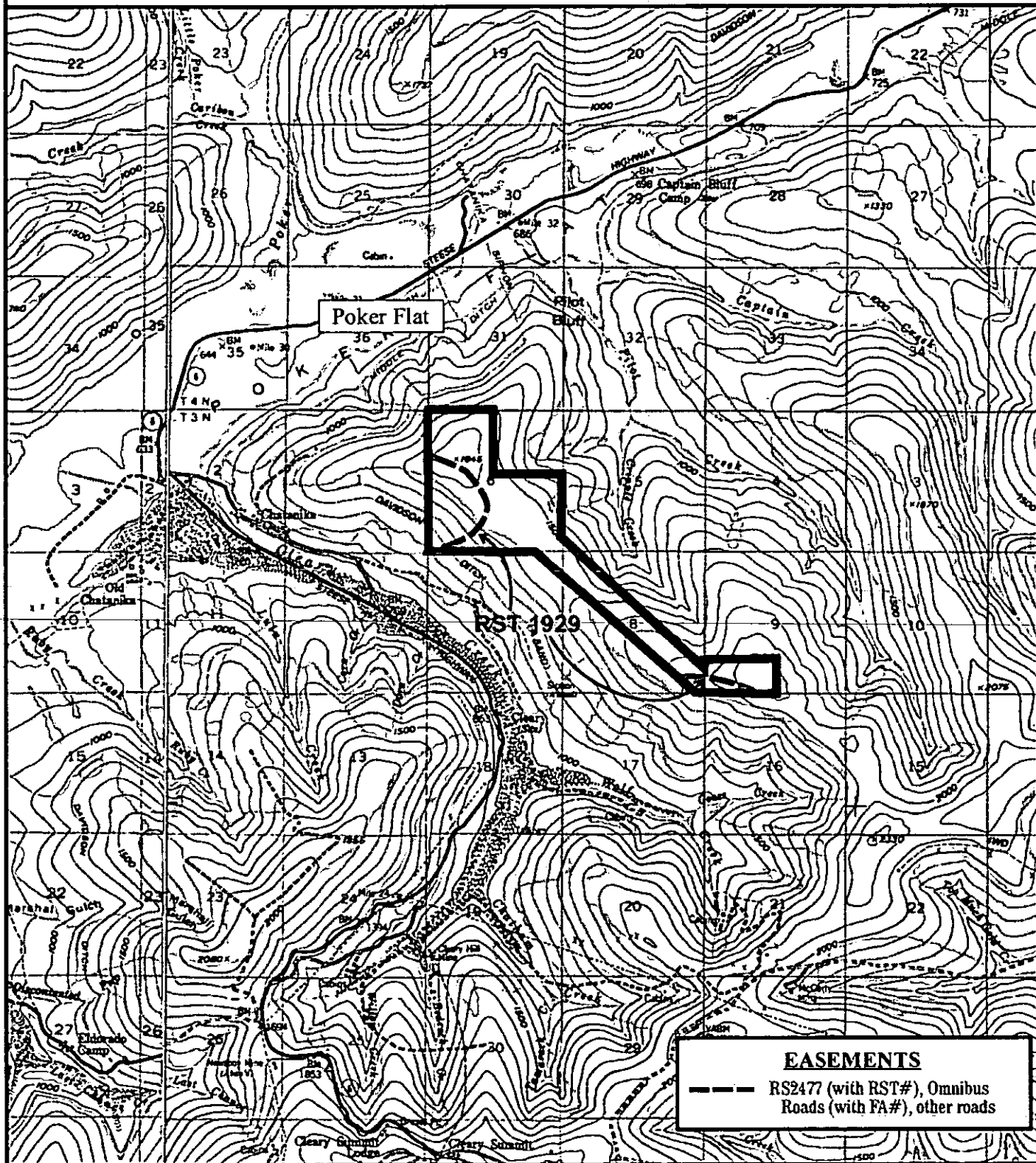
Prepared by: DNR
 Source USGS, Fairbanks B-5 B-6, C-5, C-6
 Date: 12/2004

Meridian	Township	Range
FM	3, 4, 5, 6S	8, 9, 10, 11E



Poker Flat Lease

MA.PF.1001



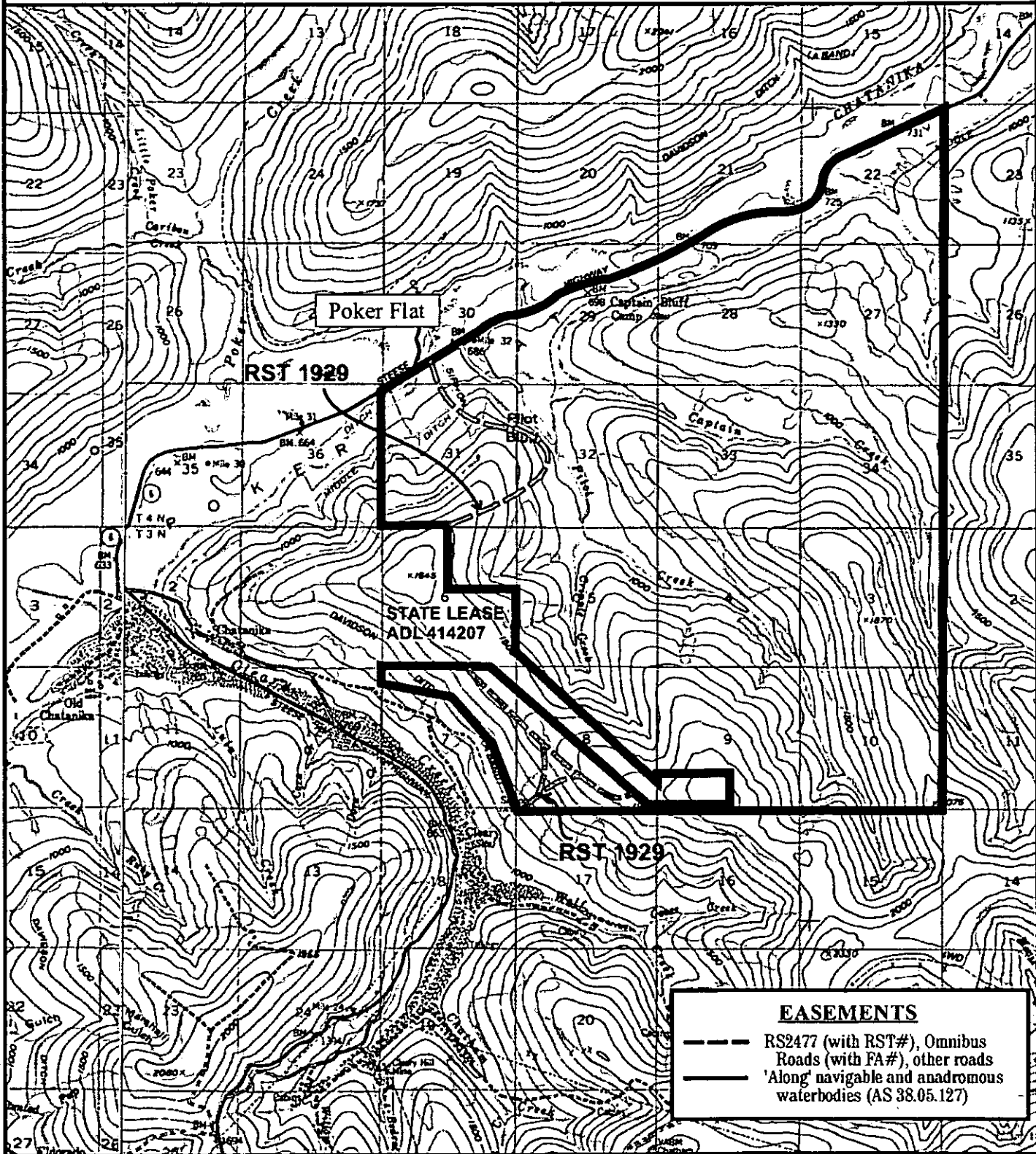
Prepared by: DNR
Source USGS, Livengood A-1
Date: 12/2004

one mile

Meridian FM
Township 3N
Range 2E

Poker Flat (SUA)

MA.PF.1002



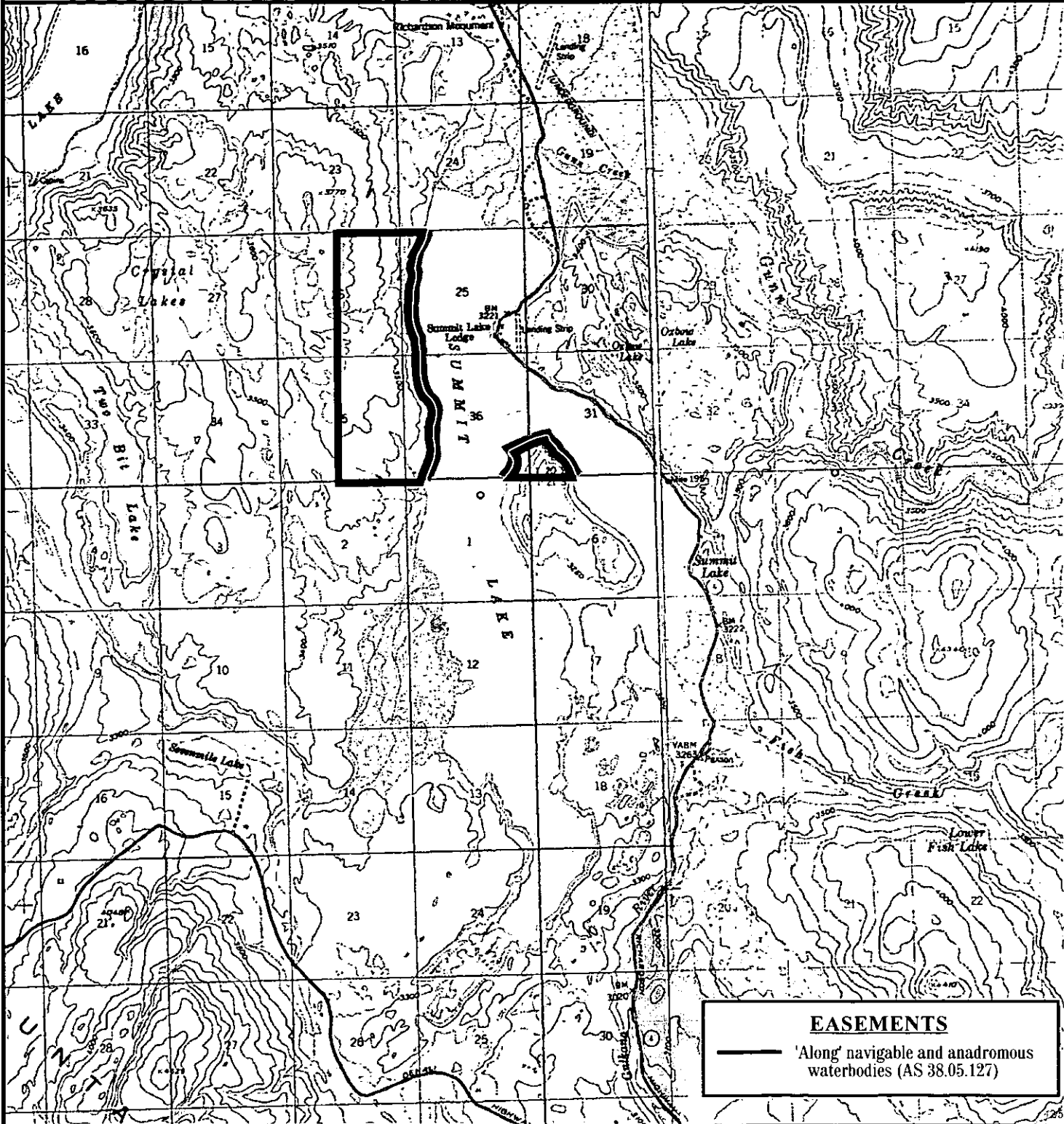
Prepared by: DNR
Source USGS, Livengood A-1
Date: 12/2004

— one mile —

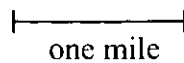
Meridian	Township	Range
FM	3-4N	2E

Summit Lake

N5.RS.1001



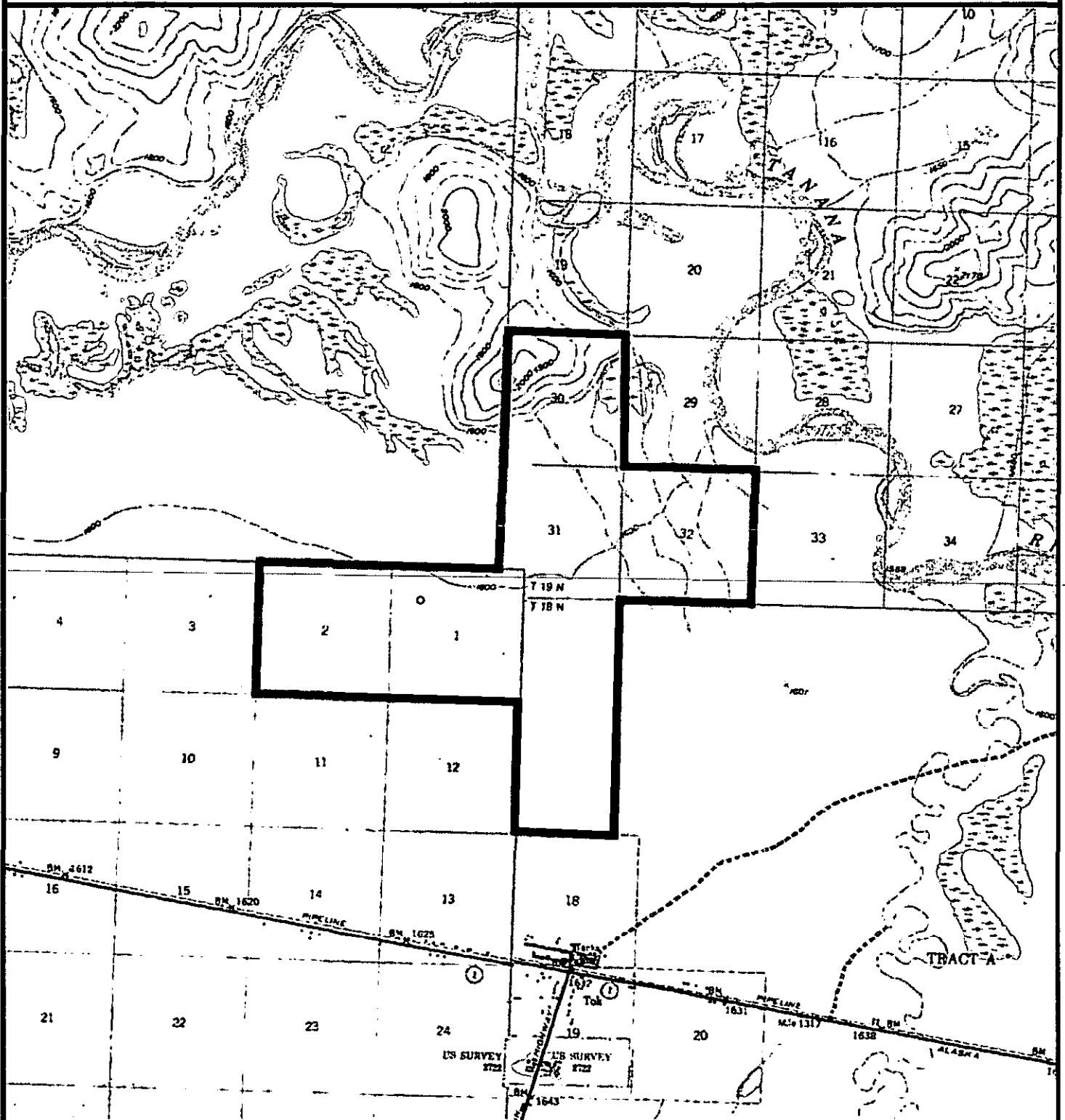
Prepared by: DNR
 Source USGS, Mt. Hayes, A-3, A-4
 Date: 12/2004



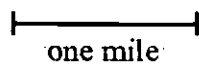
Meridian	Township	Range
FM	20S-21S	11E-12E

Tok Research Forest

TV.RF.1001



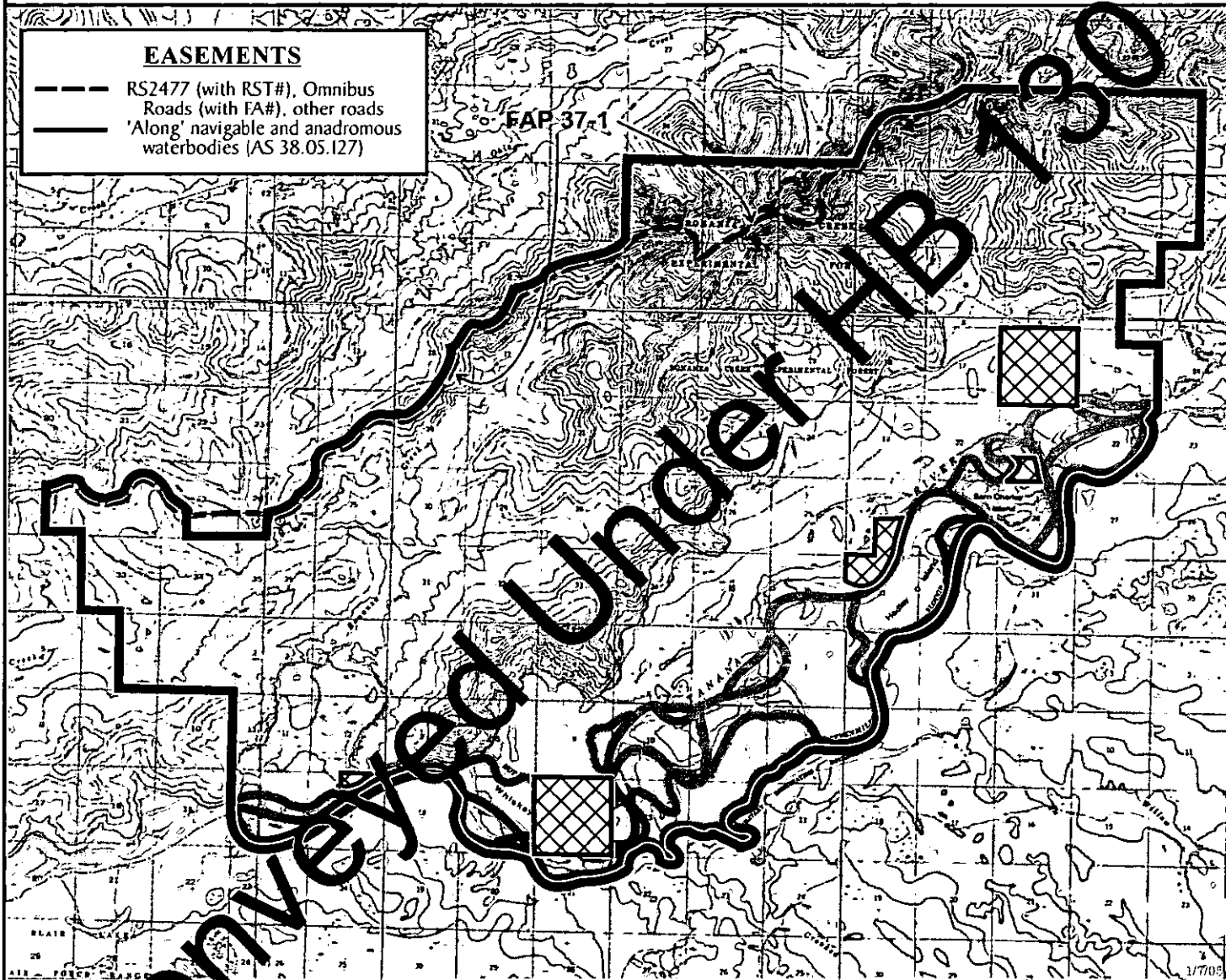
Prepared by: DNR
Source USGS, Tanacross B-4, B-5
Date: 12/2004



Meridian Township Range
CRM 18-19N 12-13E

University Research Forest

NS.EX.1002




EASEMENTS

- RS2477 (with RST#), Omnibus Roads (with FA#), other roads
- 'Along' navigable and anadromous waterbodies (AS 38.05.127)

Prepared by DNR; rhc
Source USGS Fairbanks C-3, D-3, D-4
Date 1/2004

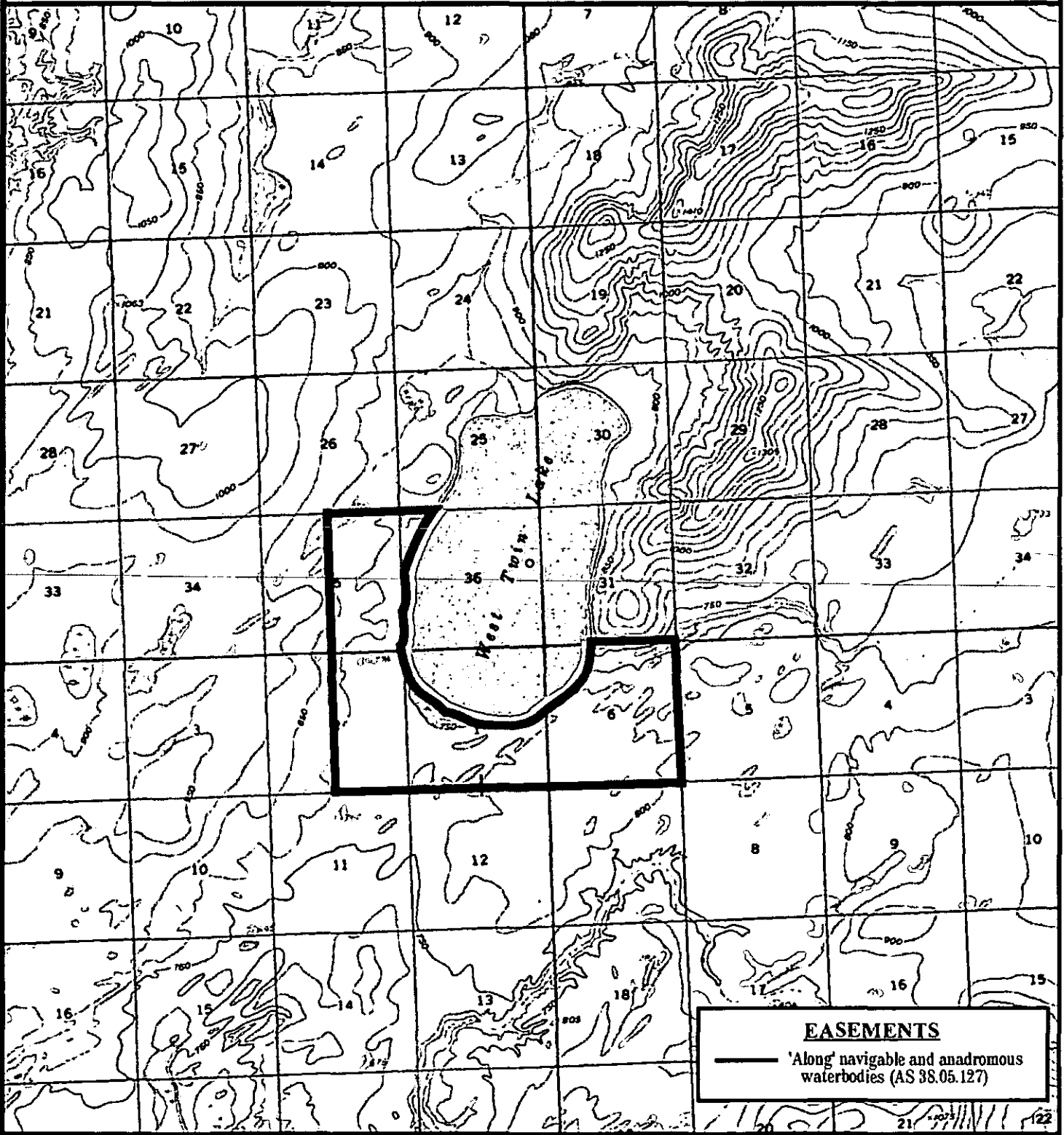
—|—|—|
one mile

 Excluded Lands

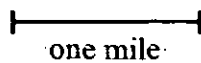
Meridian Township Range
FM 1-3S 3W-5W

West Twin Lake

N1.WT.1001



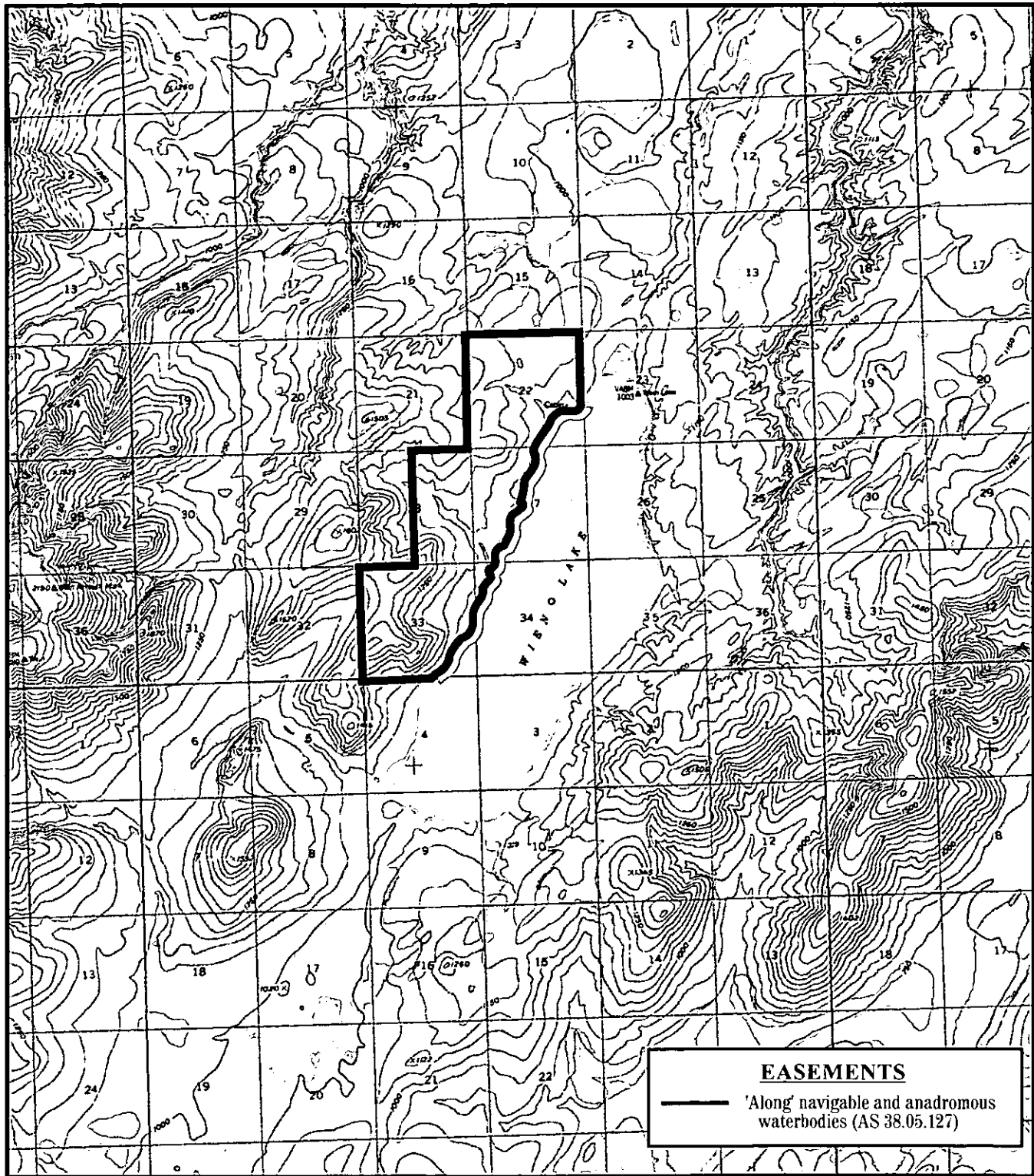
Prepared by: DNR
Source USGS, Kantishna River B-2
Date: 12/2004



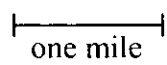
Meridian	Township	Range
FM	5-6S	16-17W

Wien Lake

N5.WL.1001



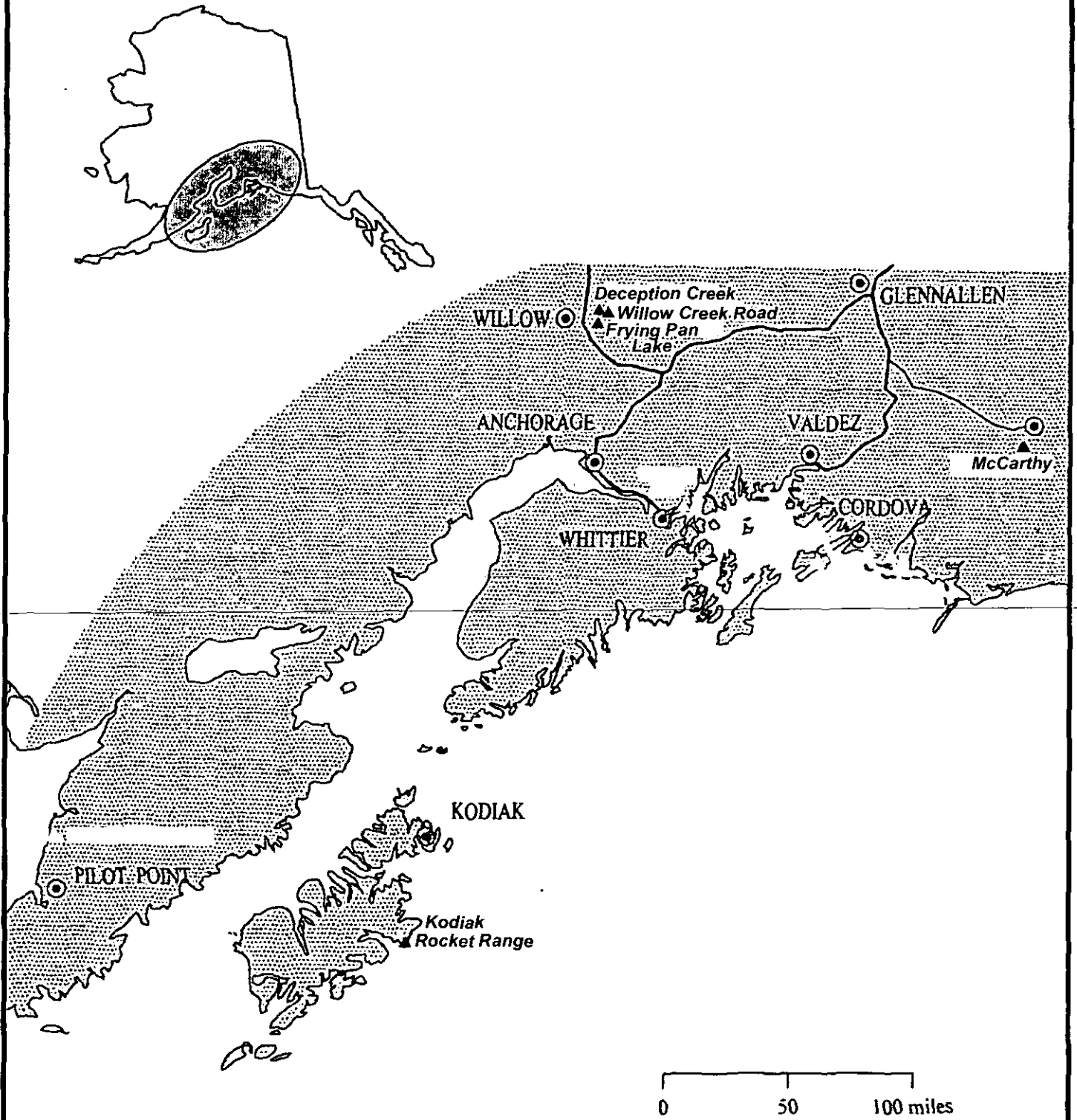
Prepared by: DNR
Source USGS, Kantishna River B-3
Date: 12/2004



Meridian	Township	Range
FM	6S-7S	19W

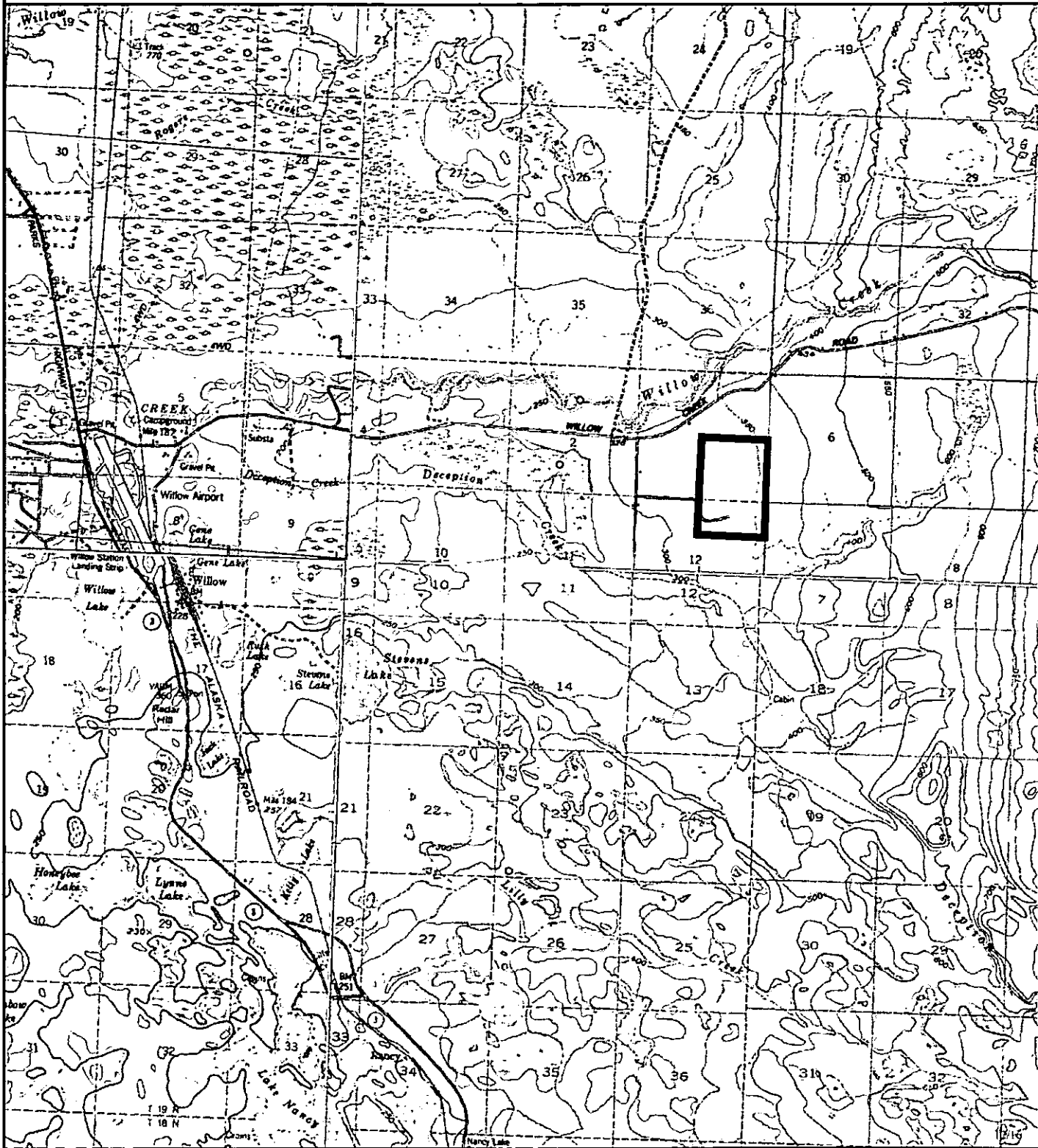
SOUTH CENTRAL
MAPS

SOUTHCENTRAL REGION



Deception Creek

SU.DC.1001



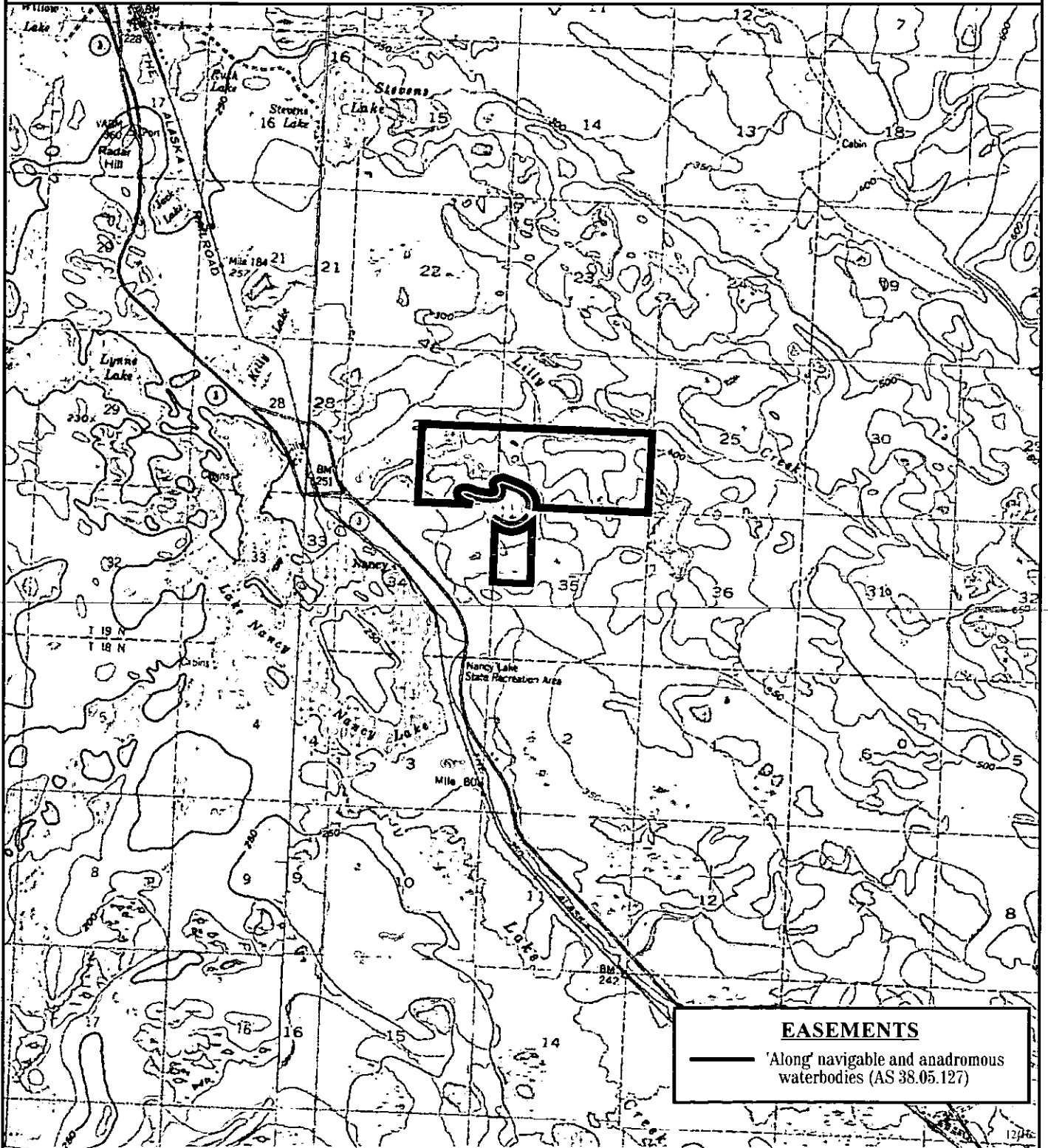
Prepared by: DNR
Source USGS Anchorage C-8, D-8,
Tyonek C-1, D-1
Date: 12/2004

— one mile —

Meridian Township Range
SM 19N 4W

Frying Pan Lake

SU.FP.1001



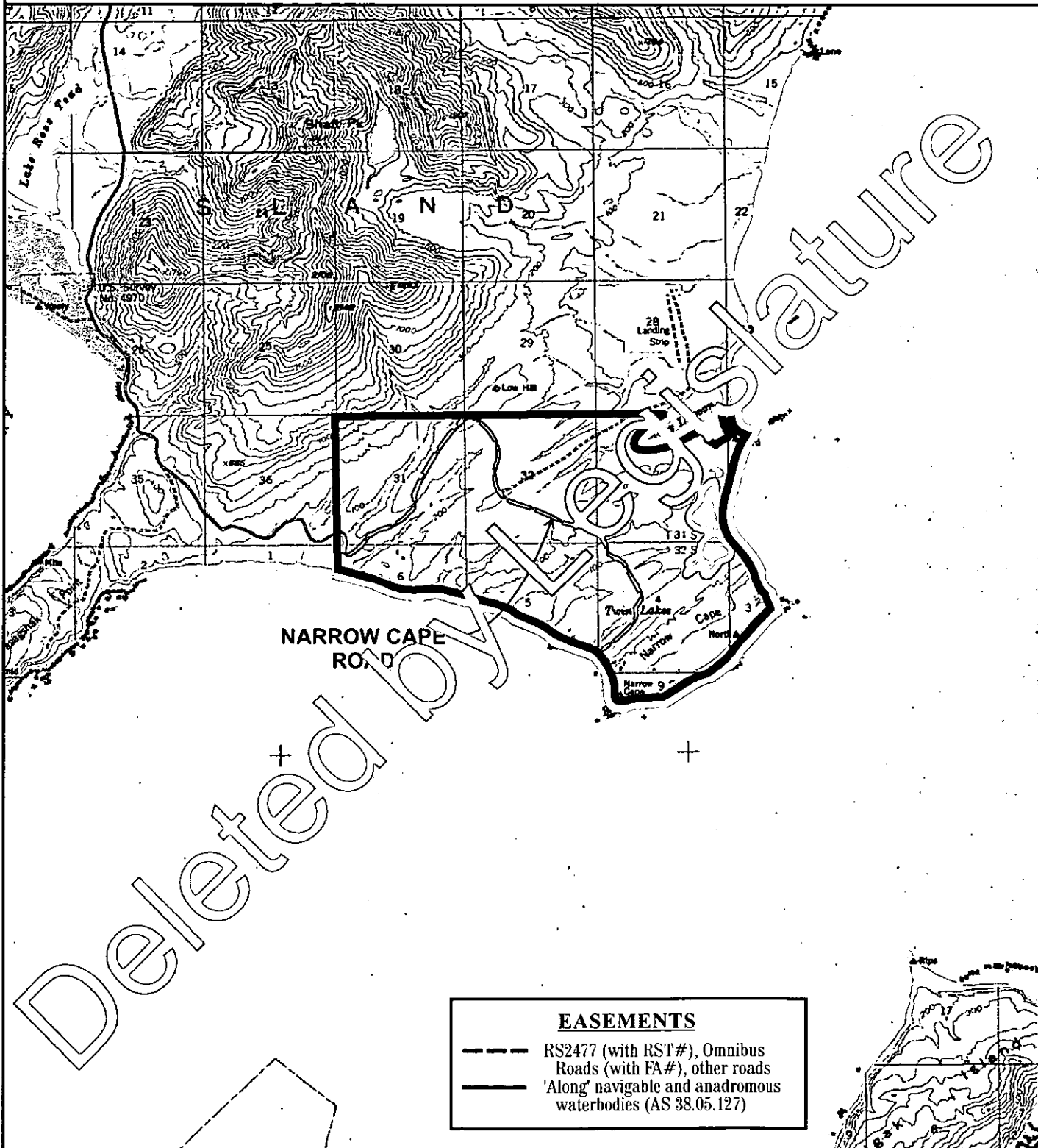
Prepared by: DNR
Source USGS Anchorage C-8, D-8
Date: 12/2004

— one mile —

Meridian Township Range
CRM 19N 4W

Kodiak Rocket Range

MA.KR.1001



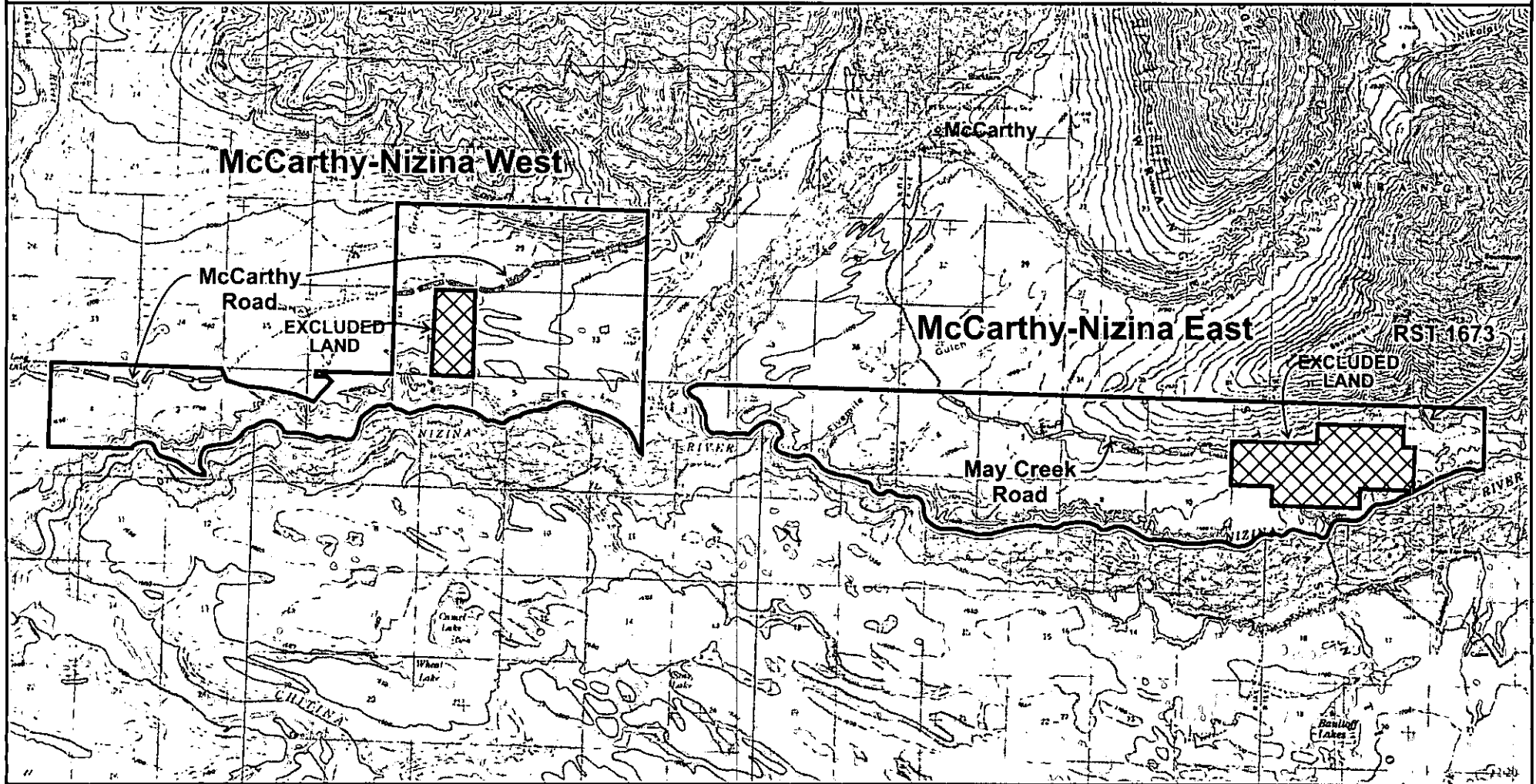
Prepared by: DNR
 Source USGS Kodiak B-1, B-2
 Date: 12/2004

—|—|—|
 one mile

Meridian	Township	Range
CRM	31-32S	19W

McCarthy-Nizina, East & West

MA.MC.1001



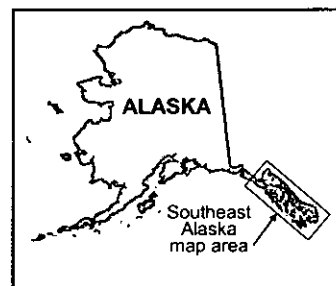
Prepared by: DNR
 Source USGS McCarthy C-5, C-6
 Date: 12/2004

—|—|—|
 one mile

Meridian	Township	Range
CRM	5-6S	13, 14, 15E

SOUTHEAST
MAPS

SOUTHEAST REGION



HAINES

William Henry Bay
Chilkoot
Ivanhoe

JUNEAU

Auke Weir
Lynn Canal
Sumdum
Lena Creek

NORTHERN SOUTHEAST

Excursion Inlet
Pelican
Tenakee Springs
Idaho Inlet
Mite Cove

SITKA

Middle Island
Sitka Campus
Biorka Island
Warm Springs Bay
Port Conclusion
Port Alexander
Lisianski Peninsula

KUIU ISLAND

Rowan Bay

PRINCE OF WALES ISLAND

Coffman Cove
Edna Bay
El Capitan North, South
Hollis
Harris Road Junction
Hook Arm
Moira Sound/Nowiskay Cove
Naukatii Sound
Port Delores
Thorne Bay

KETCHIKAN

Duke Island
Kelp Island
Leask Cove
Moser Bay
Ward Cove
Cleveland Peninsula
Neets Creek

PETERSBURG

Beecher Pass
Favor Peak
Three Lake Road
Read Island
Whitney Island

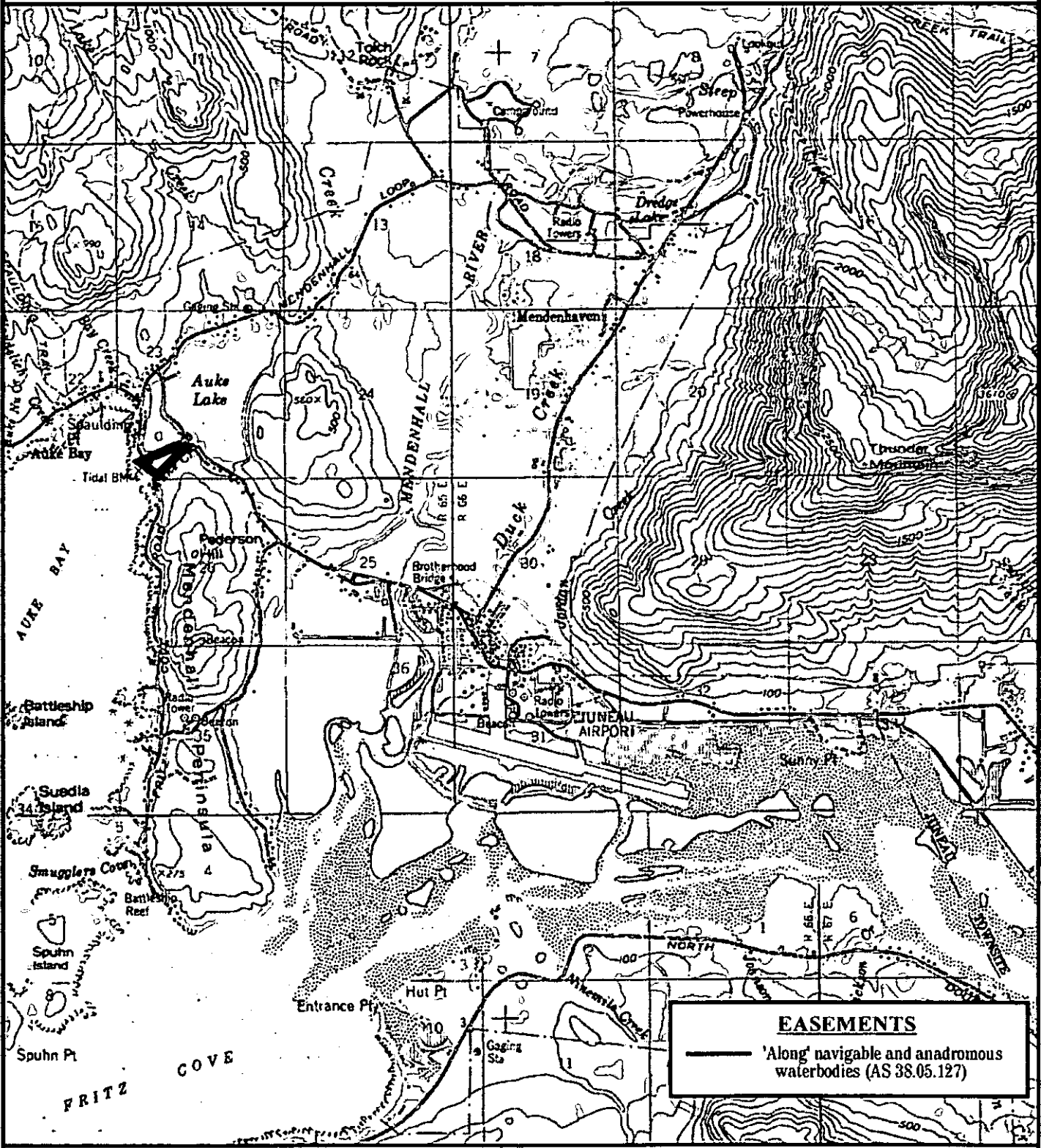
WRANGELL

Earl West Cove
Olive Cove
Thoms Place

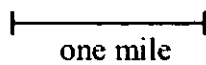
0 25 50
SCALE IN MILES

Auke Weir

JU.AU.1001



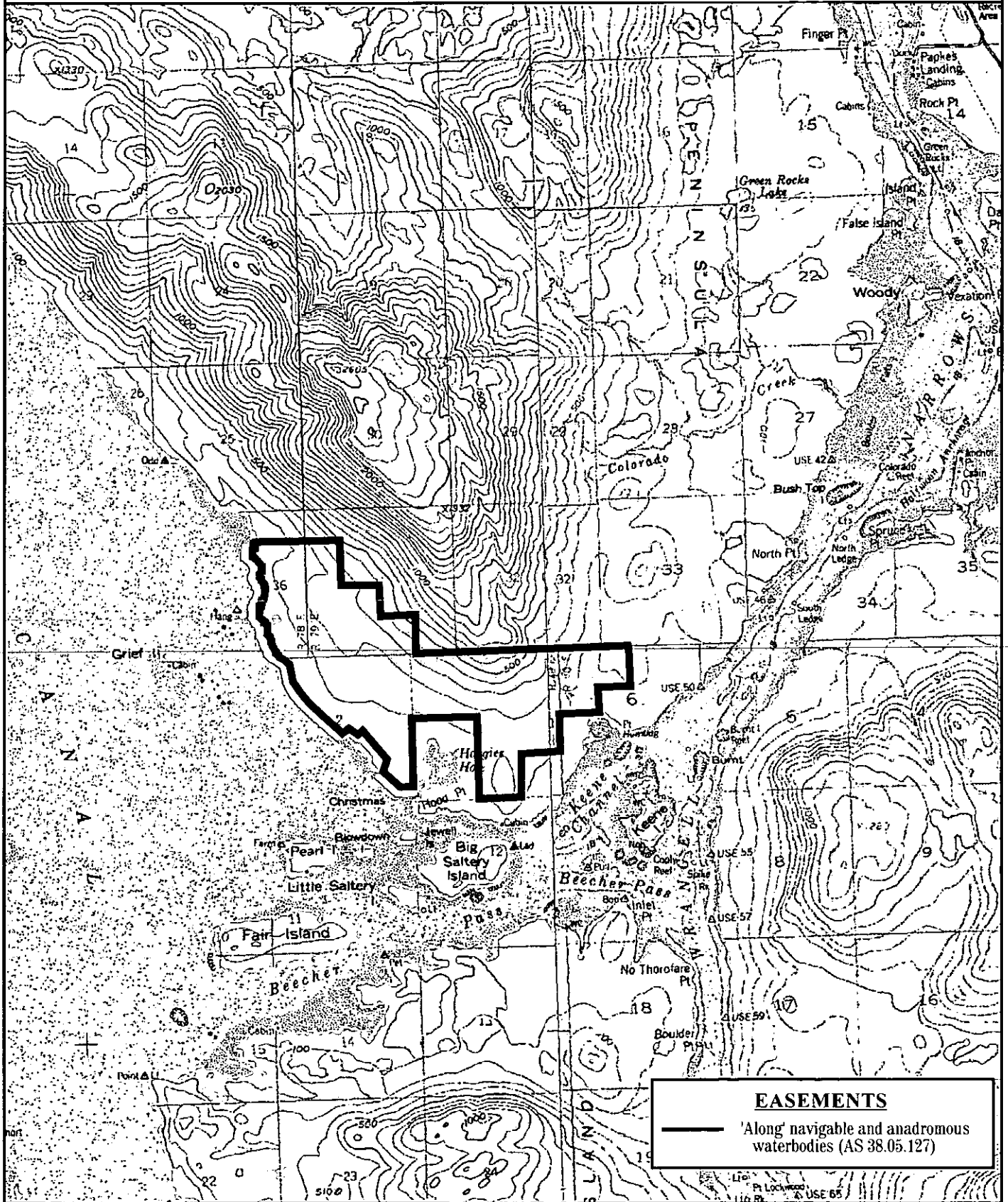
Prepared by: DNR
 Source USGS Juneau B-2
 Date: 12/2004



Meridian	Township	Range
CRM	40S	65E

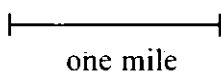
Beecher Pass

SD.1001



EASEMENTS
— Along navigable and anadromous waterbodies (AS 38.05.127)

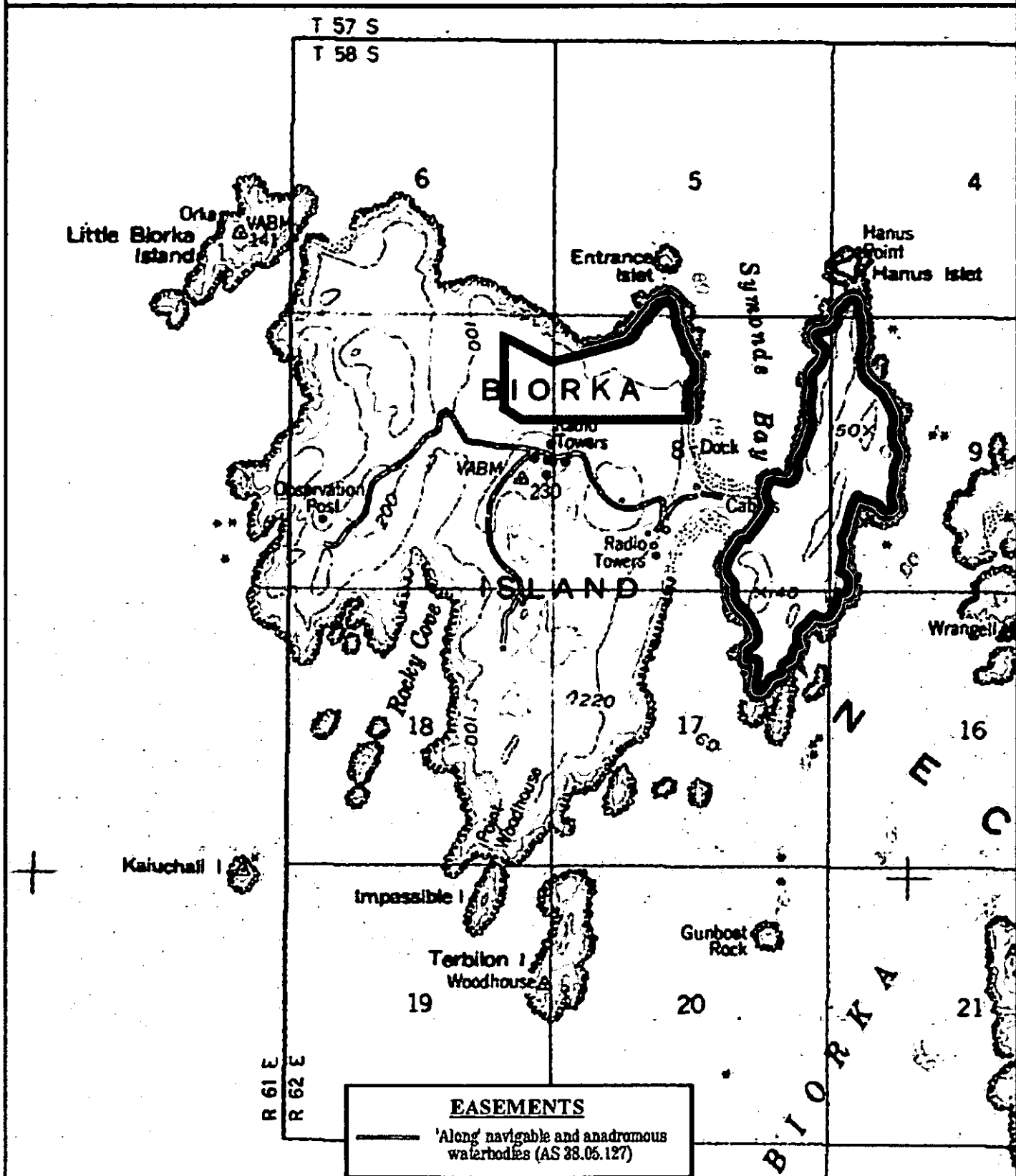
Prepared by: DNR
Source USGS Petersburg C-3, C-4
Date: 12/2004



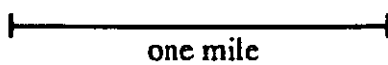
Meridian	Township	Range
CRM	60-61S	79-80E

Biorka Island

PA.1002



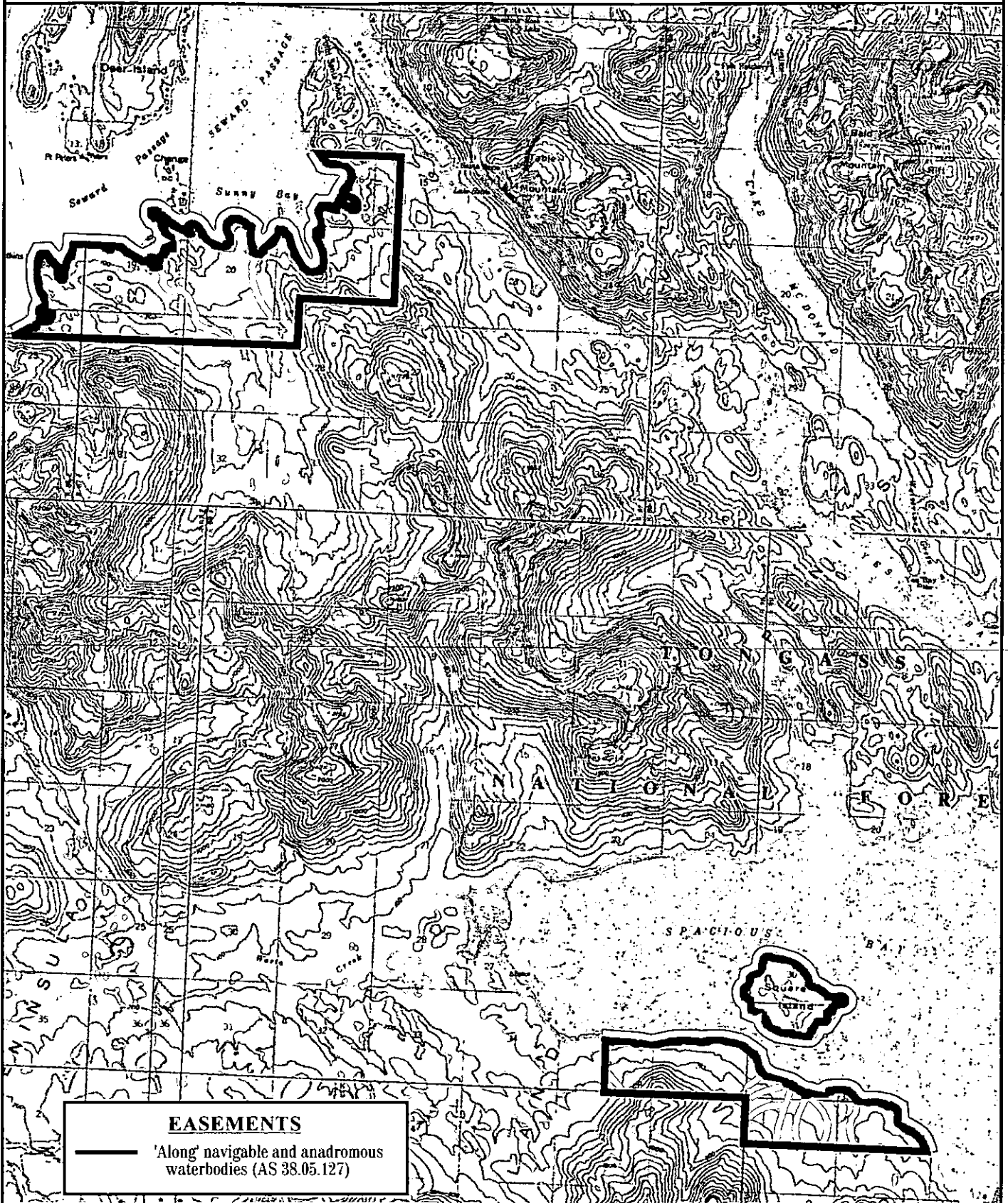
Prepared by: DNR
Source USGS Port Alexander D-5
Date: 12/2004



Meridian Township Range
CRM 58S 63E

Cleveland Peninsula

KT.1002



EASEMENTS

— 'Along' navigable and anadromous waterbodies (AS 38.05.127)

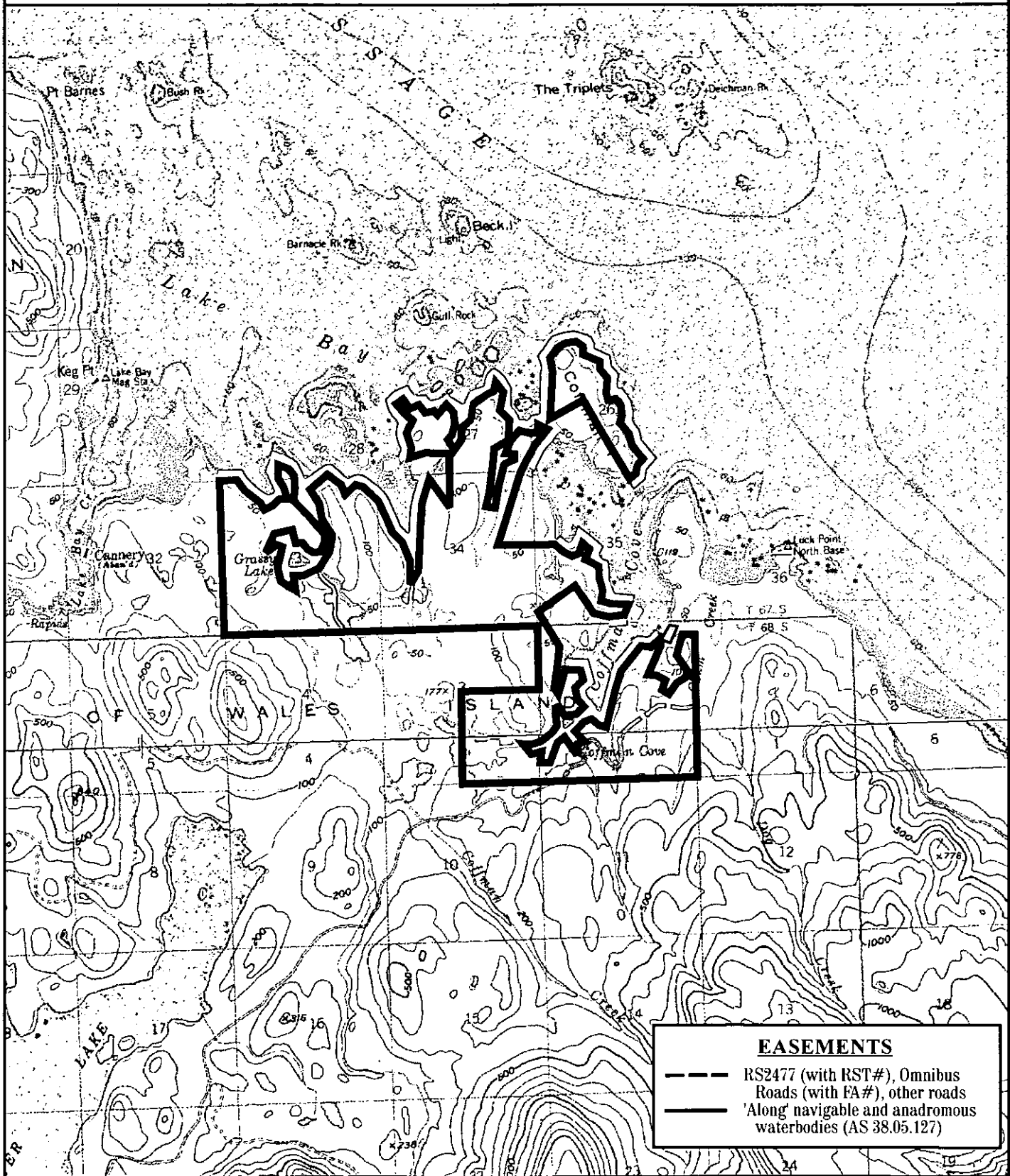
Prepared by: DNR
Source USGS Ketchikan D-6
Date: 12/2004

—|—|—|
one mile

Meridian	Township	Range
CRM	68S 69-70S	86-87E 88-89E

Coffman Cove

PW.CC.1001



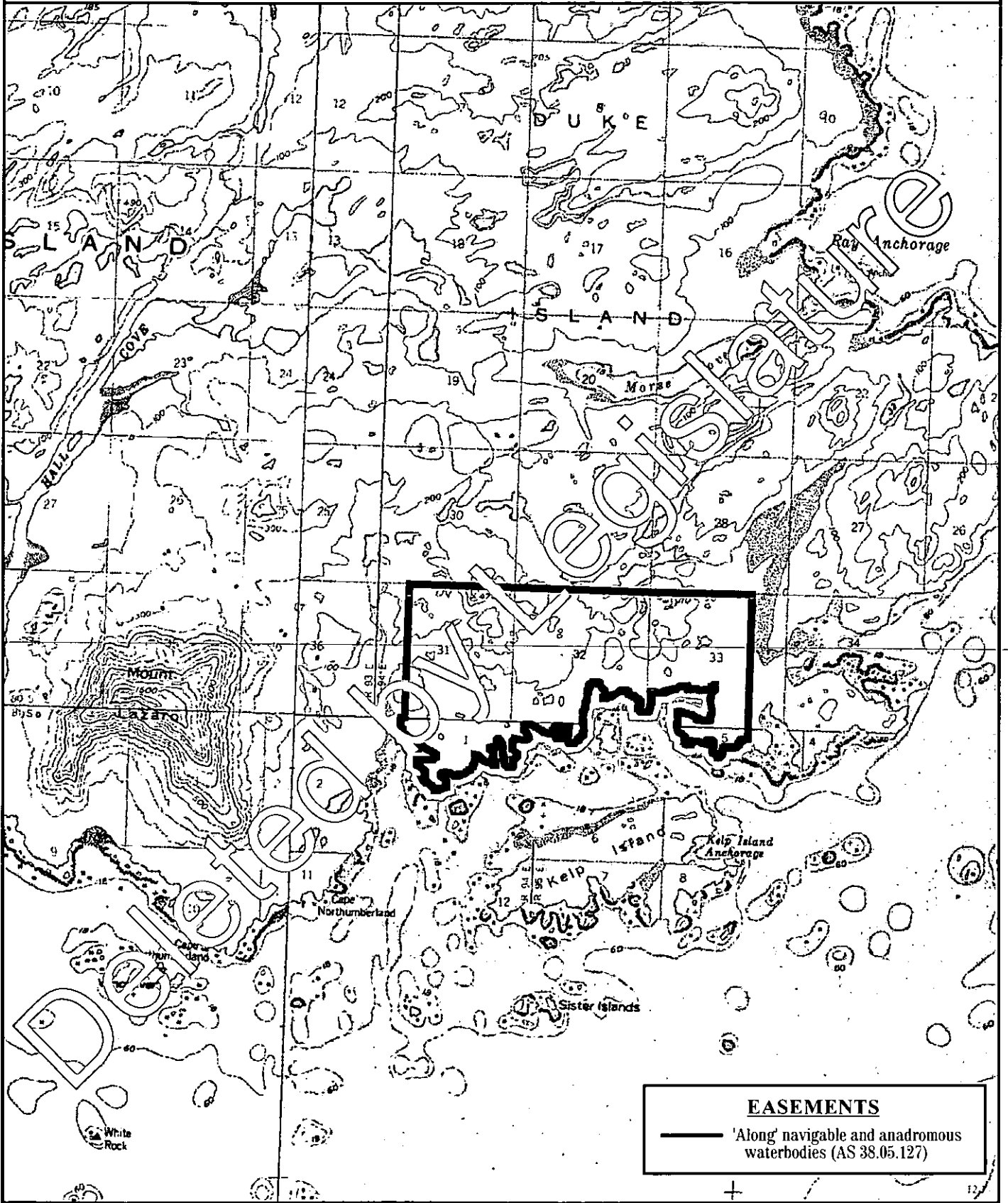
Prepared by: DNR; rhc
 Source USGS Petersburg A-3, Craig D-3
 Date: 12/2004

— one mile —

Meridian	Township	Range
CRM	67 & 68S	81E

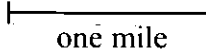
Duke Island

SD.1001



EASEMENTS
— 'Along' navigable and anadromous waterbodies (AS 38.05.127)

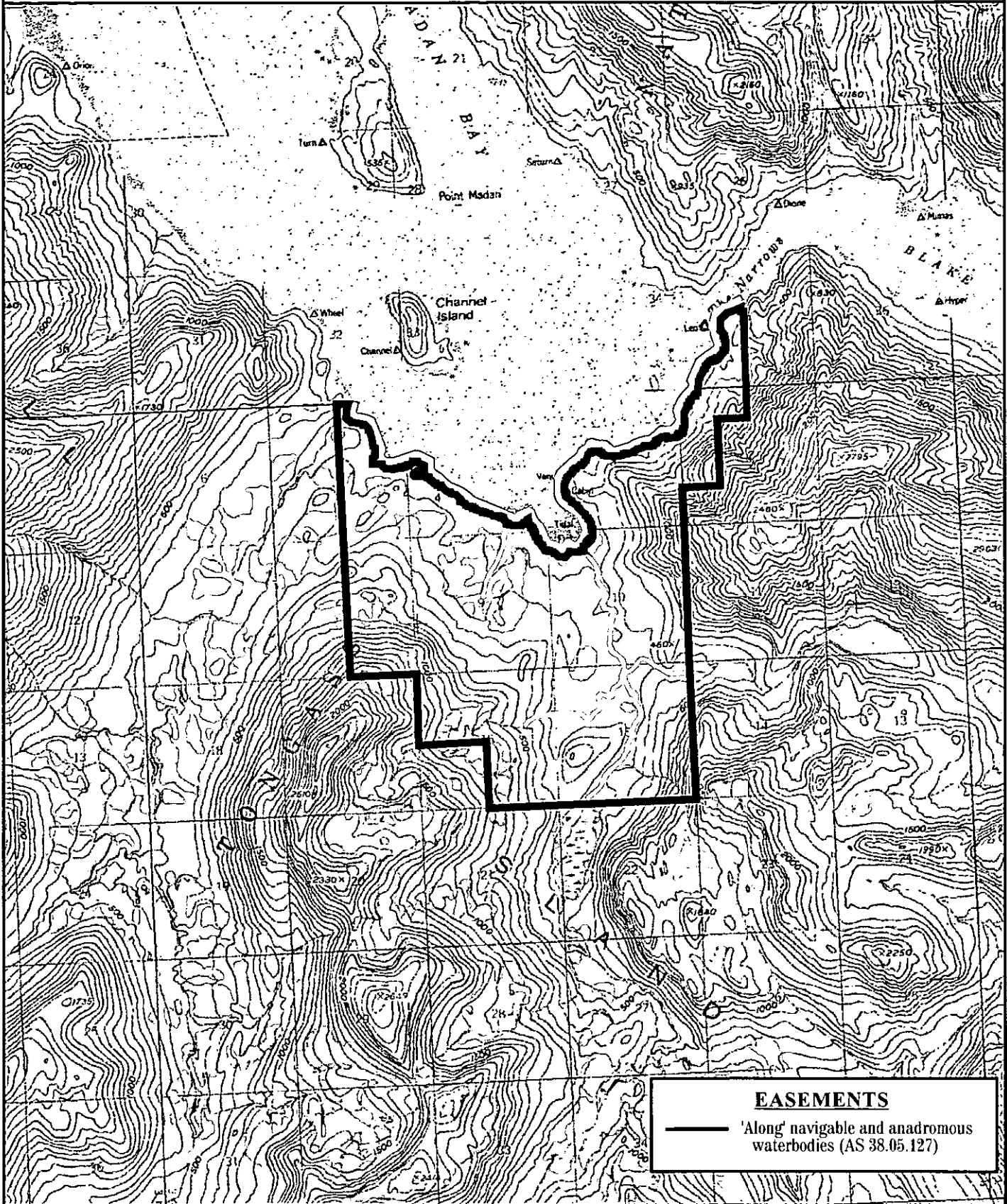
Prepared by: DNR
Source USGS Prince Rupert D-4
Date: 12/2004



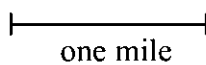
Meridian	Township	Range
CRM	80 & 81S	94E

Earl West Cove

PT.1004



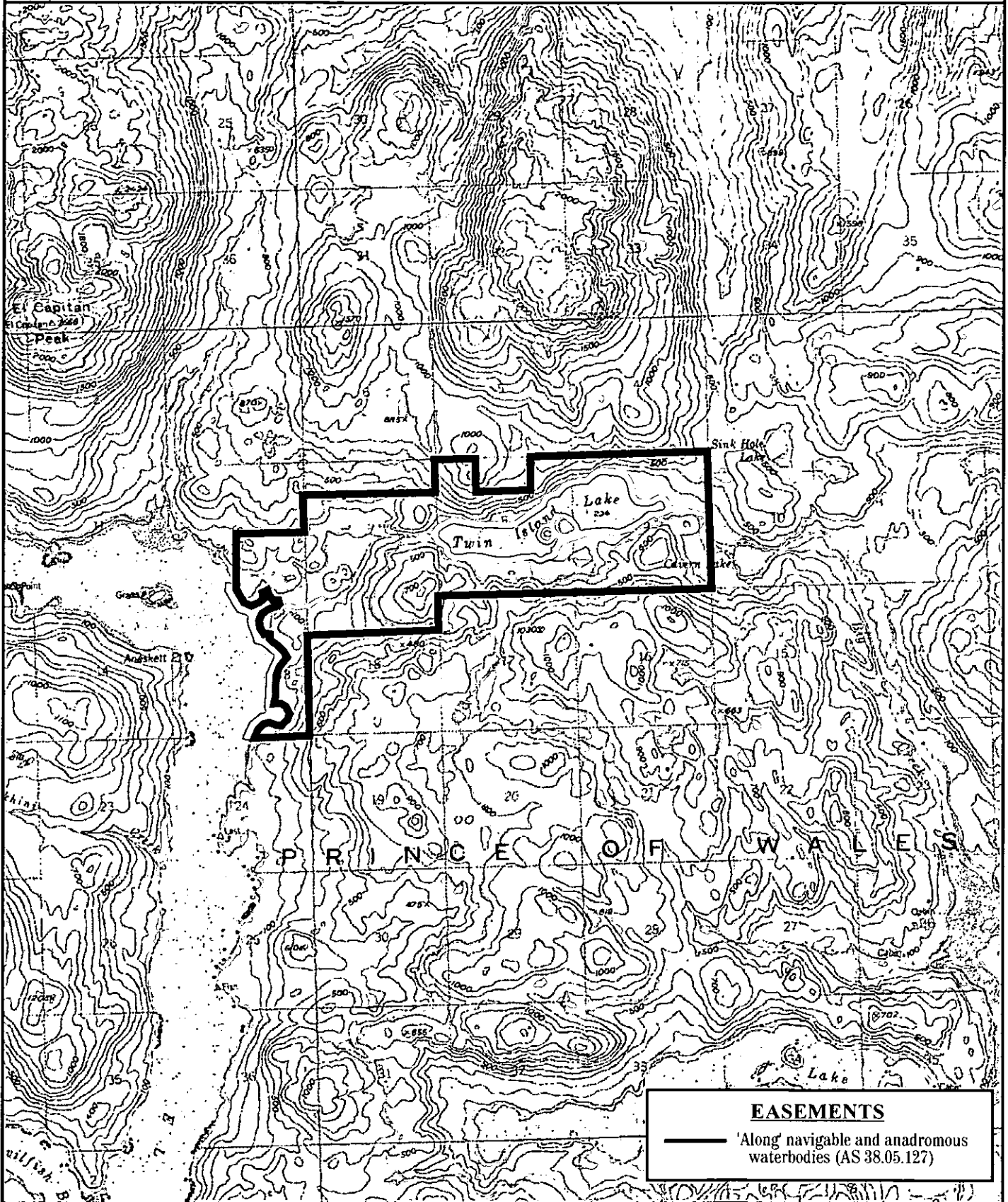
Prepared by: DNR
Source USGS Petersburg B-1
Date: 12/2004



Meridian	Township	Range
CRM	63-64S	85E

El Capitan North

PW.EC.1001



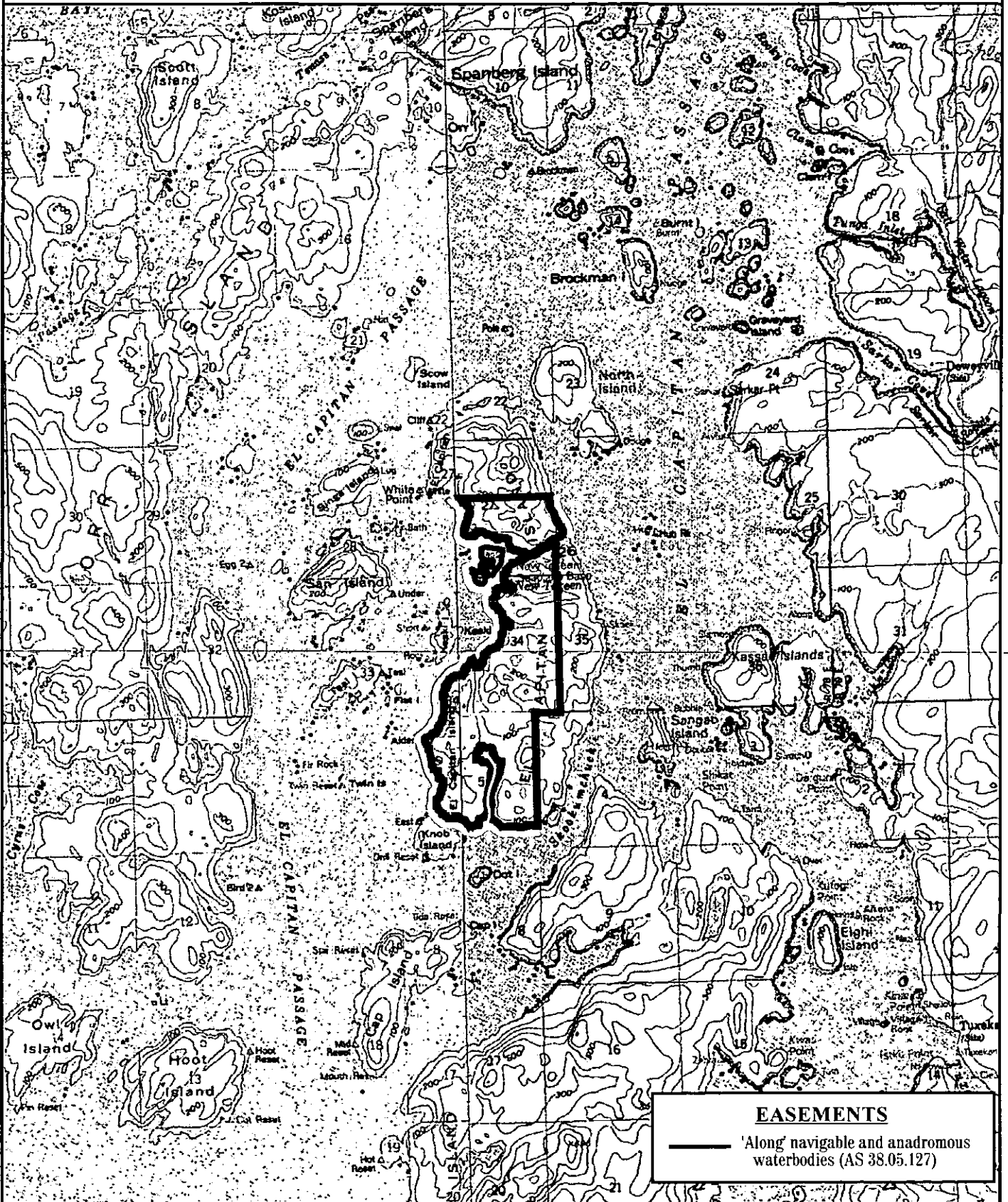
Prepared by: DNR
Source USGS Petersburg A-4
Date: 12/2004

— one mile —

Meridian	Township	Range
CRM	66S	78 & 79E

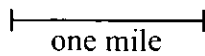
El Capitan South

PW.EC.1001



EASEMENTS
 — Along navigable and anadromous waterbodies (AS 38.05.127)

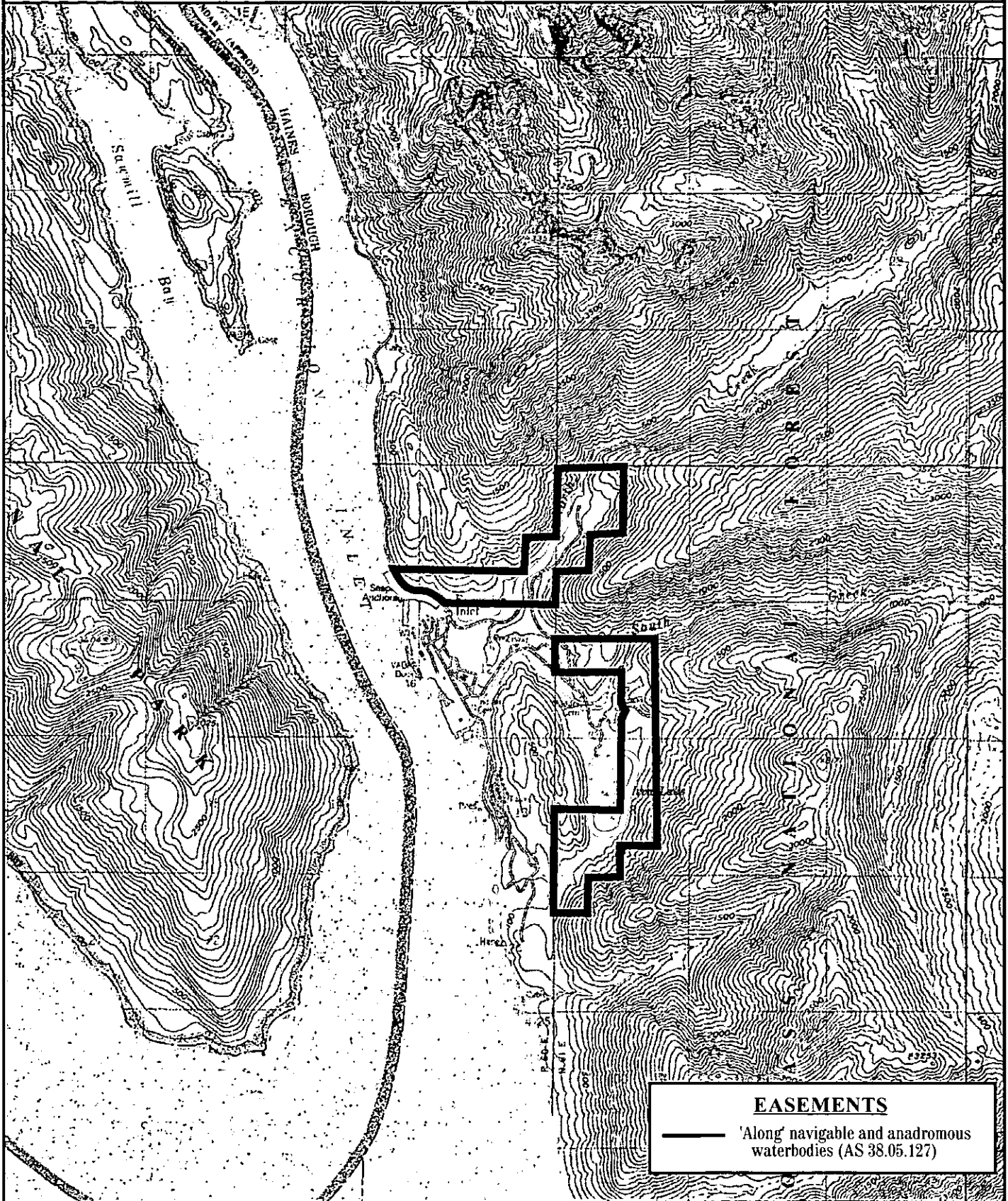
Prepared by: DNR
 Source USGS Craig D-4, D-5
 Date: 12/2004



Meridian	Township	Range
CRM	68S	78E

Excursion Inlet

NS.EX.1002



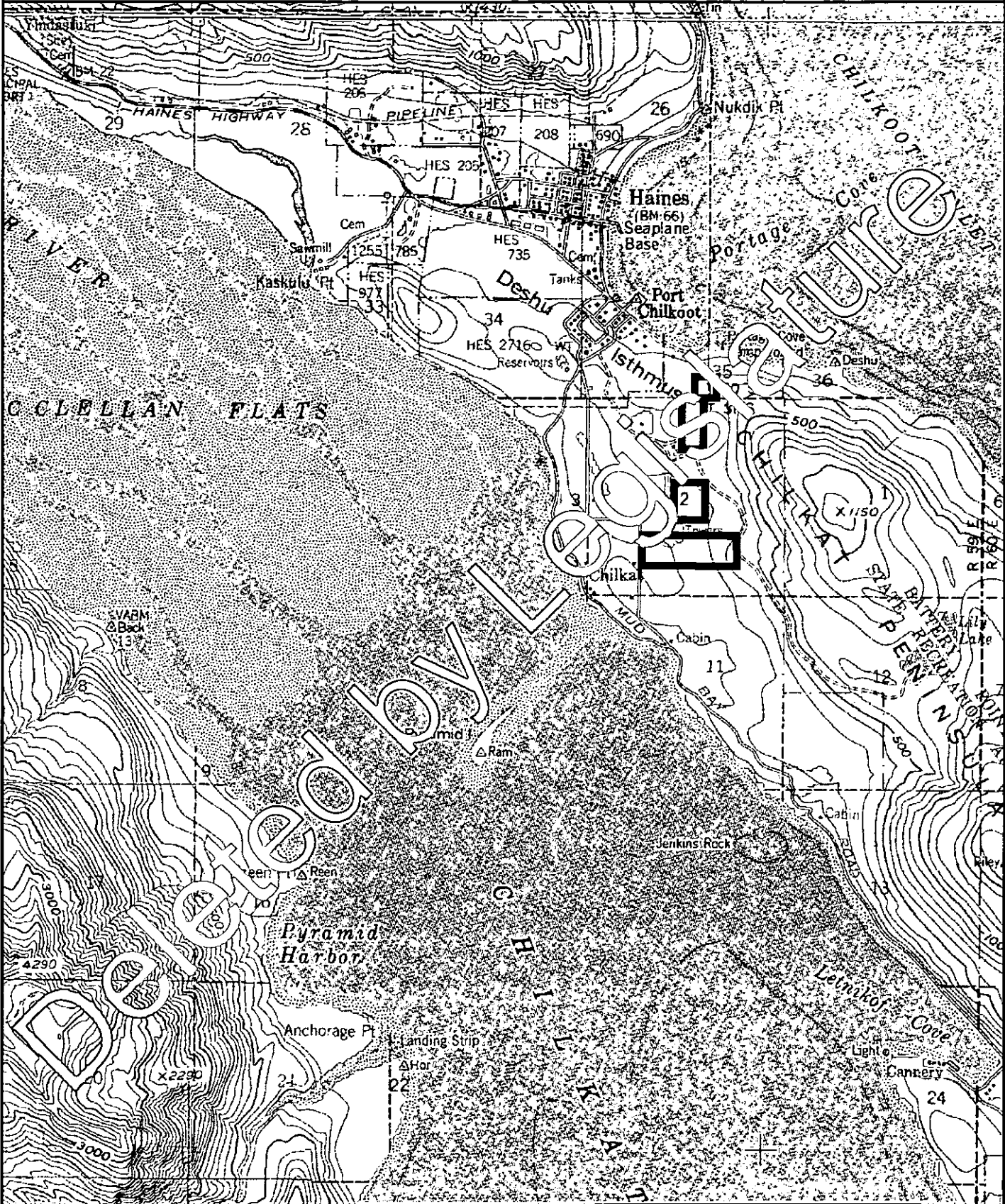
Prepared by: DNR
Source USGS Juneau B-5
Date: 12/2004

— one mile —

Meridian	Township	Range
CRM	40S	61E

Haines-Chilkoot

HA.CH.1001



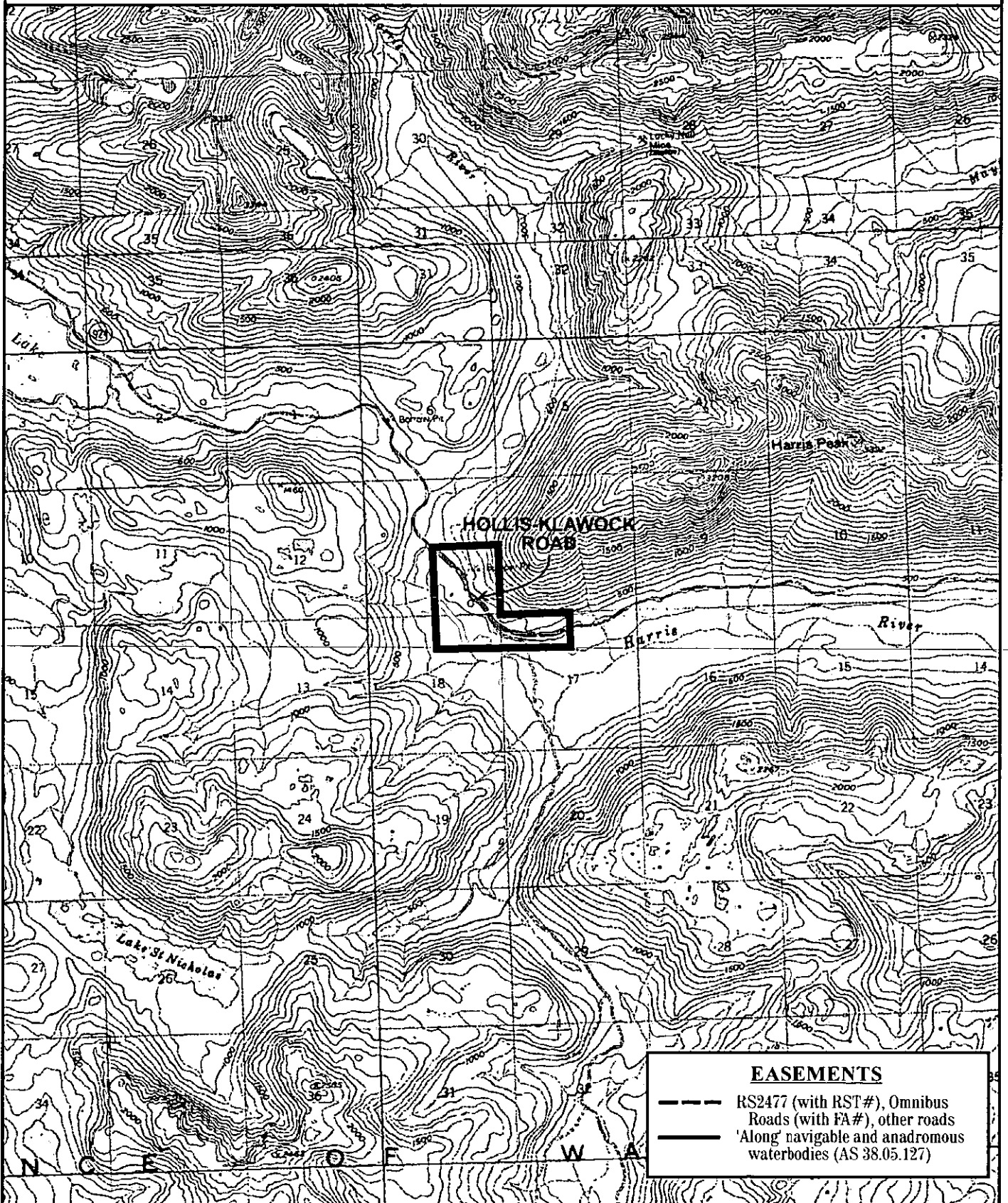
Prepared by: DNR
Source USGS Skagway A-2
Date: 12/2004

— one mile —

Meridian	Township	Range
CRM	30-31S	59E

Harris Road Junction

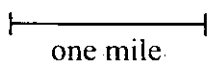
CR.1001



EASEMENTS

- RS2477 (with RST#), Omnibus Roads (with FA#), other roads
- 'Along' navigable and anadromous waterbodies (AS 38.05.127)

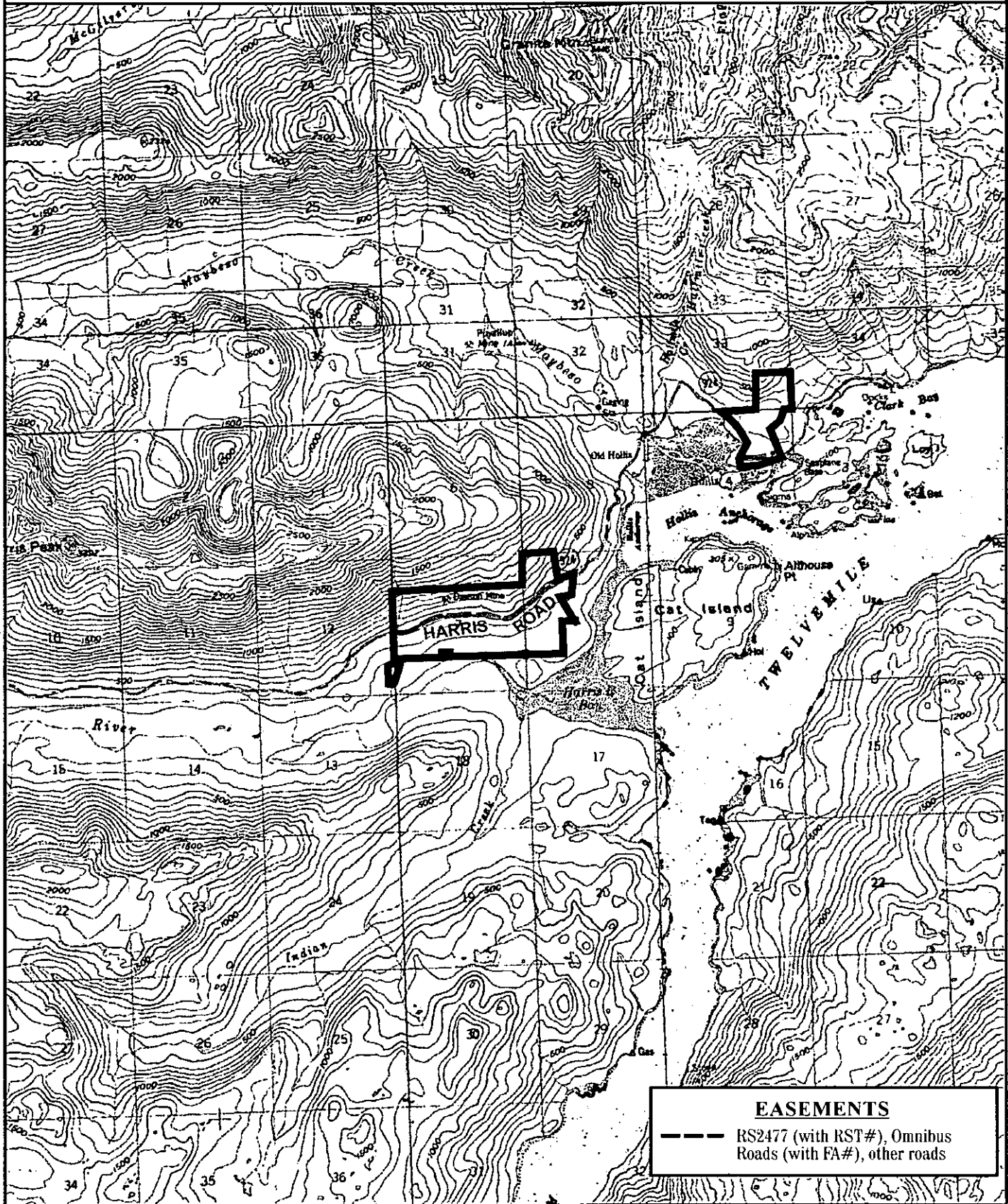
Prepared by: DNR
Source USGS Craig B-3
Date: 12/2004



Meridian Township Range
CRM 74S 83E

Hollis

PW.HO.1001



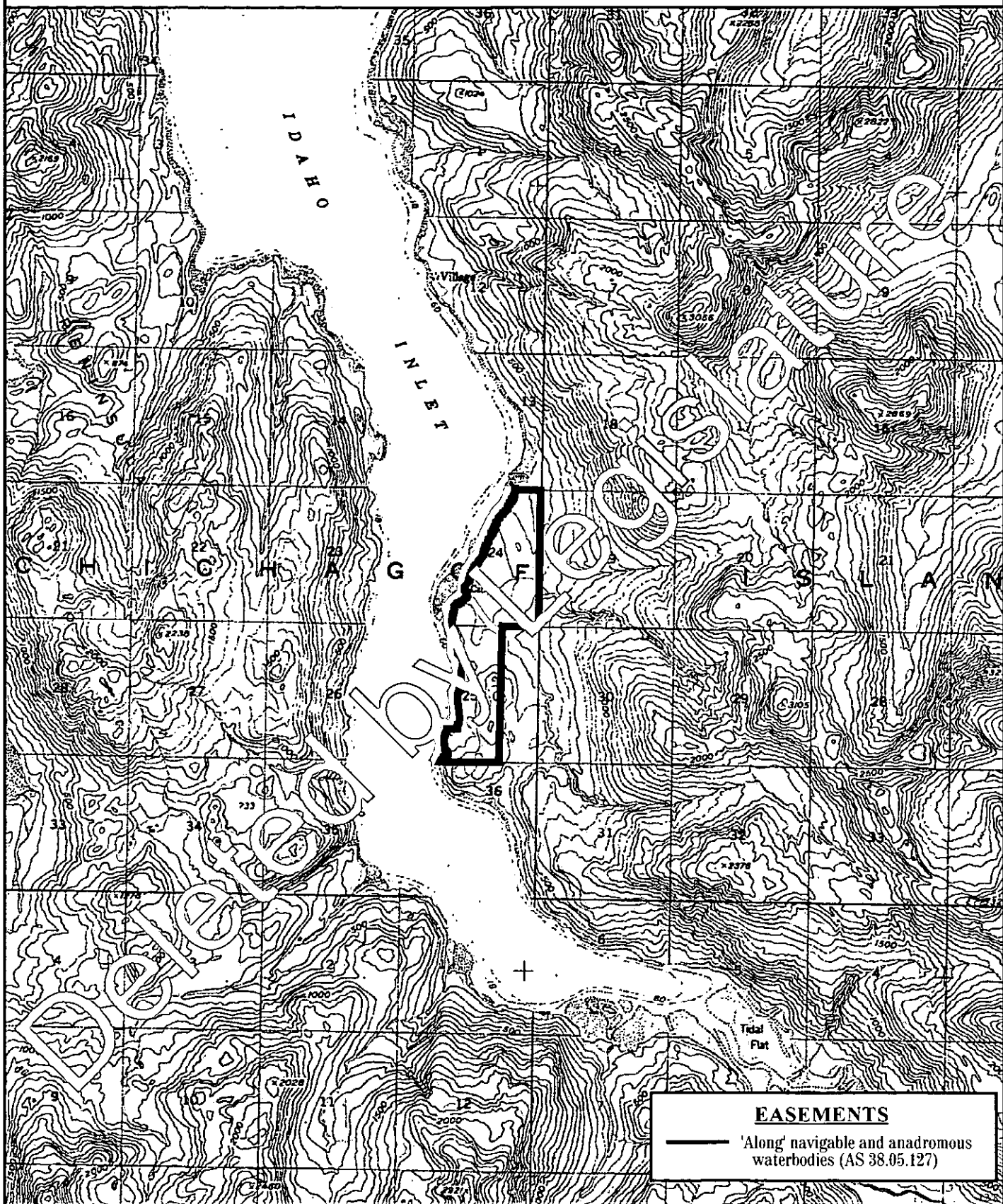
Prepared by: DNR
Source USGS Craig B2, B3, C2, C3
Date: 12/2004

— one mile —

Meridian	Township	Range
CRM	73S-74S	83E-84E

Idaho Inlet

MF.1002



EASEMENTS
— 'Along' navigable and anadromous waterbodies (AS 38.05.127)

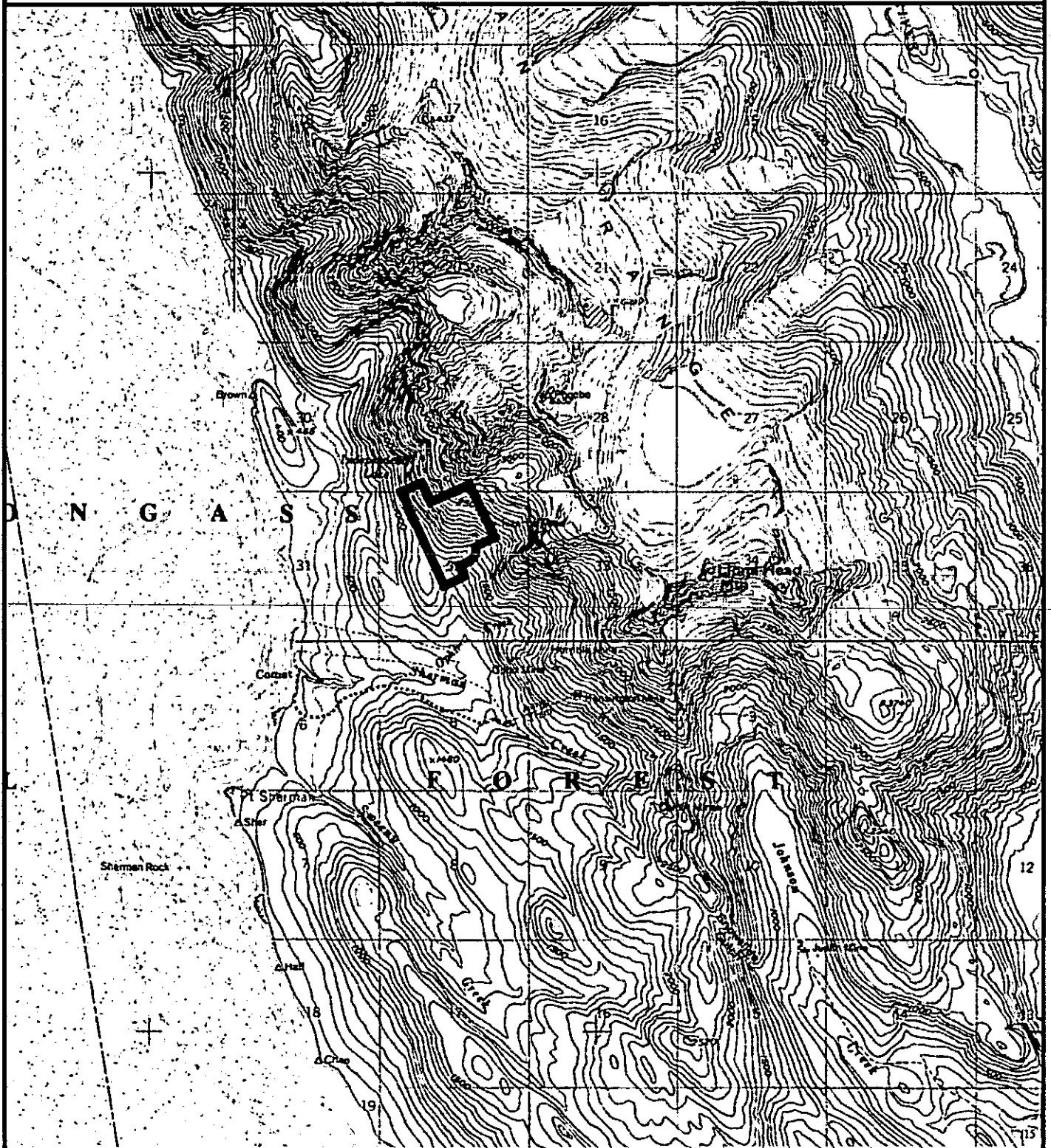
Prepared by: DNR
Source USGS Mt. Fairweather A-1
Date: 12/2004

— one mile —

Meridian Township Range
CRM 43S 56E

Ivanhoe

JU.NL.1001



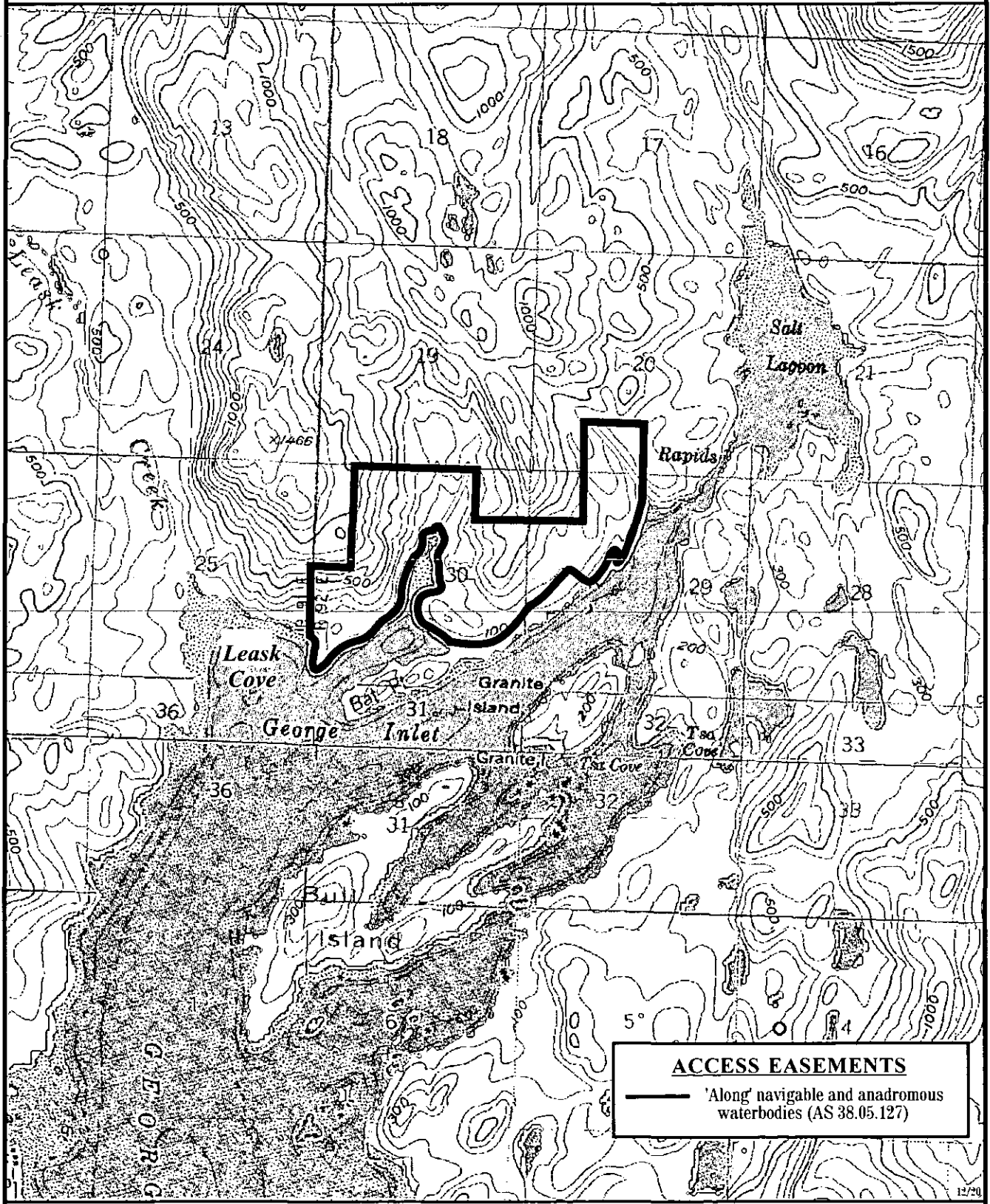
Prepared by: DNR
Source USGS Juneau D-4
Date: 12/2004

— one mile —

Meridian Township Range
CRM 34S 62E

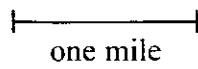
Leask Cove

CS.LE.1001



ACCESS EASEMENTS
— 'Along' navigable and anadromous waterbodies (AS 38.05.127)

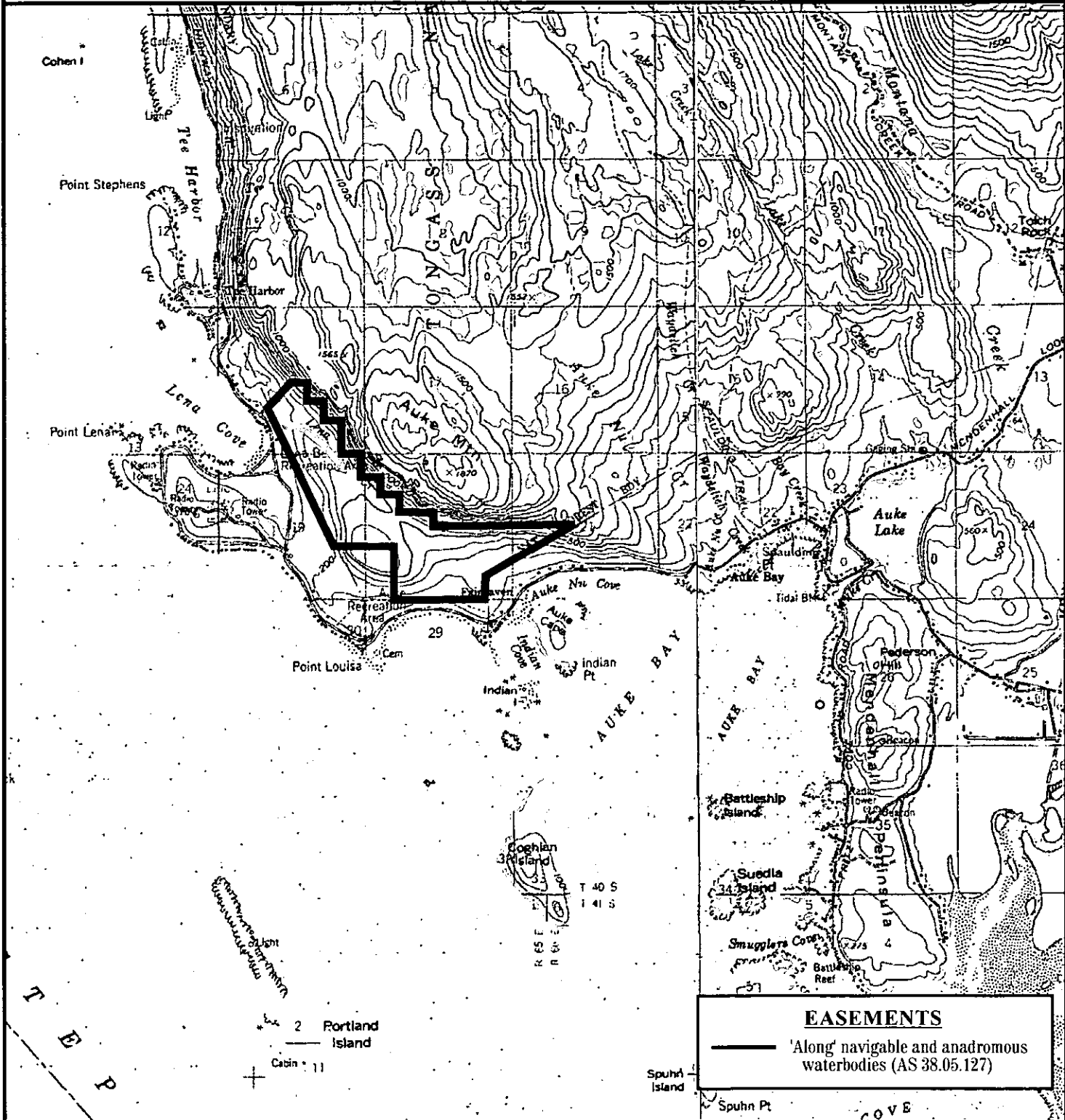
Prepared by: rhc
Source USGS, Ketchikan C-5
Date: 12/2004



Meridian Township Range
CRM 73S 92E

Lena Creek

JU.LM.1001



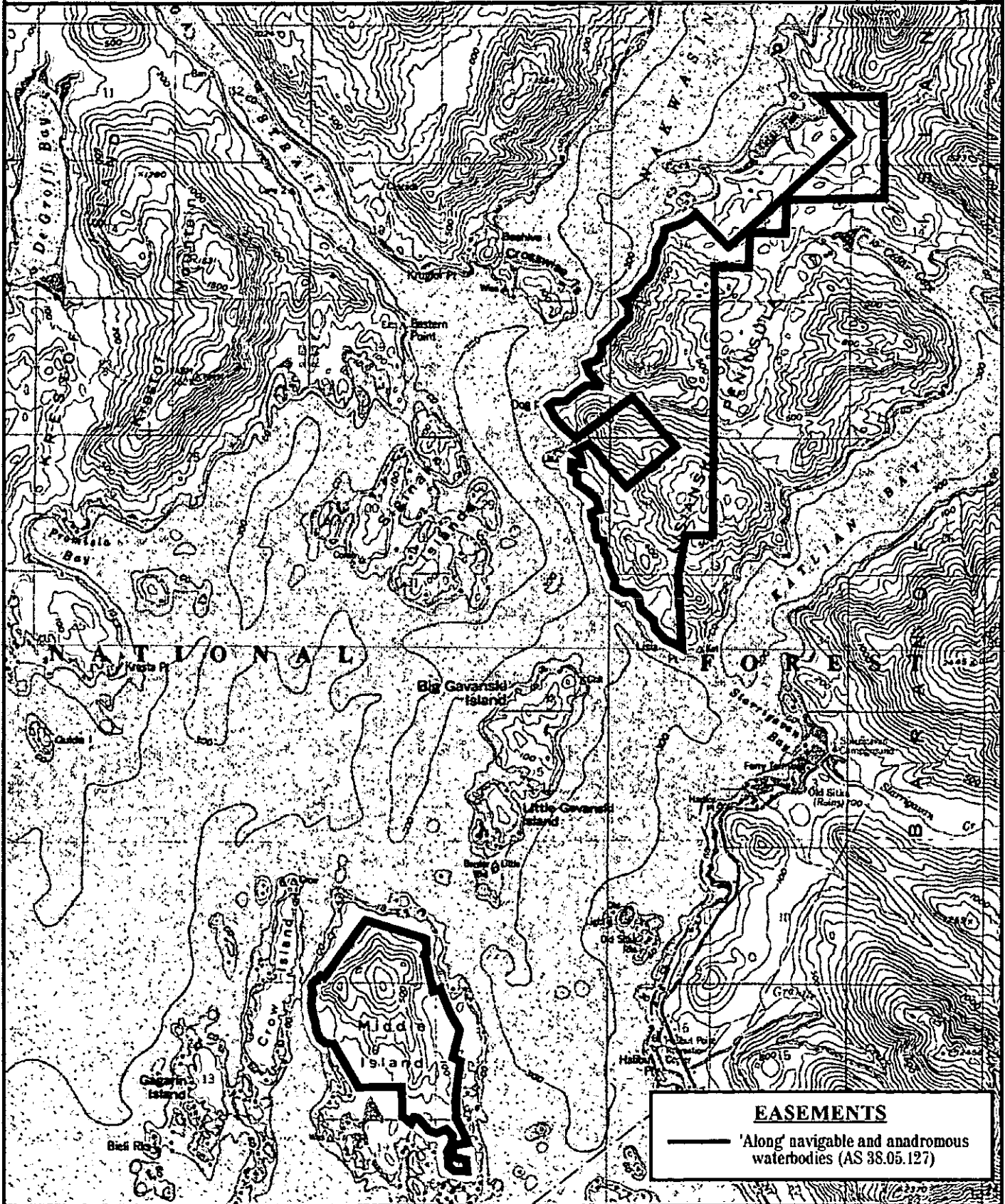
Prepared by: DNR
Source USGS, Juneau B-2, B-3
Date: 12/2004

— one mile —

Meridian CRM Township 40S Range 65E

Lisianski Peninsula

ST.LS.1001



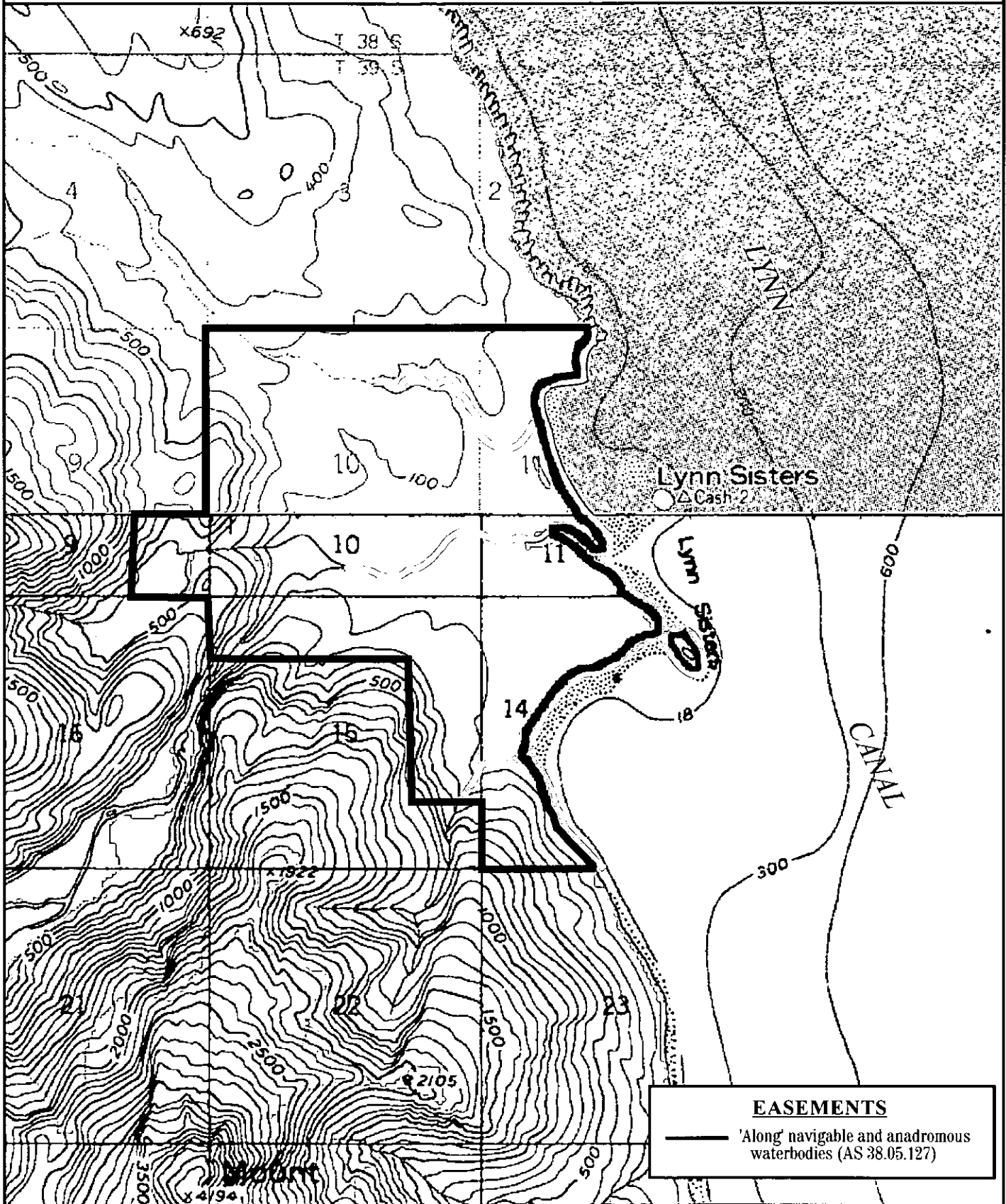
Prepared by: DNR
Source USGS Sitka A-5
Date: 12/2004

— one mile —

Meridian	Township	Range
CRM	54S	63E

Lynn Canal

JU.1002



EASEMENTS
— 'Along' navigable and anadromous waterbodies (AS 38.05.127)

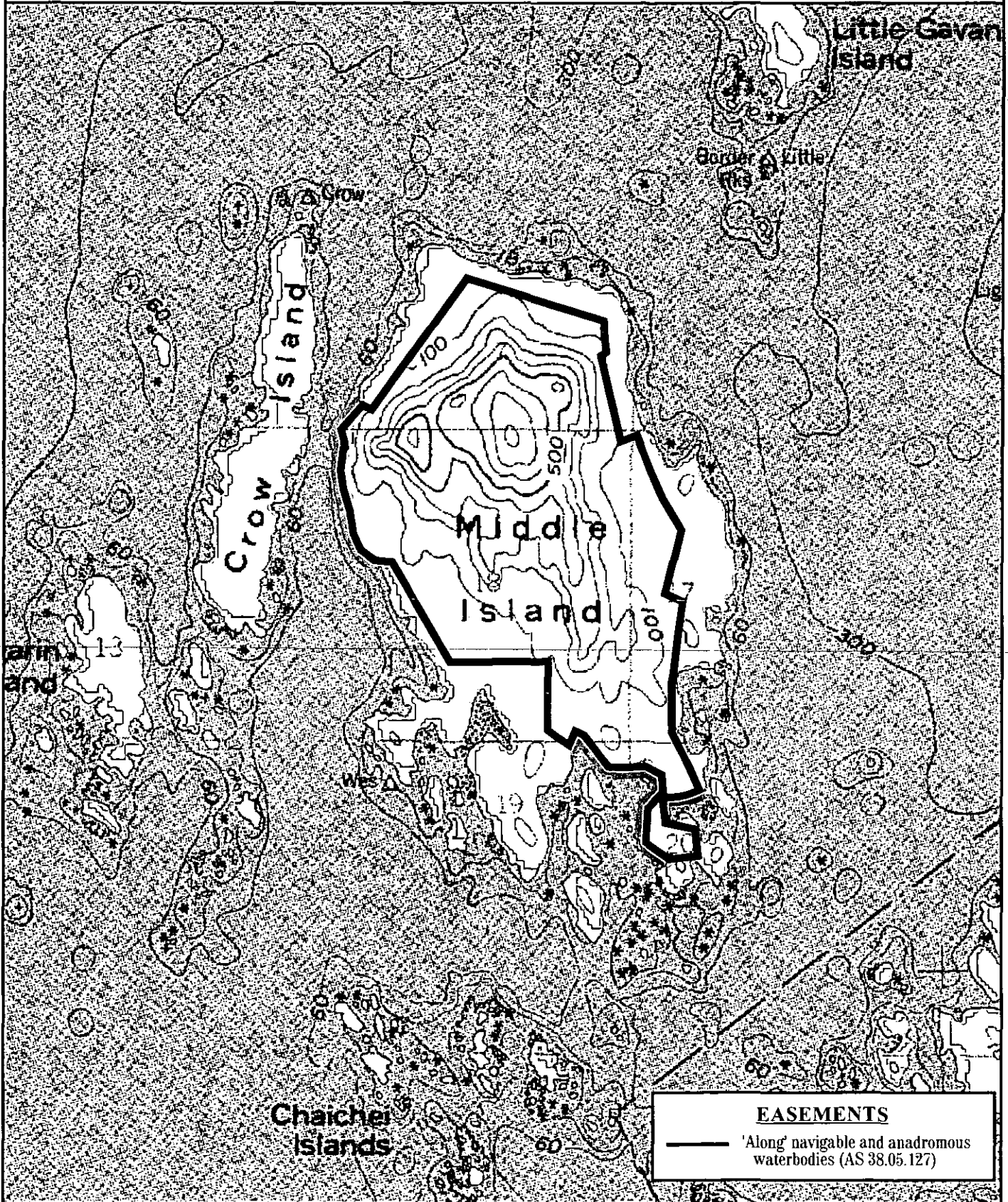
Prepared by: DNR
Source USGS Juneau C-4, B-4
Date: 12/2004

— one mile —

Meridian	Township	Range
CRM	39S	62E

Middle Island

ST.1001



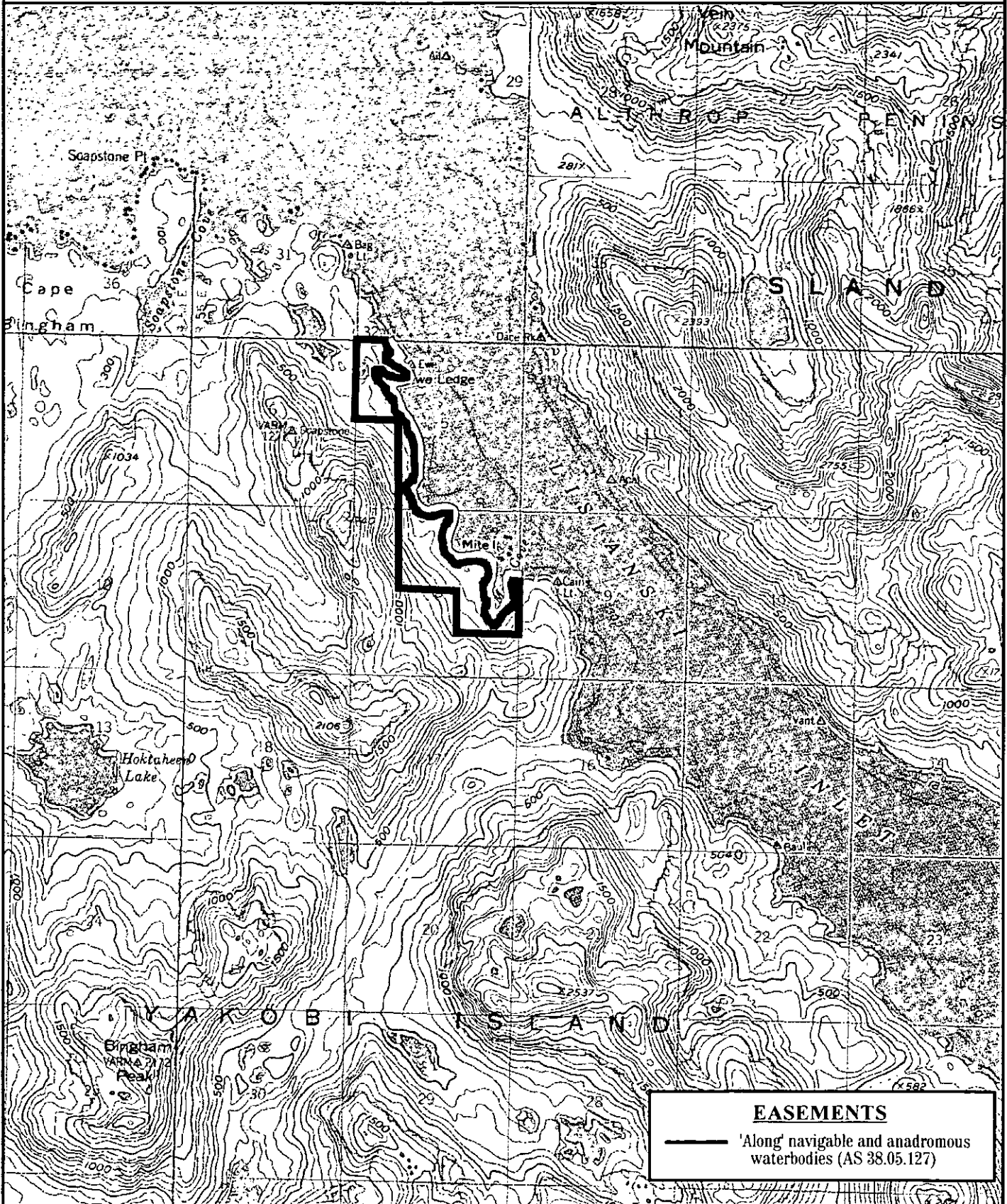
Prepared by: DNR
Source USGS Sitka A-5
Date: 12/2004

— one mile —

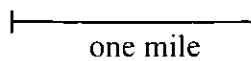
Meridian	Township	Range
CRM	55S	62-63E

Mite Cove

MF.1001



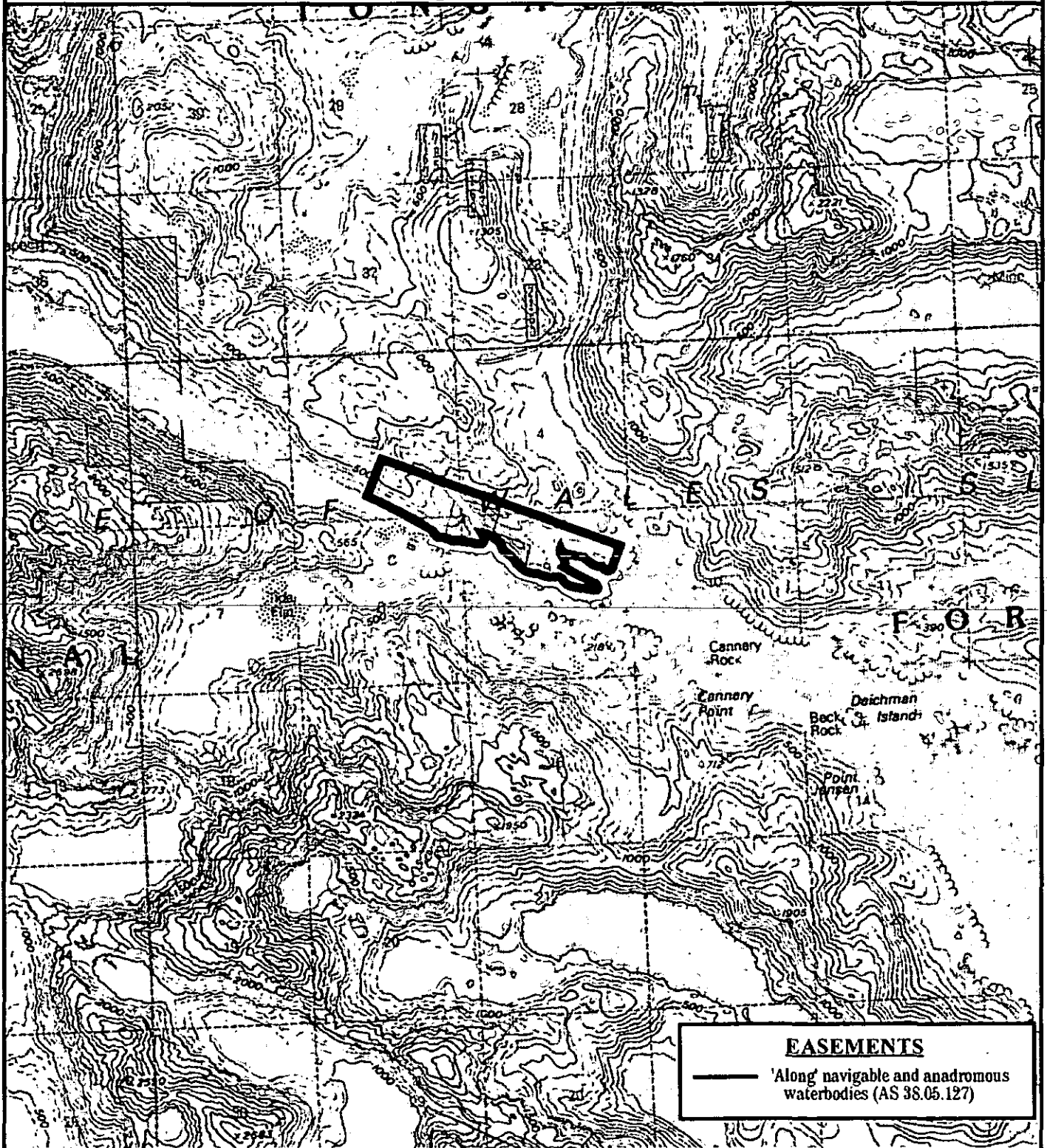
Prepared by: DNR
Source USGS Mt. Fairweather A-2
Date: 12/2004



Meridian	Township	Range
CRM	44S	55E

Moira Sound/Nowiskay Cove

PW.MS.1001



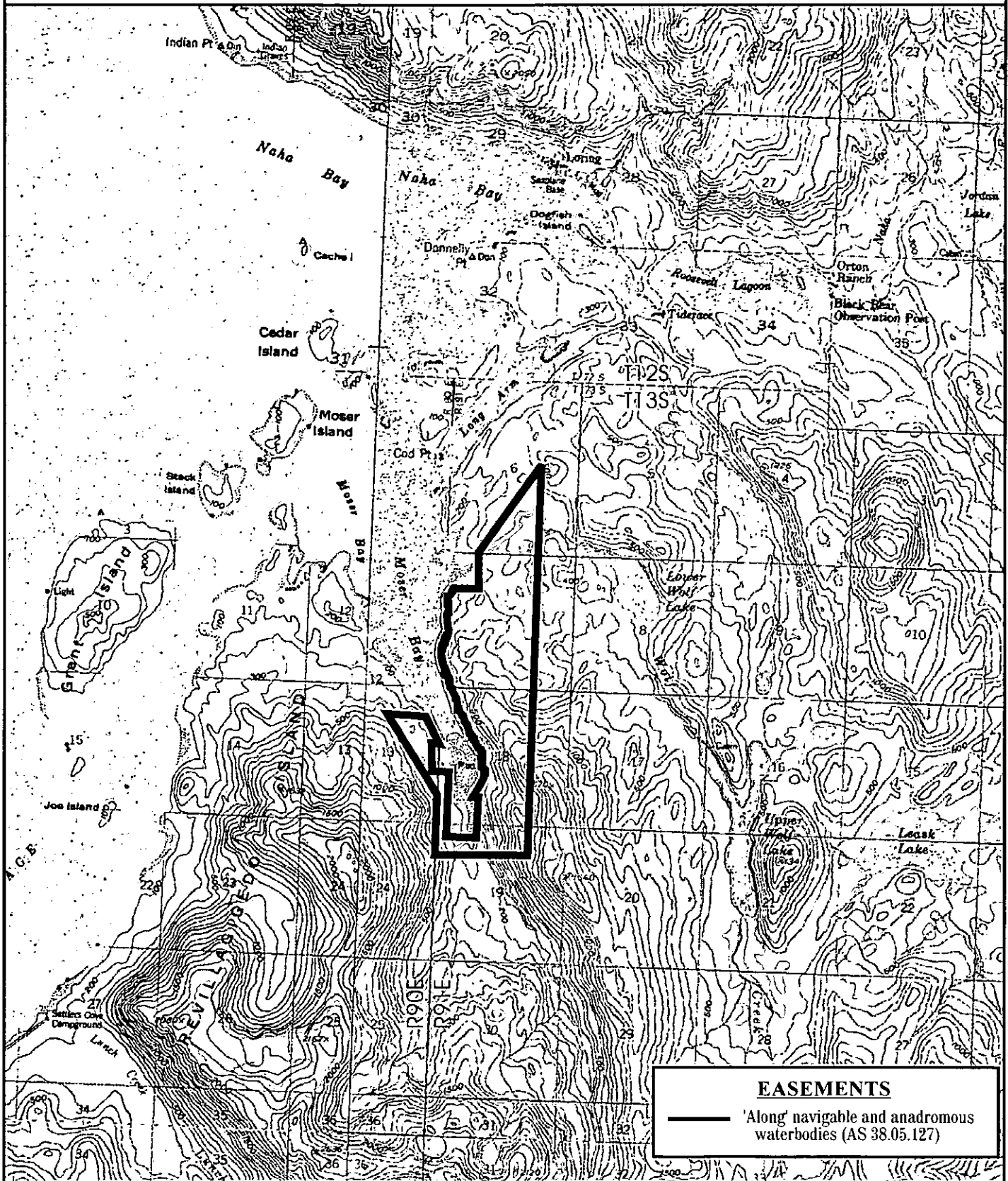
Prepared by: DNR
Source USGS Craig A-1
Date: 12/2004

— one mile —

Meridian	Township	Range
CRM	78S	88E

Moser Bay

CS.MB.1001



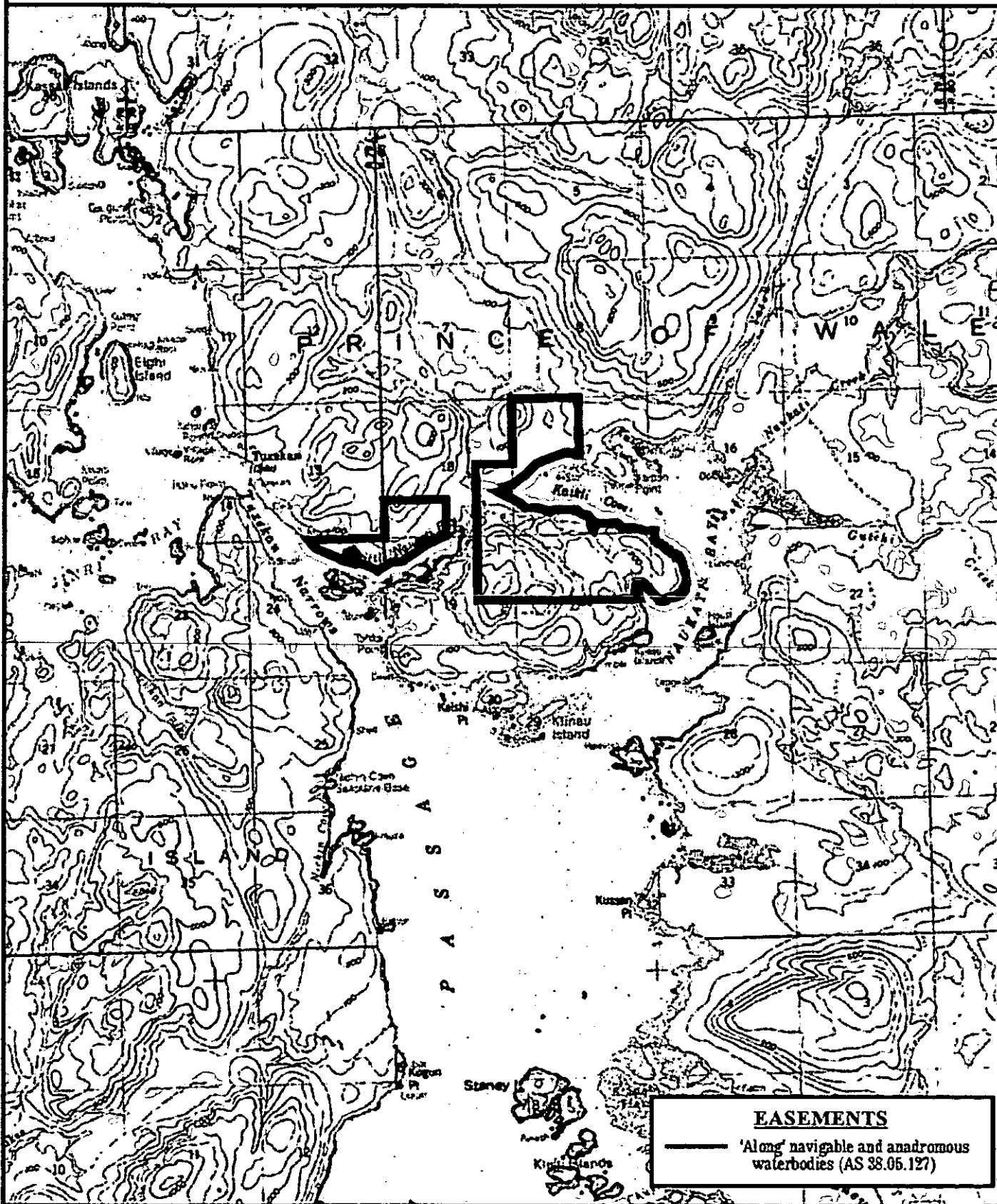
Prepared by: DNR
Source USGS Ketchikan C-5
Date: 12/2004

— one mile —

Meridian	Township	Range
CRM	73S	90E-91E

Naukati Sound

PW.NA.1001



EASEMENTS
—— 'Along' navigable and anadromous waterbodies (AS 38.05.127)

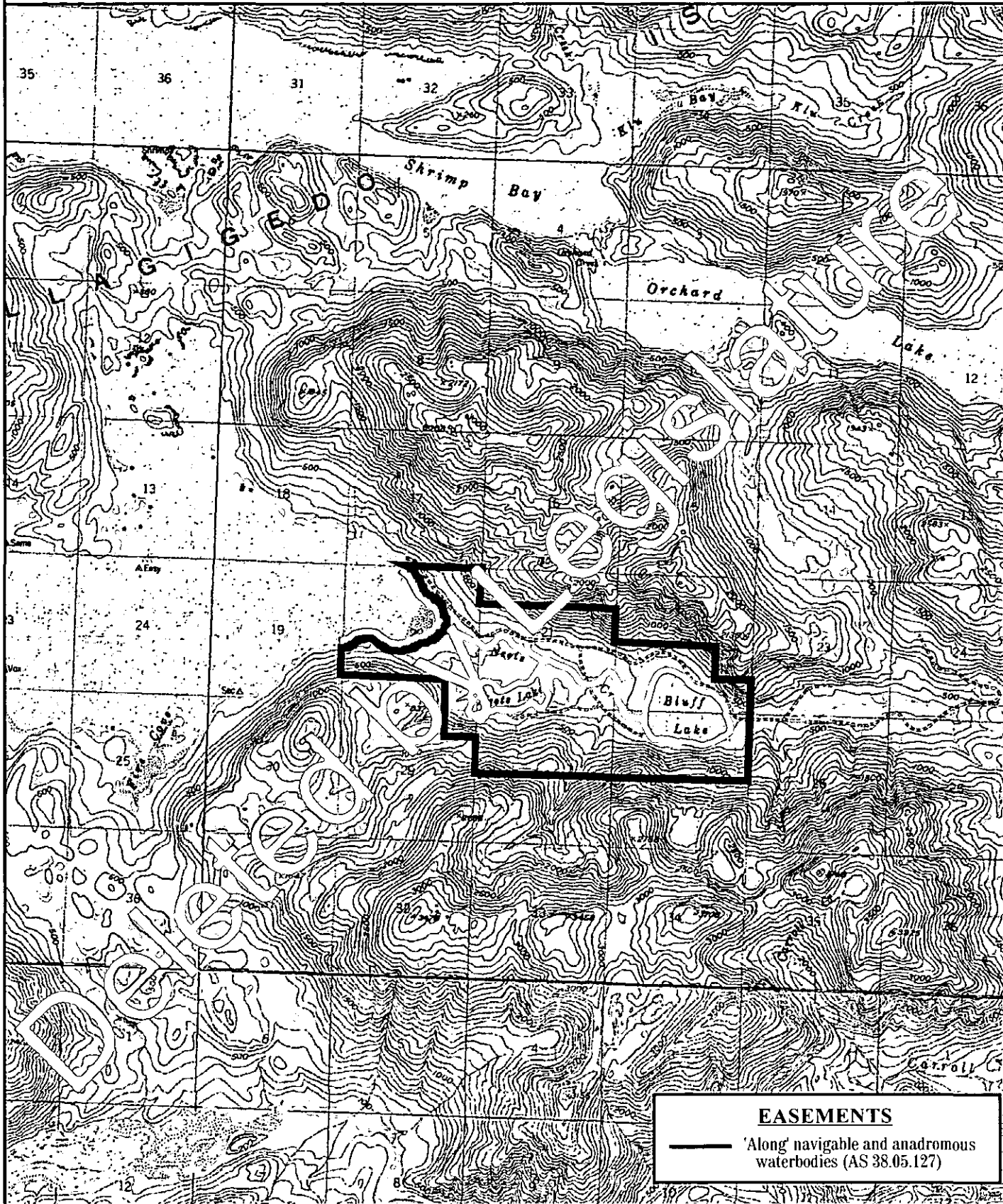
Prepared by: DNR
Source USGS Craig D-4
Date: 12/2004

— one mile —

Meridian	Township	Range
CRM	69S	79E-80E

Neets Creek

KT.1004



EASEMENTS
— 'Along' navigable and anadromous waterbodies (AS 38.05.127)

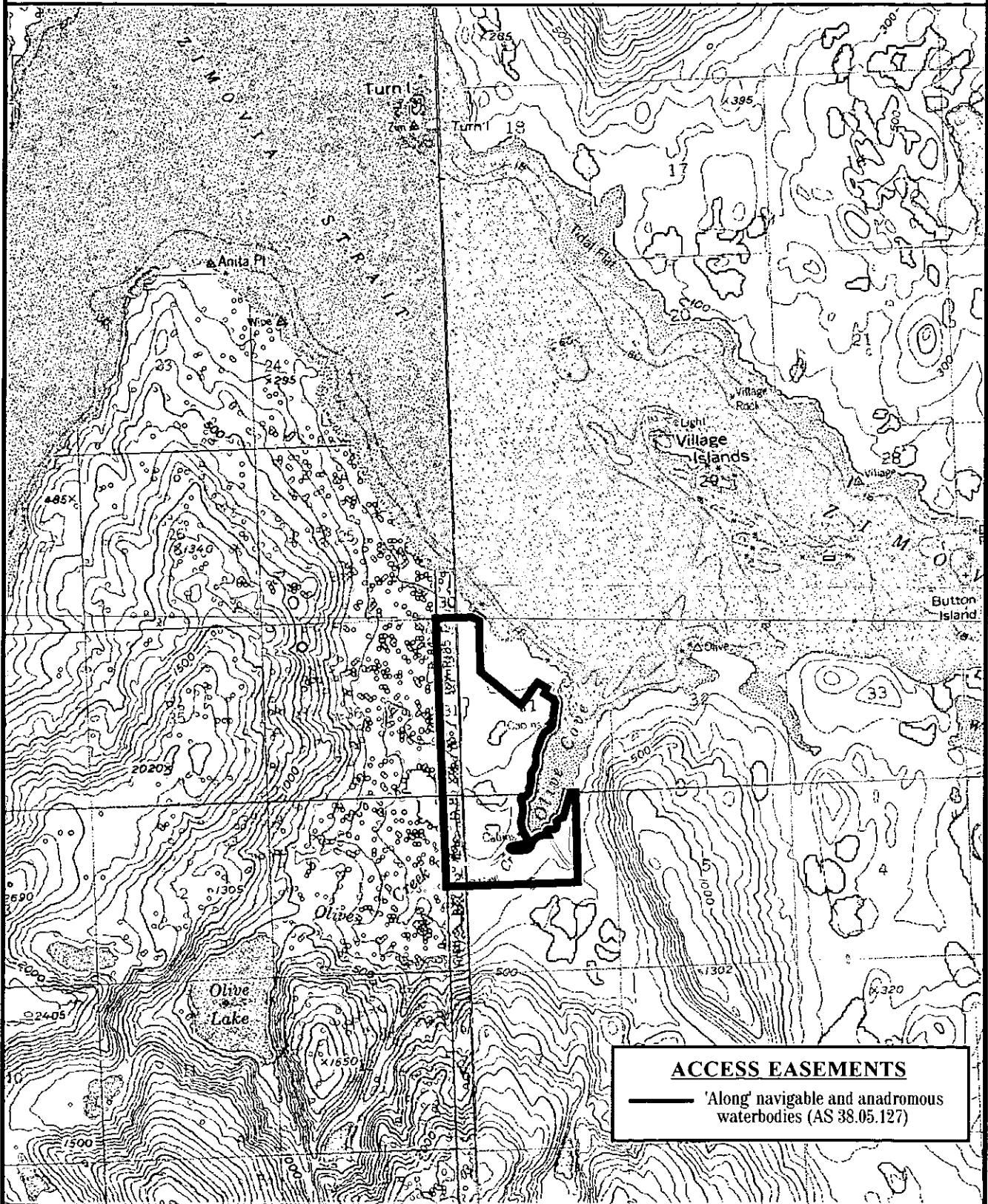
Prepared by: DNR
Source USGS Ketchikan D-4
Date: 12/2004

— one mile —

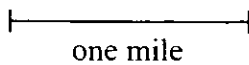
Meridian	Township	Range
CRM	70S	91E

Olive Cove

CS.OV.1001



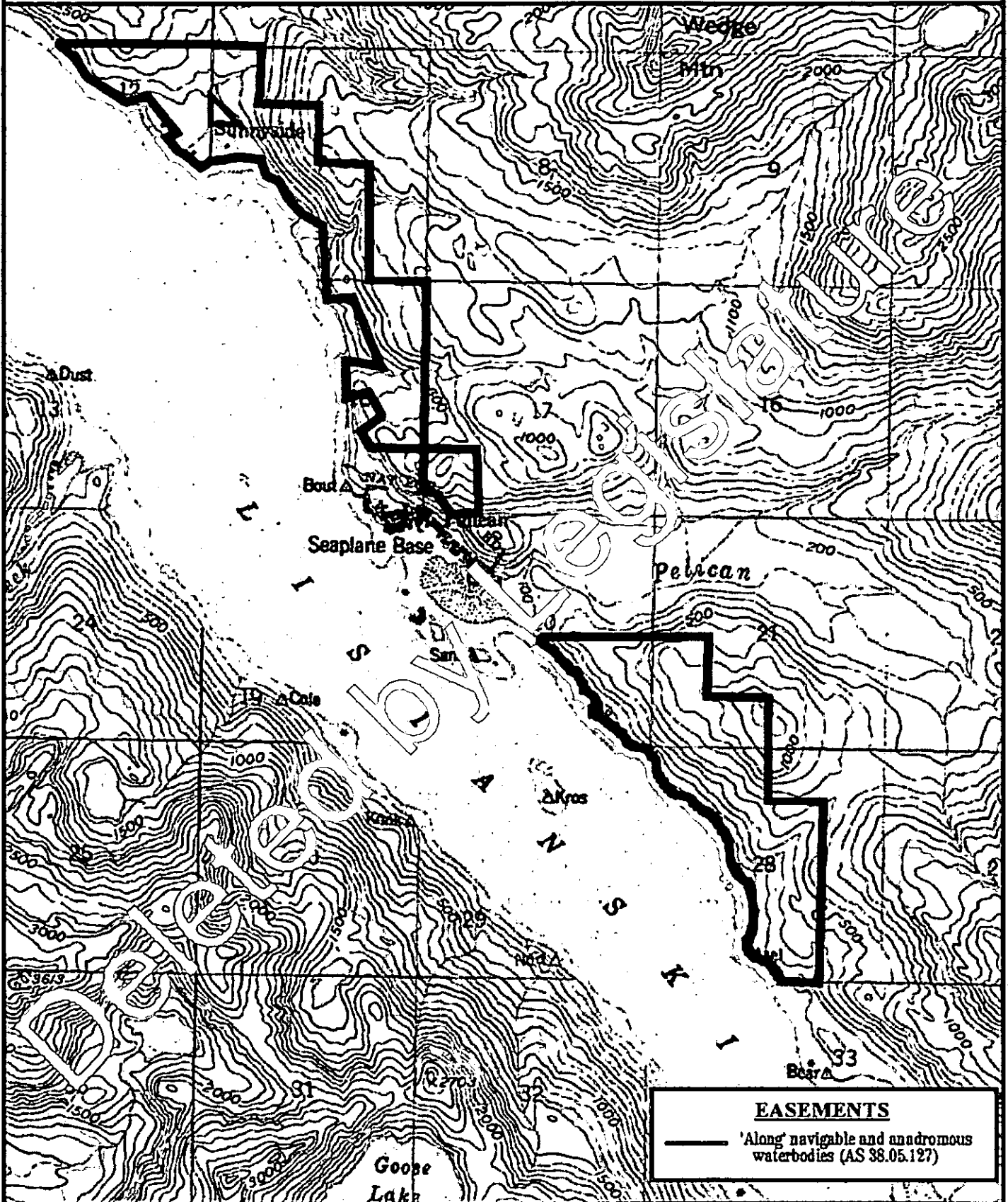
Prepared by: rhc
Source USGS, Petersburg A-1 & A-2
Date: 12/2004



Meridian	Township	Range
CRM	65 & 66S	85E

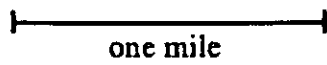
Pelican

ST.1002



EASEMENTS
— 'Along' navigable and anadromous waterbodies (AS 38.05.127)

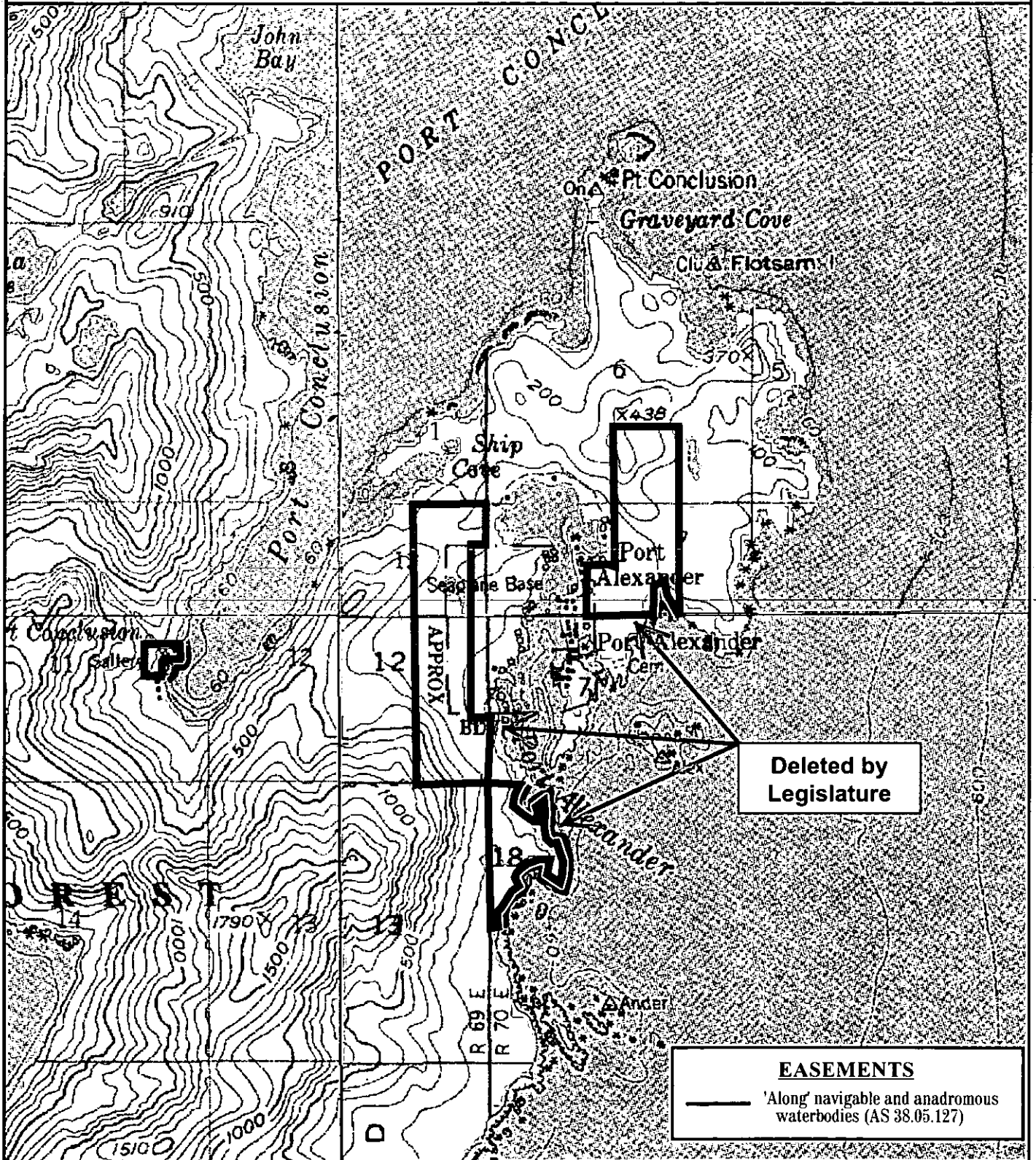
Prepared by: DNR
Source USGS Sitka D-7
Date: 12/2004



Meridian	Township	Range
CRM	45S	56-57E

Port Alexander & Port Conclusion

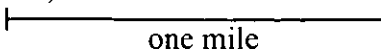
PA.1001



EASEMENTS
 ——— 'Along' navigable and anadromous waterbodies (AS 38.05.127)

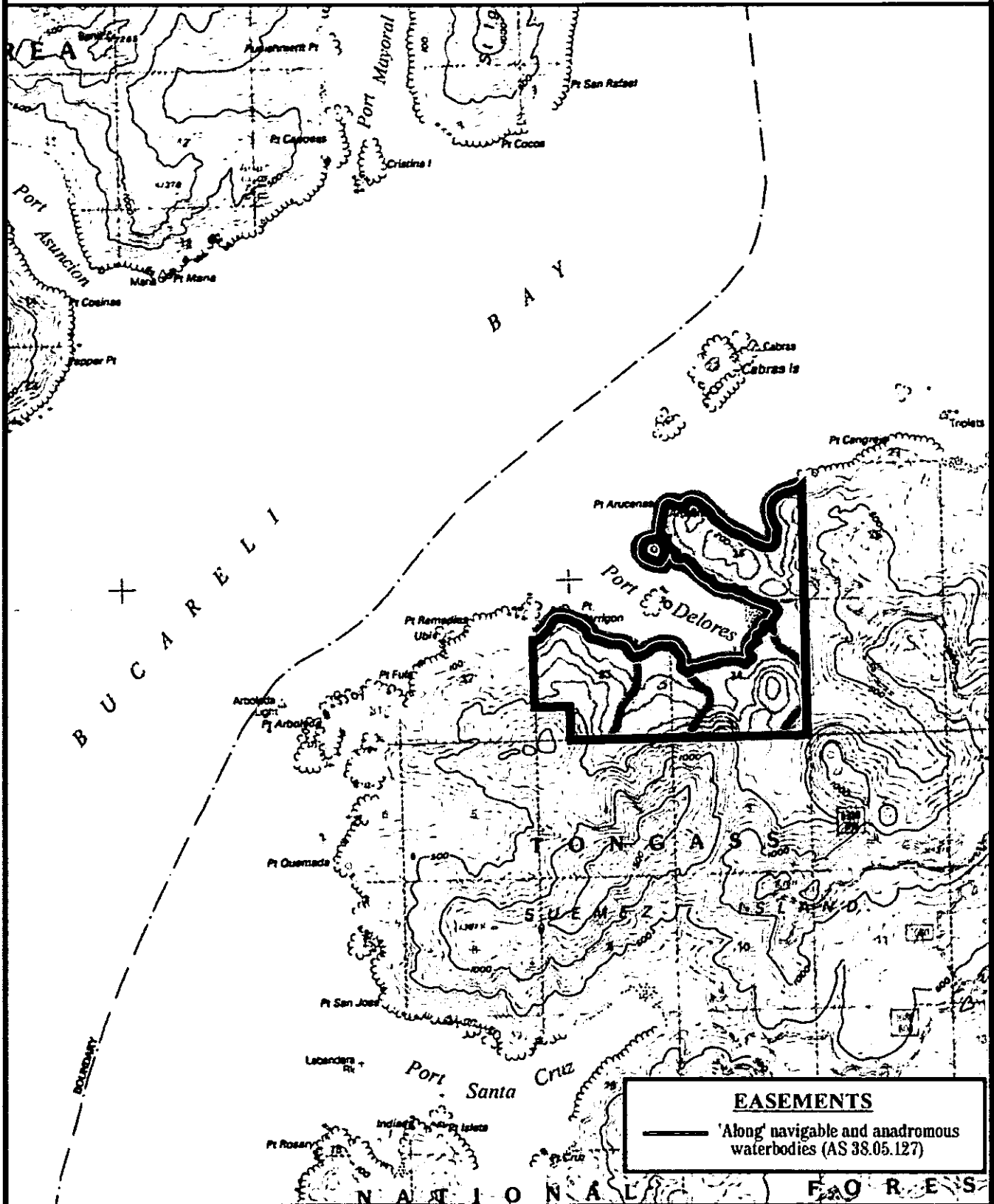
Prepared by: DNR
 Source USGS Port Alexander B-2, B-3, A-2, A-3
 Date: 12/2004

Meridian Township Range
 CRM 65S 69-70E



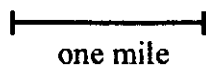
Port Delores

PW.PD.1001



EASEMENTS
— 'Along' navigable and anadromous waterbodies (AS 38.05.127)

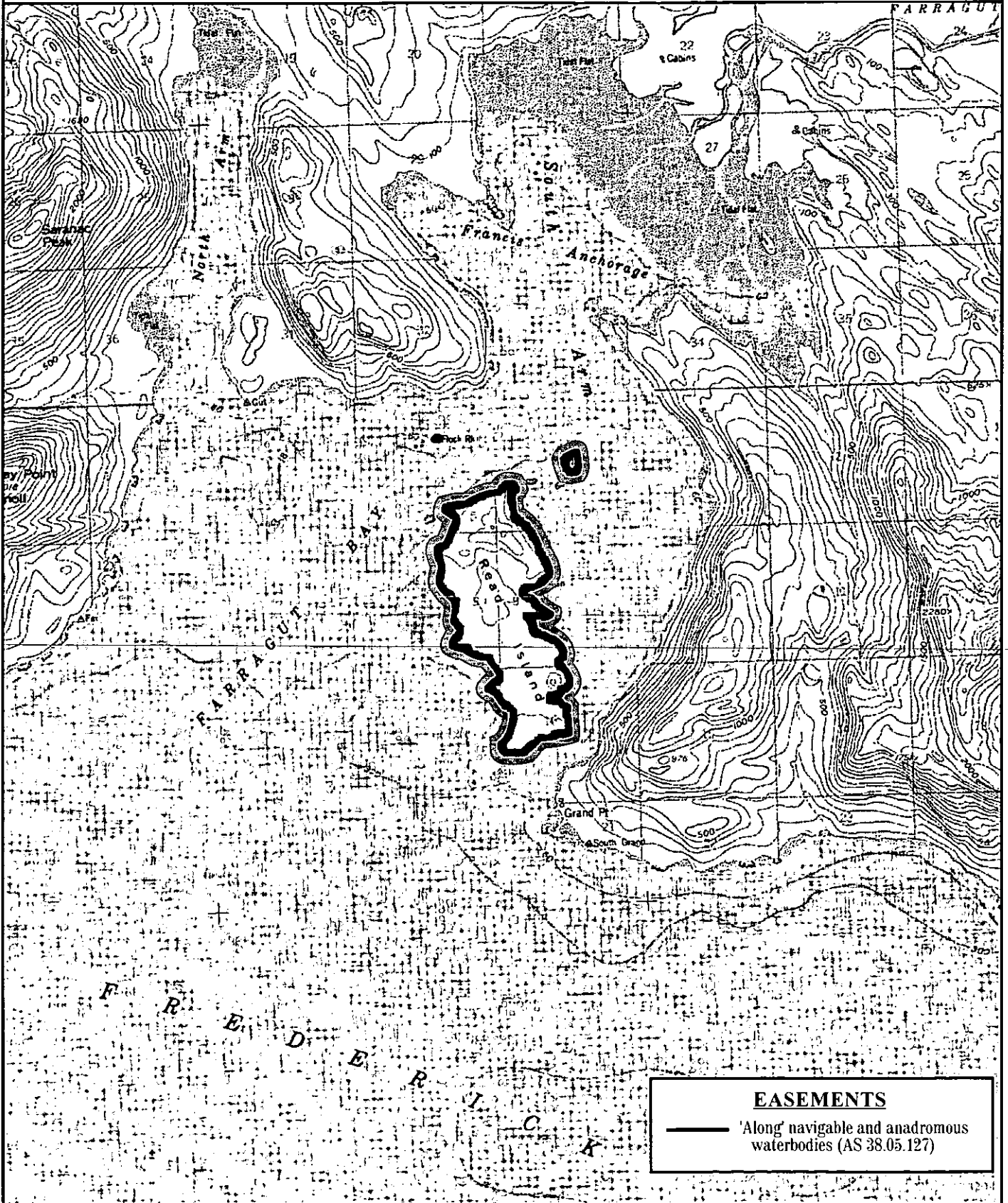
Prepared by: rhc
Source USGS, Craig B-5
Date: 12/2004



Meridian	Township	Range
CRM	75S	79E

Read Island

SD.1001



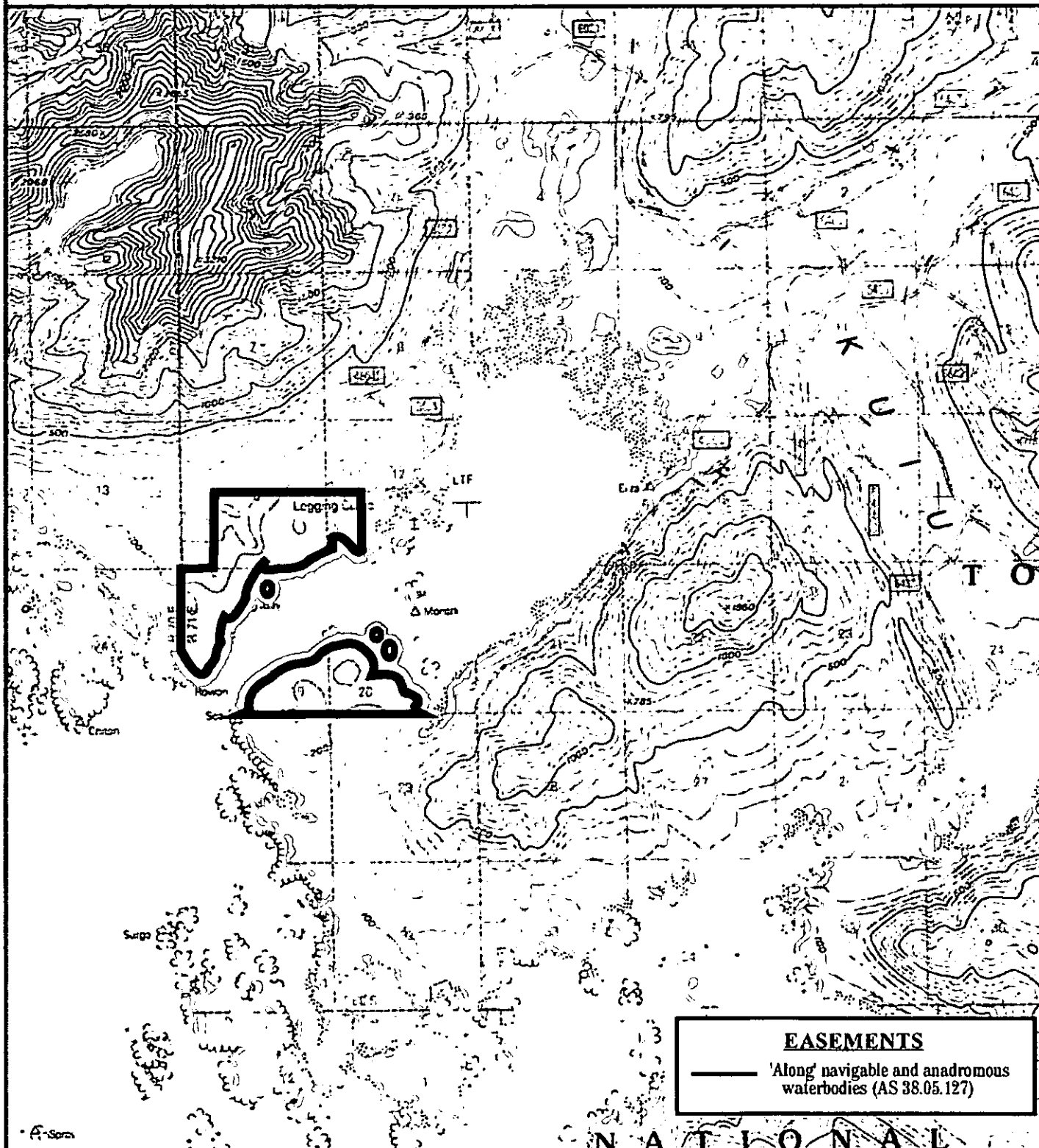
Prepared by: DNR
Source USGS Sumdum A-4
Date: 12/2004

— one mile —

Meridian	Township	Range
CRM	55S	77E

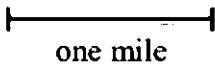
Rowan Bay

CS.RB.1001



EASEMENTS
— Along navigable and anadromous waterbodies (AS 38.05.127)

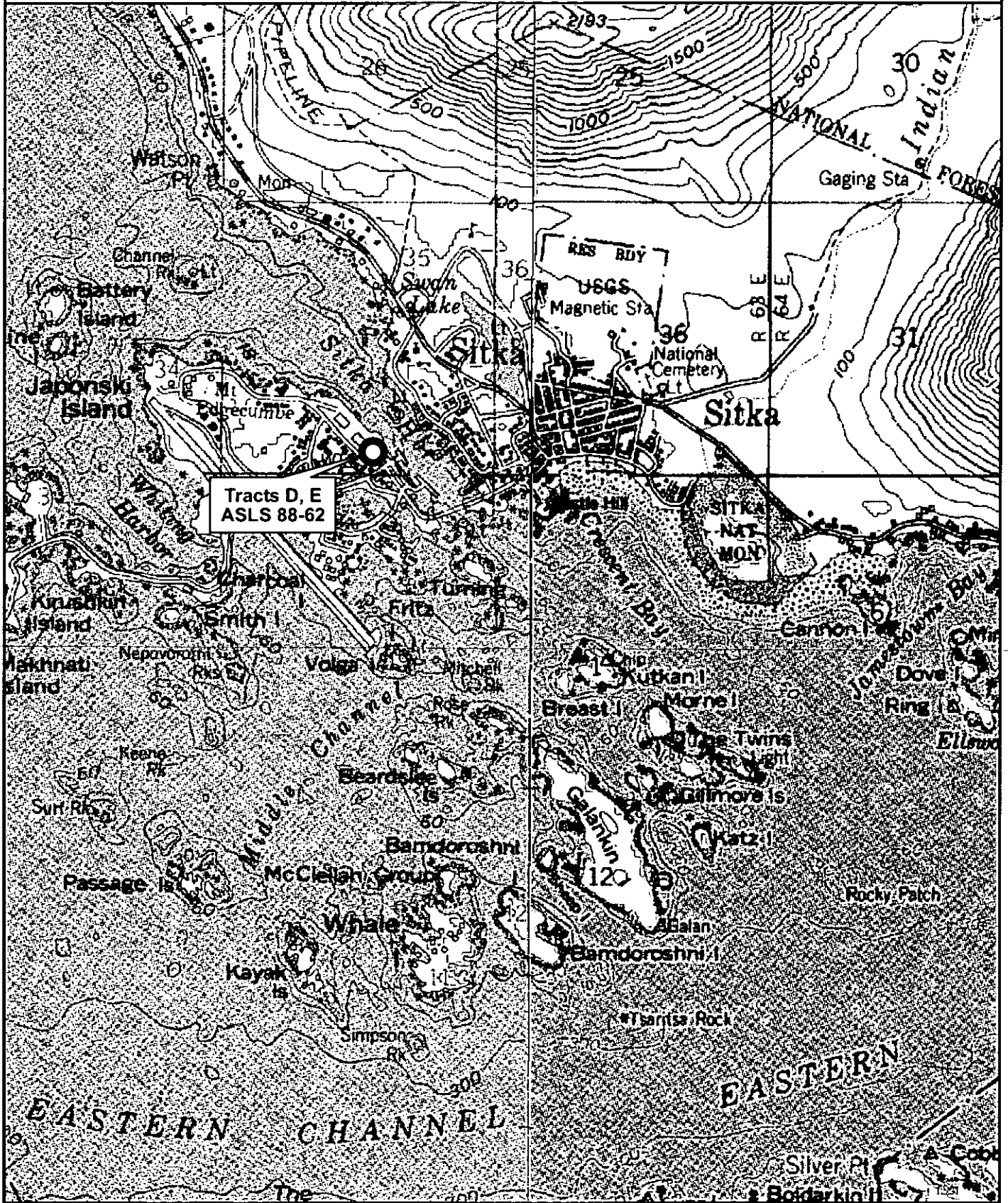
Prepared by: DNR
Source USGS Port Alexander C-1
Date: 12/2004



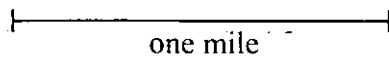
Meridian	Township	Range
CRM	60S	71E

Sitka (Campus)

ST.1001



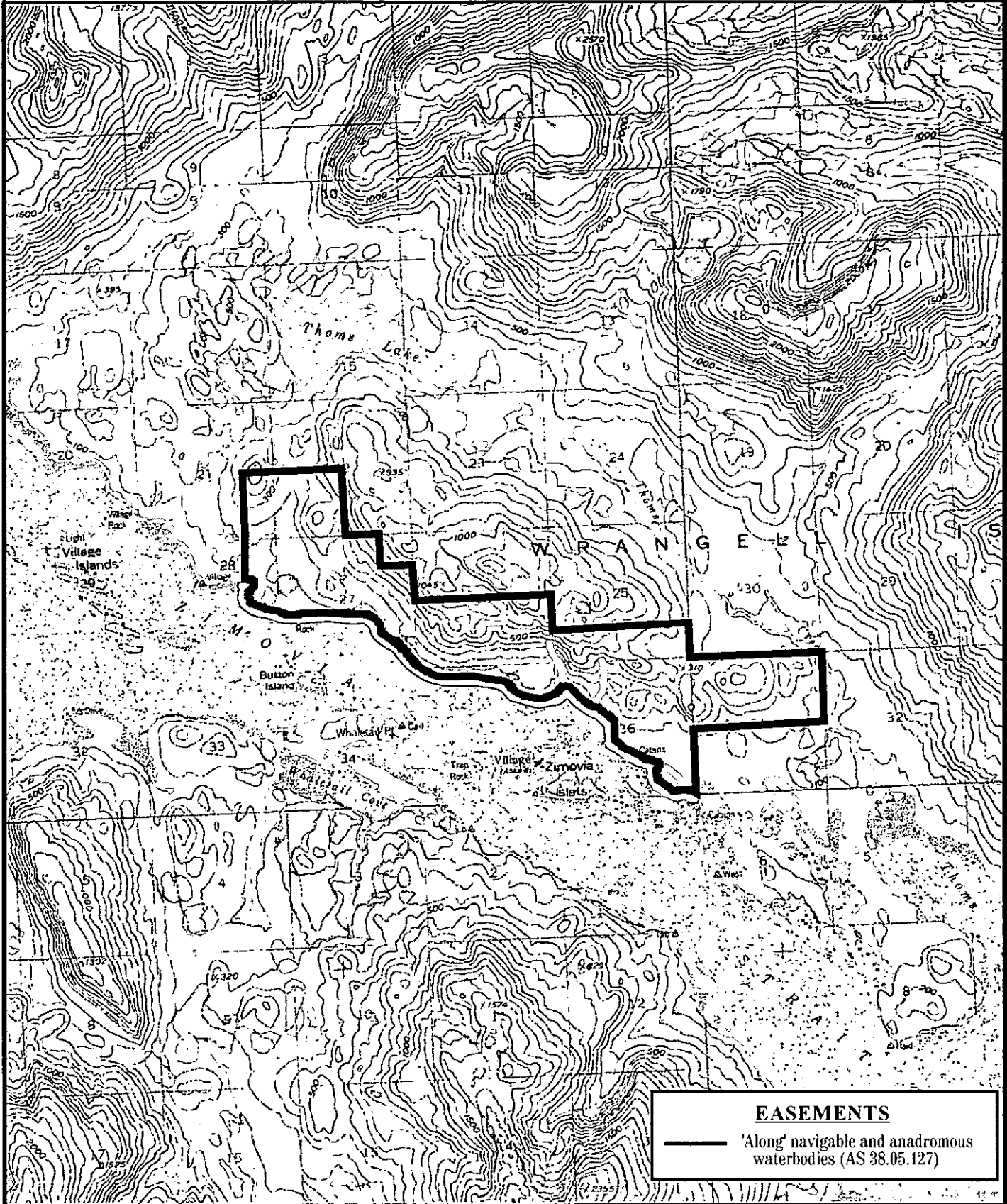
Prepared by: DNR
Source USGS Sitka A-5
Date: 12/2004



Meridian	Township	Range
CRM	55S	63E

Thoms Place

SD.1001



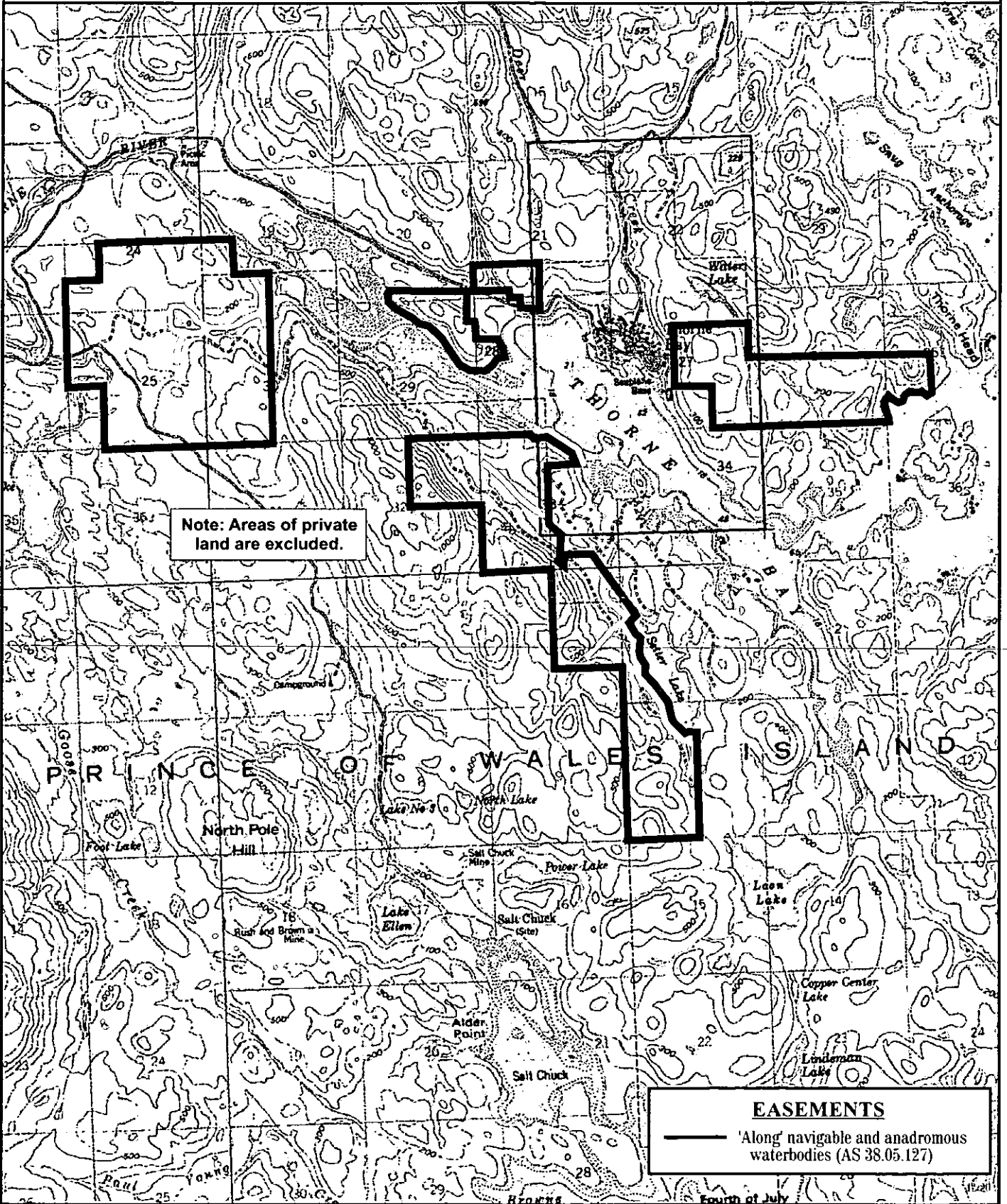
Prepared by: DNR
Source USGS Petersburg A-1
Date: 12/2004

— one mile —

Meridian	Township	Range
CRM	65S	85-86E

Thorne Bay

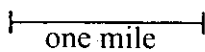
PW.TH.01



Note: Areas of private land are excluded.

EASEMENTS
— 'Along' navigable and anadromous waterbodies (AS 38.05.127)

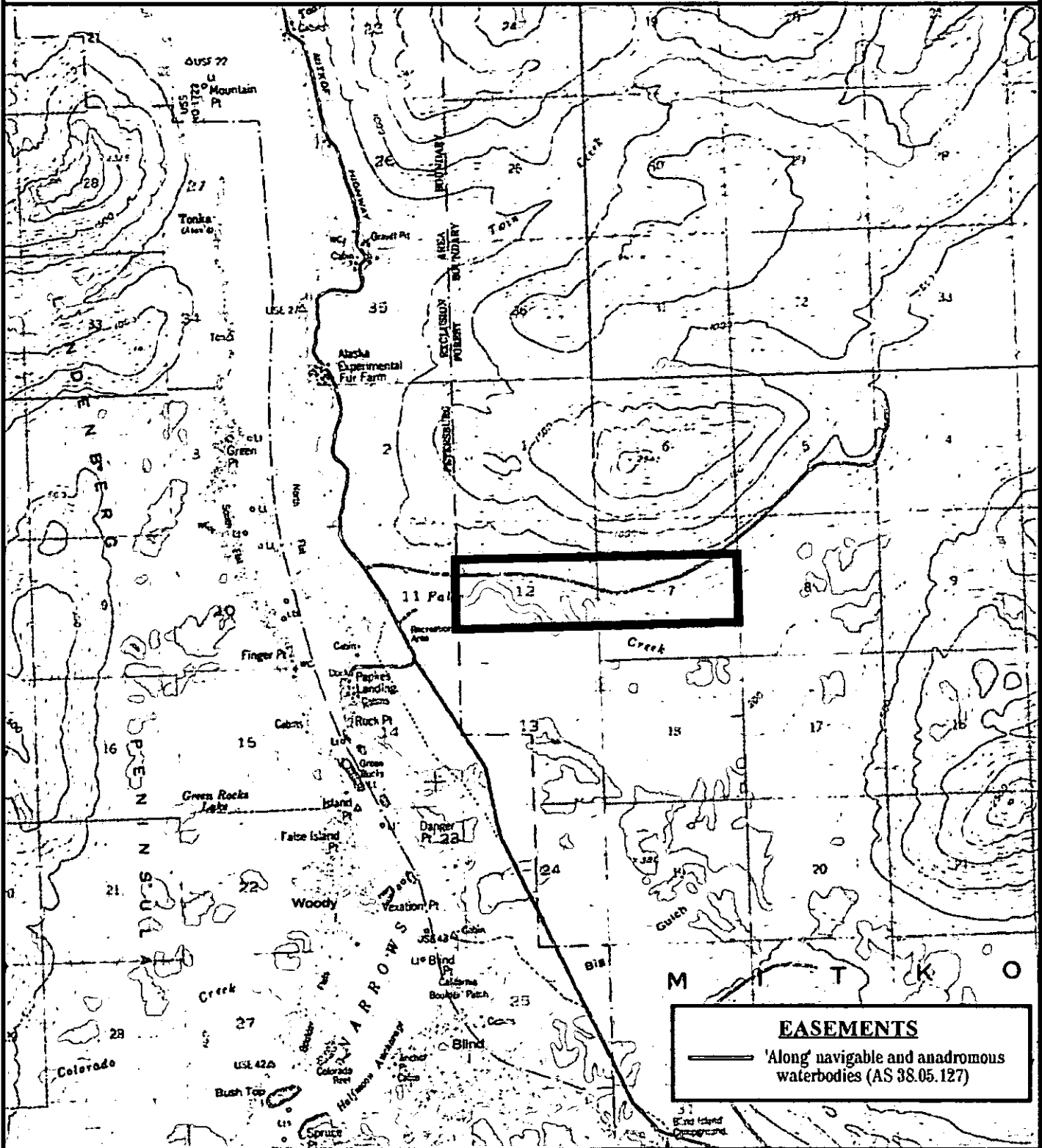
Prepared by: DNR
Source USGS Craig C-2
Date: 12/2004



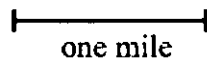
Meridian Township Range
CRM 71S-72S 83E-84E

Three Lake Road

CS.TL.1001



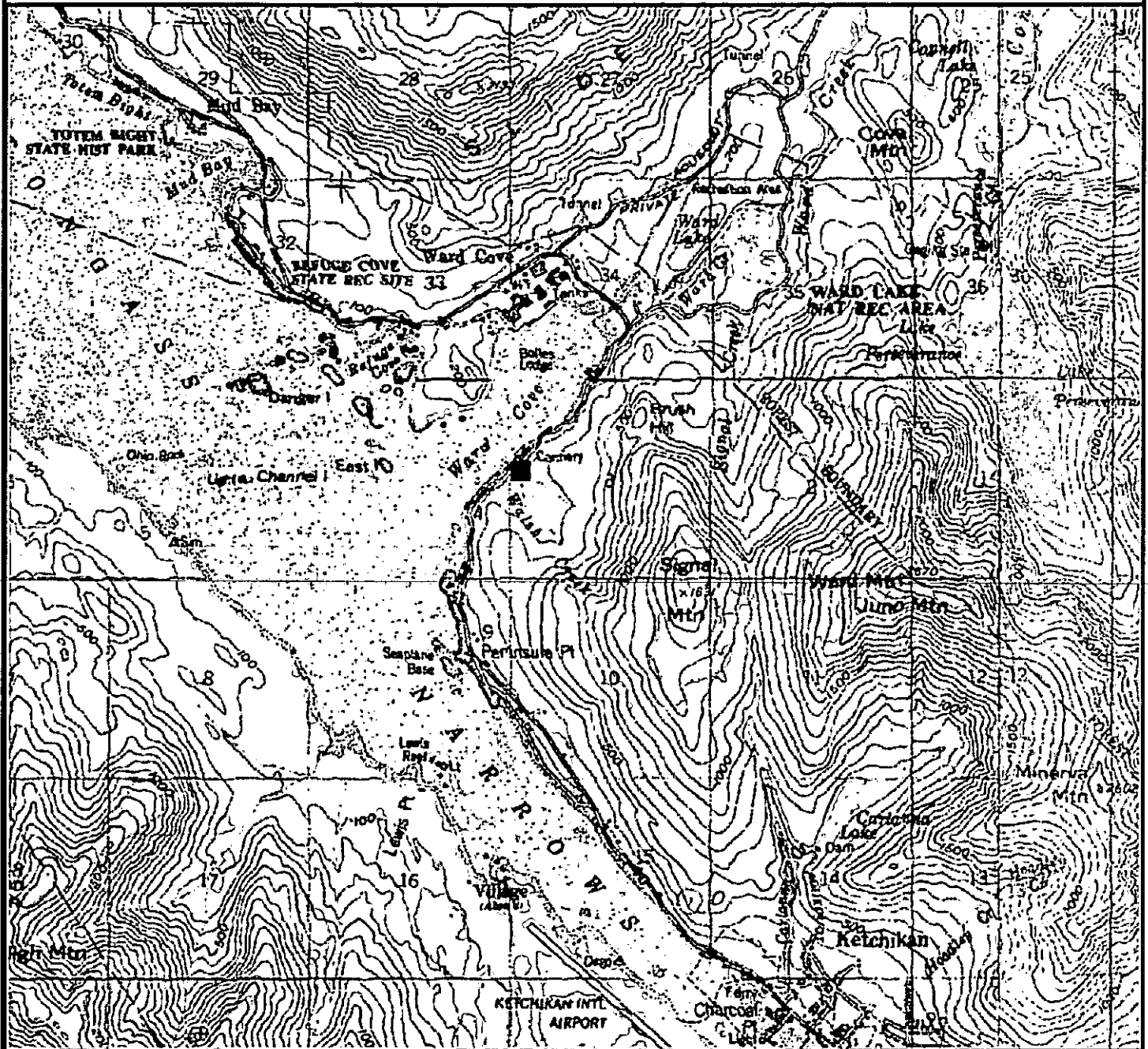
Prepared by: DNR
 Source USGS Petersburg C-3
 Date: 12/2004



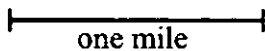
Meridian	Township	Range
CRM	60S	79-80E

Ward Cove

CS.WC.1001



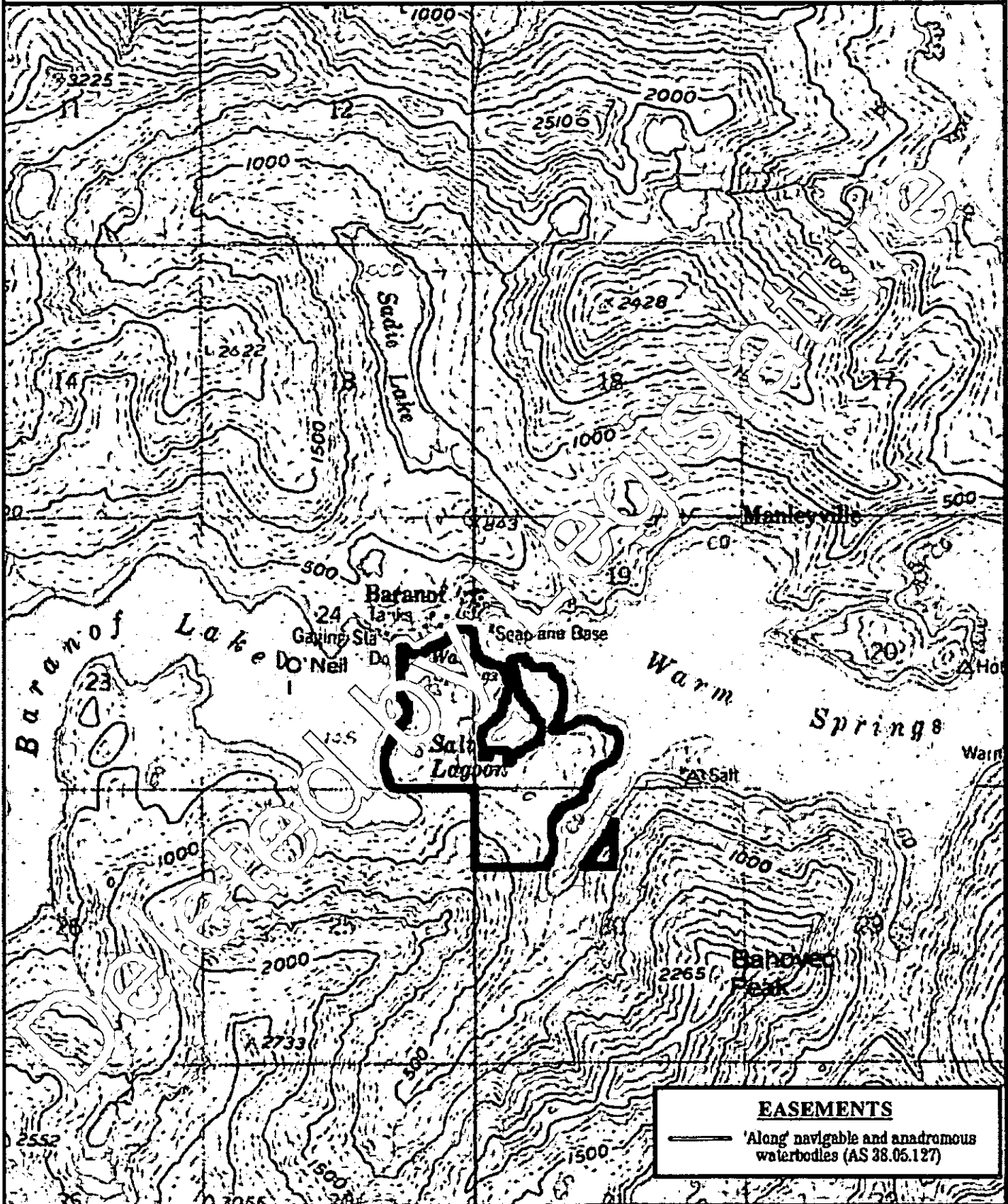
Prepared by: RHC
Source USGS, Ketchikan B-6
Date: 12/2004



Meridian	Township	Range
CRM	75S	R90E

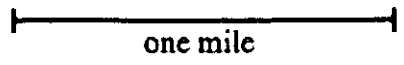
Warm Springs Bay

ST.1002



EASEMENTS
— Along navigable and anadromous waterbodies (AS 38.05.127)

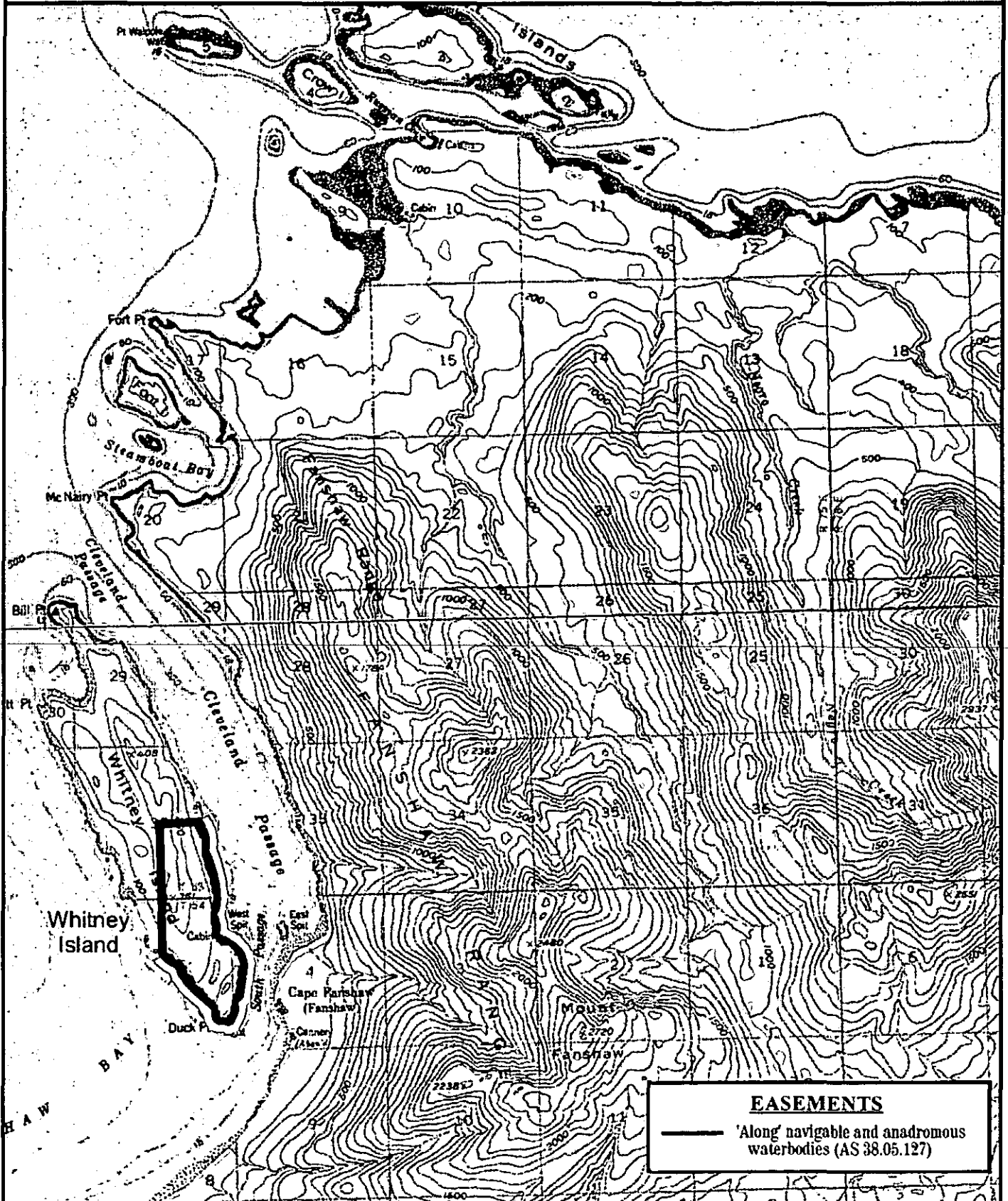
Prepared by: DNR
Source USGS Mt. Sitka A-3
Date: 12/2004



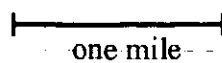
Meridian	Township	Range
CRM	55S	66-67E

Whitney Island

SD.1001



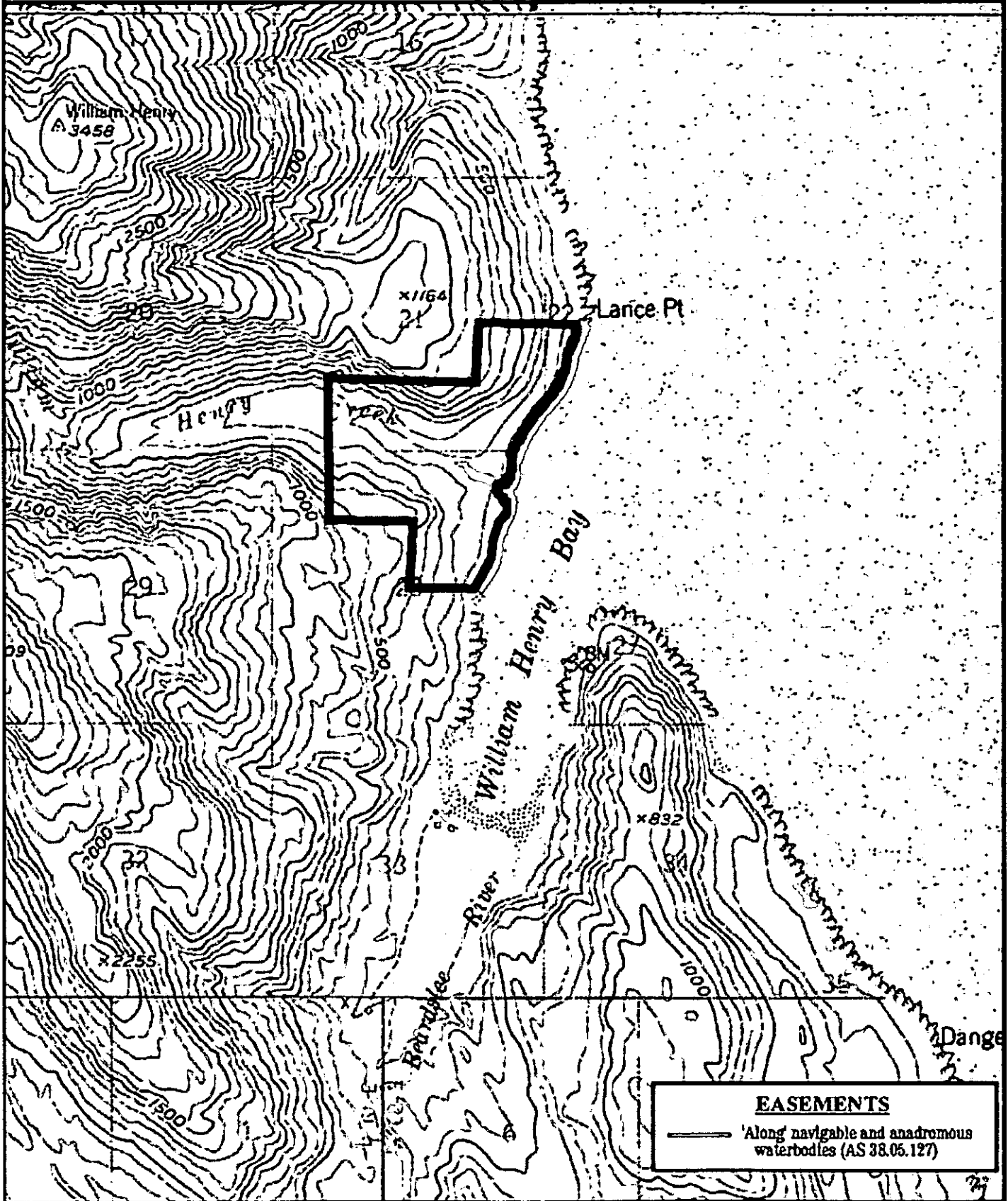
Prepared by: DNR
Source USGS Sumdum A-5, B-5
Date: 12/2004



Meridian	Township	Range
CRM	53-54S	75E

William Henry Bay

JU.1001



Prepared by: DNR
Source USGS Juneau C-4
Date: 12/2004

one mile

Meridian	Township	Range
CRM	36S	61E

LAND LIST :
SUMMARY

Overview of The Land List Revised 2010

This section provides a general description of the Land List and a table containing specific information related to the parcels in the Land List.

Geographic Distribution.

Most of the land proposed for transfer to the University of Alaska is in the Northern and Interior area of the state. This is primarily because the Nenana Oil and Gas Basin is in the Interior. Both South-central and Southeast have considerably smaller amounts of state land.

- Northern/Interior. Most state land on the Land List occurs in the Northern region, which comprises 150,953 acres or 75.5% of the total acreage. Most of this land is associated with oil and gas (90,000 acres) and coal (16,000 acres) resource values, or are intended for educational/research functions (35,961 acres). The oil and gas tract is situated west of Nenana and the coal tract, within an area known as 'Jarvis Creek', which is situated south of Delta Junction. Tracts with an intended education function are associated either with forestry research in the proposed Tok Research Forests (4,015 acres) or with watershed research in the Caribou and Poker creeks watersheds north of Fairbanks (24,250 acres). There is a small amount of investment properties in the Northern region, which are primarily intended for residential, commercial, or industrial development.
- Southcentral. South-central tracts total 14,230 acres (7.5% of the total) and consists mostly of investment properties near the Willow-Houston (1,730 acres) and McCarthy (12,500 acres) areas.
- Southeast. Southeast, with 34,655 acres or 17.3% of the total, consists largely of remote tracts and areas around communities, which have mostly settlement, general recreation, and some limited forestry values. These tracts are scattered throughout Southeast Alaska, extending from the Lynn Canal north of Juneau to Moira Sound/Nowiskay Cove southwest of Ketchikan. Most of these tracts are situated within Prince of Wales Island or near the communities of Wrangell, Sitka, and Tenakee Springs. Only a small amount (12 acres) of education properties occur in the Southeast (a research facility in Juneau and the Sitka Campus of the University).

Parcel Description

The table that follows gives a brief description of the each parcel proposed for transfer. It describes Investment and Oil and Gas tracts geographically by the three regions of Northern/Interior, South-central, and Southeast. A description of Educational Properties follow this listing. The table contains the following information: parcel number, parcel name, acreage, and a column titled 'Comments'. The Comments column indicates the general location of each parcel, describes the main features of the parcel, indicates its possible use, and indicates the land use designation(s) for the parcel based on existing DNR

land use plans. The land use designations contained in the DNR land use plans do not apply to the land after it is transferred to the University. Generally, the 'Investment Properties' parcels have been selected based upon their development potential and are designated in DNR land use plans for multiple use, settlement, or public recreation. These plan designations are italicized in the table.

This table is linked to the maps that follow the Land List. Parcel numbers and names are the same in the land list, table, and maps.

Summary of Parcel Resource Values

- Nenana Oil and Gas Tract (90,000 acres)

A 90,000 acre tract of state-owned land with oil and gas potential within the Nenana Basin is to be conveyed. This basin has a high probability for presence of gas source, and a high probability that reservoir quality rocks are also present. This tract excludes previous state subdivisions and DNR remote recreational cabin staking areas. Although the tract includes the remote recreational cabin staking area known as Teklanika II, where staking is still underway, buffers of state land will be retained by DNR before this tract is conveyed to the University. The area is part of the Oil and Gas License owned by Andex Corporation, and the land will be transferred subject to the License.

- Investment Properties *other than* in Southeast (39,222 acres)

Lands proposed for transfer include 39,222 acres of state land within the South-central and Northern/Interior regions that are considered to have investment potential. Certain of these tracts are probably best suited for commercial or industrial development; examples include the tracts along the Dalton Highway. The majority are probably best suited for some form of residential development, either for rural subdivisions near community areas (Willow Creek Road and Frying Pan Lake) or for remote recreational development (Lake Snohomish and Wien Lake).

The Jarvis tract provides a coal production potential. A 16,000 acre area near Jarvis Creek occupies the easternmost sub-basin of the Nenana Basin, a coal trend that holds the third largest coal reserve in Alaska. Identified resources are 75 million short tons with a hypothetical resource of 175 million short tons. The areas of Mental Health Trust Land and active mining claims are excluded from the tract. The 2,560 acres of coal leases would be conveyed, subject to the continuation of the lease for the period of their duration.

- Southeast Alaska (34,643 acres)

34,643 acres of state land in Southeast Alaska are to be conveyed. Because the state owns only a small amount of land scattered throughout Southeast, these tracts are comparatively small in size and are distributed throughout Southeast. Most of these tracts were acquired by the state for community and recreational development and may be developed by the University for community or remote recreational settlement; examples include state land at

Hollis, Ketchikan, or Edna Bay. There are also a few that have commercial potential; examples include Harris Road Junction, Ward Cove, and El Capitan South, although most of these could also be used for residential purposes. A limited number of tracts have commercial timber potential. The latter are not considered essential to the existing DNR Southeast Alaska value-added forestry program.

- Educational Properties (35,973 acres)

This category includes eight properties that are either important to current University educational or research programs or that can be developed for such programs. Their primary purpose is educational, not for revenue-generation. These state land tracts occur in the Northern Region, except for the Sitka Campus and Auke Weir tracts in Juneau. One tract constitutes the bulk of the acreage in this category: the Caribou-Poker creeks watershed, consisting of about 24,250 acres, located north of Fairbanks and used exclusively by the University for hydrologic research.

Public Access

Public access is retained across the state land conveyed to the University. DNR has identified known access routes, including Omnibus Roads, existing state or federal rights-of-way, and RS2477 trails). These routes are depicted on the parcel maps. Public access is also retained along coastlines, navigable rivers and lakes, routes traditionally used by the public for access, and along section-line easements. Except for section line easements, these access routes are depicted on the parcel maps.

On-line information and Contact Information

This report, including the parcel maps, may be viewed at the DNR website:

<http://www.dnr.alaska.gov>

For general information regarding the Land List, contact either Dick Mylius or Marty Parsons (269-8600) in Anchorage. For more detail on specific parcels, contact Bruce Phelps at 269-8592 in Anchorage or email: bruce.phelps@alaska.gov

PARCEL
DESCRIPTIONS

University of Alaska
Land Grant List 2010
Parcel Descriptions

Parcel #	Name	Approx. Area in Acres	Description/ <i>Plan Designation</i>
Non-producing Oil and Gas Resources			
OG.NE.1001	Nenana Gas Basin Tract	90,000	This parcel has oil and gas potential. Situated within the Nenana geologic basin, this area has a high probability for the presence of gas source rocks and a high probability that reservoir rocks are also present. Parcel excludes previous state subdivisions and DNR remote staking areas, and a current DNR remote staking area (Teklanika II). Buffer areas are to be created around this staking area, reducing the size of the parcel to about 90,000 acres. Public access, including future road access to state lands to the north and west of the parcel, are retained. <i>Wildlife Habitat and Forestry.</i>
2010 Revised Oil and Gas Resources, Subtotal		90,000	
Investment Properties			
Northern/ Interior Region			
DH.IS.1001	Dalton Highway MP 48 to 54	1,360	This parcel is located adjacent to the south bank of the Yukon River and the Dalton Highway. It is rather rugged topography, but has road access and views of the Yukon. <i>Public Recreation and Wildlife Habitat.</i>
DH.SR.1001	Dalton Highway MP 345 to 347	880	This parcel is south of the old Sagwon airstrip, includes the Sagavanirktok River, the Dalton Highway, and the Alyeska pipeline. It is located near the intersection of winter trails to Umiat, proposed for a major road. The APSC 8" fuel gas line runs through the property. May be subject to AS 19.40.200(b) (2). <i>Transportation Corridor Land.</i>
MA.HR.1001	Haul Road Nodes-Coldfoot	1,700	This parcel includes portions of the Coldfoot development node on the Dalton Highway. <i>Settlement.</i>
M1.JC.1001	Jarvis Creek	16,000	This coalfield occupies the easternmost sub basin of the Nenana Basin, a coal trend that holds the third largest coal reserve base in Alaska. The coal bearing section of this field is about 2,000 feet thick. Identified resources are 75 million short tons with a hypothetical resource of 175 million short tons. Tract excludes Mental Health Trust Land and active mining claims are excluded.

01/11/2010

University of Alaska
Land Grant List 2010
Parcel Descriptions

Parcel #	Name	Approx. Area in Acres	Description/ <i>Plan Designation</i>
FA.JC.1001	Jennie M. Creek C	5	Situated near Fairbanks, this small parcel has good access and gentle to level slopes. It is situated within a residential subdivision. Zoned General Use. It occupies a small lot south of Chena Hot Springs Road 3 miles east of Two Rivers School. <i>No current classification.</i>
N1.LS.1001	Lake Snohomish	740	Parcel is located 10 miles southwest of the airstrip at Lake Minchumina, with access by trail. Terrain is flat, surrounding Lake Snohomish. <i>Settlement.</i>
NZ.FA.1003	Noyes Slough (See Fairbanks Area Parcels map)	7	This parcel was added at the request of the University in order to resolve an old title problem created when DOT moved College Road to its current location. <i>No classification.</i>
N5.RS.1001	Summit Lake (Richardson Highway)	960	This parcel includes areas on the east and west side of Summit Lake, situated west of the Richardson Highway. This is a very popular winter recreation area, especially for snowmachiners. DNR land disposals are scheduled for other parts of lake. <i>Public Recreation and Wildlife Habitat</i> . Adjacent areas are designated <i>Settlement.</i>
FA.NS.1001	West Twin Lake	1,560	Situated in a remote area west of Nenana, this lake is considered to have recreation use potential and some recreational development already exists. Access via float plane or ATV. DNR land disposals are scheduled for other areas along the lake. <i>Settlement.</i>
N5.WL.1001	Wien Lake	1,780	This is a fly-in lake with access via snowmachine in winter located in the Kantishna area. Some property has been sold in the area. It is a popular Fairbanks recreation area. DNR land disposals are scheduled to occur along other parts of lake. <i>Settlement.</i>
2010 Revised Northern Interior Region Subtotal		24,992	

01/11/2010

University of Alaska Land Grant List 2010 Parcel Descriptions

Parcel #	Name	Approx. Area in Acres	Description/ <i>Plan Designation</i>
Southcentral Region			
SU.DC.1001	Deception Creek	280	Situated east of Willow, this fairly level parcel is covered with mature birch with some spruce, and has some wetlands in its western part. There is road access to this parcel by way of state-maintained 4 Mile Road off the Willow Creek Road. ATV trails also provide some access. It is part of the land previously reserved for the Willow Capital Site. <i>Settlement.</i>
SU.FP.1001	Frying Pan Lake	450	Situated southeast of Willow, this lake has recreational potential for picnicking, swimming, and camping. It is located about a mile from the Parks Highway. It is part of the land previously reserved for the Willow Capitol Site. <i>Settlement.</i>
MA.MC.1001	McCarthy-Nizina	12,500	This large parcel is situated near the community of McCarthy, situated within the National Park. Considered good for settlement. Excludes area of possible land exchange and critical salmon spawning areas at Long Lake. <i>Wildlife Habitat and Public Recreation.</i>
SU.WC.1001	Willow Creek Road	1,000	Parcel is near Willow Creek Rd. and is part of the land formerly reserved for the Willow Capital Site. Tract is considered good for settlement. Deception Creek runs through this parcel. <i>Settlement.</i>
	2010 Revised Southcentral Region Subtotal	14,230	
	2010 Revised Investment Properties Total	39,222	

01/11/2010

University of Alaska
Land Grant List 2010
Parcel Descriptions

Parcel #	Name	Approx. Area in Acres	Description/ <i>Plan Designation</i>
Southeast Region			
SD.1001	Beecher Pass	1,193	Parcel is located on Kupreanof Island, southwest of Petersburg. It consists of a gently sloping coastal plain, covered in parts by spruce bog. The steeper slopes inland contain dry uplands and are vegetated with hemlock and spruce forest. The parcel also contains part of a previous state subdivision (ASLS 81-9); areas within the subdivision remaining in state ownership and designated as Settlement are included. Another state subdivision (ASLS 81-8) occurs to the east. The parcel is considered appropriate for settlement. Beecher Pass State Park is situated immediately to the south. <i>General Use and Settlement.</i>
PA.1002	Biorka Island	438	This parcel, situated on Biorka Island southwest of Sitka, consists of two separate parts. The westerly parcel is situated northeast of an FAA radar facility, with access provided by a road which, in turn, accesses a landing/beach area for the island situated to the east. The easterly part is situated east of the main part of Biorka Island and is joined to it by a narrow beach area. Both parcels are flat and are covered by forested wetlands. Considered appropriate for settlement (remote cabin sites). <i>General Use.</i>
KT.1002	Cleveland Peninsula	4,055	This parcel consists of three distinct parts, all of which occupy the northern part of the Cleveland Peninsula, located northwest of Ketchikan. The two large parcels occupy uplands at Spacious Bay and Sunny Bay, both of which are important recreational destinations. The third parcel occurs at Square Island, within Spacious Bay. The two larger parcels support hemlock and spruce along the coast and forested wetlands further inland. Both parcels contain commercial forest resources, most of which occur in the more inland, higher elevations. Square Island is a gently sloping and flat island covered by forest and muskeg, except for coastal rainforest along and near the coast. There is limited use of Square Island for recreation purposes. Considered appropriate for remote recreation or remote settlement. <i>General Use.</i>

University of Alaska Land Grant List 2010 Parcel Descriptions

Parcel #	Name	Approx. Area in Acres	Description/ <i>Plan Designation</i>
PW.CC.1001	Coffman Cove	1,984	Parcel is situated in and near the community of Coffman Cove, on POW Island. It consists of three separate units of land, each of which is considered good for settlement or recreational development. University already owns land in area and this will infill around their existing holdings. Coffman Cove has protected waters and road access. <i>Settlement.</i>
CS.DI.1001	Duke Island <i>DELETED FROM 2005 LAND LIST BY LEGISLATURE</i>	1,440	Parcel adjoins the southern coast and is generally flat, and has several good anchorages. It is considered best for commercial development related to marine services and associated residential uses. It is covered with mining claims. In selection status. <i>General Use.</i>
CS.EW.1001	Earl West Cove	3,564	Situated southeast of Wrangell, this parcel is considered good for land disposals and/or timber harvest. There is a hemlock and mixed hemlock/spruce forest that contains some commercial timber. An existing road system accesses previously harvested areas. An abandoned LTF provides water access. A crude ramp system also exists. <i>General Use.</i>
PW.ED.1001	Edna Bay	250	Parcel is situated in the community of Edna Bay, on POW Island. It includes fairly flat areas that are considered suitable for settlement. Parcel is near other University owned land. Roads access the parcel. Public docks are available and have improved the anchorage. <i>Settlement.</i>
PW.EC.1001	El Capitan North	1,847	Parcel occupies areas considered suitable for settlement and community recreation because of road access, terrain, and views of the protected waterway and Twin Lake. Parcel adjoins El Capitan Passage and Twin Island Lake. Parcel excludes Twin Island Lake and its islands. <i>Settlement.</i>
PW.ES.1005	El Capitan South	865	Parcel occupies most of El Capitan Island, which is strategically located in the protected waters of Sea Otter Sound. A small island, situated to the west, is also included in this parcel. Tract includes land suitable for commercial recreation and residential development. A particularly suitable site for commercial recreation development occurs in a sheltered bay on the south end of the island. Good anchorages exist. <i>Settlement/Commercial.</i>

01/11/2010

University of Alaska
Land Grant List 2010
Parcel Descriptions

Parcel #	Name	Approx. Area in Acres	Description/ <i>Plan Designation</i>
NS.EX.1002	Excursion Inlet	477	This parcel, which consists of four separate parts, is situated north and east of the current subdivisions in Excursion Inlet. Access is provided by water, local roads, and an old Forest Service road. Topography varies from generally flat to moderately sloped. Vegetation consists of hemlock and spruce on the better drained soils and by wetlands in the wetter areas; portions of the parcel may be de-vegetated. Considered suitable for remote settlement. This parcel is the last holding of state land in Excursion Inlet. <i>Settlement and General Use.</i>
SD.1001	Favor Peak	1,290	This parcel is located on the southeastern tip of Mitkof Island, from Banana Point to Dry Strait. It is served by a well established road system (Forest Service Road 7). Several areas of commercial forest were harvested in the early 1970s and are dispersed throughout the unit. Areas of the parcel that adjoin the coast may be suitable for settlement. Areas north of the road are fairly steep, and contain areas of hemlock and spruce. <i>General Use.</i>
HA.CH.1001	Haines - Chilkoot <i>DELETED FROM 2005 LAND LIST BY LEGISLATURE</i>	60	This parcel actually consists of four small individual tracts, all of which are situated south of the community of Haines. All adjoin existing residential areas and are accessed by road. <i>Settlement.</i>
CR.1001	Harris Road Junction	320	Parcel consists of fairly flat, vegetated terrain consisting of hemlock and spruce. It is situated along the main island road west of the community of Hollis, at its intersection with the Harris River. In selection status. Potential exists for residential development. <i>Settlement/Commercial.</i>
PW.HO.1001	Hollis	622	Parcel is situated in the community of Hollis, on POW Island. Parcel consists of three separate parts, two of which have direct road access (Klawock-Hollis highway) and adjoin areas of existing development. Land is suitable for residential development and, in some locations, commercial use. Previous state subdivisions occur throughout the Hollis. <i>Settlement.</i>

University of Alaska Land Grant List 2010 Parcel Descriptions

Parcel #	Name	Approx. Area in Acres	Description/ <i>Plan Designation</i>
PW.HK.1001	Hook Arm	1,280	Parcel is situated on the west side of Dall Island, southwest of POW Island. This parcel has a good anchorage, high fish and game values, offshore commercial fishing activities, and resource development activities planned nearby. Tract may be suited for remote residential development or commercial use. In selection status. <i>General Use</i> .
MF.1002	Idaho Inlet <i>DELETED FROM 2005 LAND LIST BY LEGISLATURE</i>	539	This parcel is situated on the east side of the Idaho Inlet, southeast of Elfin Cove. It has gentle to moderately sloping terrain near the coast and steeper terrain further inland. Parcel is heavily vegetated by spruce and western Hemlock, with scattered wetlands. A secure anchorage provides protection from northerly winds. This tract is considered a strategic site, allowing access to nearby active fishing and transportation waters. Considered appropriate for commercial recreation, general commercial, or remote residential. <i>General Use</i> .
JU.NL.1001	Ivanhoe	120	This parcel is comprised of patented mining claims in a known mineralized area north of Juneau. <i>Mineral and Habitat</i>
CS.KI.1001	Kelp Island <i>DELETED FROM 2005 LAND LIST BY LEGISLATURE</i>	535	Kelp Island adjoins Duke Island and of the two locations, the best anchorage is situated here. It occupies a strategic location near a major navigation route. It would have the same type of commercial marine services and ancillary residential uses as Duke Island. In selection status. <i>General Use</i> .
CS.LE.1001	Leask Cove	460	Situated in upper George Inlet, north of Ketchikan, this parcel occupies relatively flat coastal areas, much of which has been previously harvested, and which has some potential for remote settlement. Most of the commercial forested area outside of the existing subdivision is in rotation. The cove provides a good anchorage. There are several previous state subdivisions nearby. <i>Settlement and General Use</i> .

01/11/2010

University of Alaska
Land Grant List 2010
Parcel Descriptions

Parcel #	Name	Approx. Area in Acres	Description/ <i>Plan Designation</i>
JU.LM.1001	Lena Creek	610	This parcel is located near Lena Creek, north of downtown Juneau. This parcel excludes an approved municipal conveyance of approximately 100 acres to the CBJ. The exact location of this CBJ tract must still be surveyed, so the area conveyed to the UA is somewhat uncertain at this time. The parcel map indicates the general location. <i>Transportation, Settlement, Public Recreation--Dispersed.</i>
ST.LS.1001	Lisianski Peninsula	1,443	This parcel occupies the remaining areas of state land on the Lisianski Peninsula, situated directly north of Sitka. Portions of the parcel are relatively flat, although the central and southern parts are quite steep. Within areas along the coast and in some inland areas, hemlock and spruce forests predominate; other areas are occupied by scattered wetlands. Water access is available from Cedar Cove; a forest service road accesses the central portions of the parcel. Adjacent land to the north is part of the Tongass National Forest; MH Trust lands are situated to the east. Considered appropriate for remote residential. May have some limited commercial timber potential; some areas of previous harvest exist. <i>General Use.</i>
JU.1002	Lynn Canal	1,358	This parcel occupies a fairly flat area on the west side of Lynn Canal, north of Juneau, that is heavily vegetated with a mixture of wetlands in poorly drained areas and Western Hemlock and Sitka Spruce in drier, better drained sites. It is bounded on the west by the Tongass National Forest. The parcel is easily visible from the marine highway route in Lynn Canal, and is considered suitable for commercial recreation or settlement. <i>Public Facilities-Transfer, Public Recreation and Tourism-Undeveloped.</i>

01/11/2010

University of Alaska
Land Grant List 2010
Parcel Descriptions

Parcel #	Name	Approx. Area in Acres	Description/ <i>Plan Designation</i>
ST.1001	Middle Island	665	This parcel includes the remaining state lands on Middle Island that are not part of the previous state subdivision (ASLS 87-129) or conveyed to the City/Borough of Sitka or the Mental Health Trust Authority. Middle Island is situated west of Sitka. The parcel occupies the central part of Middle Island, although portions front the water on the northwest and south. Except for areas near the coast on the south and northwest, which are considered suitable for settlement, the remainder of the parcel contains steep terrain. Forested wetlands cover most of the less severe terrain, while western Hemlock and Sitka Spruce cover the remainder. <i>Settlement, General Use.</i>
PA.1002	Mite Cove	320	This parcel occupies nearly 200 acres at the northeastern tip of Yakobi Island, at the end of Lisianski Inlet where the Inlet enters Icy Strait. Pelican is the nearest community. Mite Cove is a regionally significant anchorage that is used by both recreational and commercial boaters. It is vegetated with Western Hemlock and Sitka Spruce, and is characterized by steeply sloping terrain throughout most of its eastern and southern parts. Areas along the coast in the northern part of the parcel and near/adjacent to Mite Cove are relatively flat. Considered appropriate for remote residential or commercial recreation marine services. <i>Public Recreation and Tourism-Undeveloped.</i>
PW.MS.1001	Moira Sound/Nowiskay Cove	160	This small parcel occupies patented federal mining claims. It may be suitable for a variety of uses, including timber harvest and settlement. It is situated on Sound on POW Island. <i>General Use.</i>
CS.MB.1001	Moser Bay	906	Parcel is steep in eastern section but the western portion, adjacent to the coast, can accommodate settlement. Other residential use occurs nearby. Access is by water and it is relatively close to Ketchikan. Contains areas of commercial timber that may be suitable for selective logging. <i>Settlement.</i>
PW.NA.1001	Naukati Sound	937	Situated in the community of Naukati on POW Island, parcel occupies areas of generally flat land considered good for settlement. Development would be infill around current residential uses or adjacent to current road system. Road and water access. State land disposal is scheduled in Naukati. <i>Settlement and General Use.</i>

01/11/2010

University of Alaska
Land Grant List 2010
Parcel Descriptions

Parcel #	Name	Approx. Area in Acres	Description/ <i>Plan Designation</i>
KT.1004	Neets Creek <i>DELETED FROM 2005 LAND LIST BY LEGISLATURE</i>	1,500	Located at the head of Neets Bay northwest of Ketchikan, this parcel generally consists of a fairly flat area adjacent to the coast, two lakes, and the floodplain of Neets Creek. The valley walls are covered by a mixture of hemlock and spruce forests. The parcel may be accessed by either water or air, although previous logging roads are scattered throughout the parcel. A portion of the tract is used by a regional aquaculture association. Contains both previously harvest and available commercial timber (1,800 acres total). Considered appropriate for remote residential use; may have some commercial timber value. <i>General Use.</i>
CS.OV.1001	Olive Cove	450	Parcel occupies flat coastal plain vegetated by hemlock and spruce forest good for settlement. Adjoins an existing subdivision. Situated southwest of Wrangell on Zimovia Island. Direct water access to Zimovia Strait. <i>General Use.</i>
ST.1002	Pelican <i>DELETED FROM 2005 LAND LIST BY LEGISLATURE</i>	851	This parcel occupies almost all of the remaining state land in and around the community of Pelican, on Lisianski Inlet. Portions of this parcel are relatively flat to moderately sloping near the coast or coastal valleys, but are steeply sloped in most of the remaining areas. There are two distinct parts of the parcel; the first part occupies areas north of this community, some of which are accessed by road. The other part is situated south of the community proper and access is only by water. Both parts adjoin Lisianski Inlet and are heavily vegetated with hemlock and spruce. A previous state subdivision, ASLS 80-183, is situated immediately to the south. <i>Public Recreation - Dispersed, Settlement.</i>

University of Alaska Land Grant List 2010 Parcel Descriptions

Parcel #	Name	Approx. Area in Acres	Description/ <i>Plan Designation</i>
PA.1001	Port Alexander <i>DELETED FROM 2005 LAND LIST BY LEGISLATURE</i>	267	This parcel contains some of the last remaining state land in and adjacent to the community of Port Alexander, situated at the southern tip of Baranof Island. Two parts adjoin the community to the west and east, while a third occupies an area southwest of the community. It consists of flat to moderately sloping terrain and is heavily vegetated by spruce and hemlock, with scattered wetland areas. Access is primarily limited to trails to the western and eastern parts, while the southern has good water access. Several small off shore islands are included in this parcel. <i>General Use. Some areas of Public Recreation -- Dispersed.</i>
PA.1001	Port Conclusion (See Port Alexander map)	10	This parcel occupies an area near the end of Port Conclusion, which is situated to the west of the community of Port Alexander. Except for an area near the coast, the parcel is steep and heavily vegetated with western Hemlock, Sitka Spruce, and by areas of forested palustrine wetlands. Considered suitable for remote settlement. <i>General Use.</i>
PW.PD.1001	Port Delores	1,100	Port Delores is a protected anchorage with potential for commercial recreation and remote settlement. Some commercial timber exists in the interior of the parcel which may be accessed via Forest Service roads. <i>Settlement.</i>
SD.1001	Read Island	706	Situated south of Cape Fanshaw, parcel consists of Read Island and two smaller islands. These occupy the entrance to Farragut Bay, an important commercial tour destination. Read Island is fairly flat, and except for a few small knobs that support dry uplands, the entire island is covered by wetlands. <i>Public Recreation and Tourism-Undeveloped.</i>
CS.RB.1001	Rowan Bay	665	Parcel occupies flat and gently rolling coastal plain adjoining Rowan Bay, on the west side of Kuiu Island. Considered good for timber harvest and remote settlement. There have been previous timber harvests. Direct water and road access. <i>General Use.</i>
SD.1001	Sumdum	5	This small parcel occupies the head of Sanford Cove, and lies adjacent to a popular cruise ship, charter and recreational boat travel corridor to Endicott Arm. Considered a regionally significant recreational site. <i>Public Recreation -- Dispersed.</i>

01/11/2010

University of Alaska
Land Grant List 2010
Parcel Descriptions

Parcel #	Name	Approx. Area in Acres	Description/ <i>Plan Designation</i>
ST.1003	Tenakee Springs	346	This parcel consists of three distinct parts and constitutes the last remaining developable state land in Tenakee Springs. The first is situated at the end of the main area of community development near the ADOT/PF boat harbor. It abuts the harbor and is used for marine and other types of storage, and is fairly level and heavily vegetated. The second consists of a heavily vegetated, generally flat area that extends further east to Indian River and an old LTF. The third consists of an interior part within sections 15 and 22 situated eastward and upslope of the community, and a part within section 23 that stretches along the coast. This area, which is generally level and heavily vegetated, could be used for commercial and industrial development. <i>Public Facilities-Retain, Settlement-Commercial.</i>
SD.1001	Thoms Place	2,360	Situated south of the community of Wrangell, this parcel consists of fairly level to moderately sloping land situated to the west of the Thoms Place community. It is vegetated by hemlock and spruce forest. The unit adjoins Zimovia Strait, which is used as a route of the Alaska Marine Highway. A previous state subdivision and the Thoms Place State Marine Park exist to the south. Considered suitable for settlement. <i>Settlement, General Use.</i>
PW.TH.1001	Thorne Bay	2,557	Parcel consists of three separate tracts, two of which have direct road access and are near the community of Thorne Bay. These are considered good for commercial/industrial development. The other adjoins an existing subdivision and has direct road access. <i>Settlement/Commercial.</i>
CS.TL.1001	Three Lake Road	640	Situated south of Petersburg, this parcel is near popular fishing streams and adjoins Three Lake Road. Portions of this parcel are previously harvested and are heavily vegetated. It has commercial as well as residential potential. <i>General Use.</i>
CS.WA.1001	Ward Cove	3	Small parcel adjoining Tongass Highway north of Ketchikan. This OSL parcel is believed to be part of an old cannery. <i>Settlement/Commercial.</i>

01/11/2010

University of Alaska
Land Grant List 2010
Parcel Descriptions

Parcel #	Name		Approx. Area in Acres	Description/ <i>Plan Designation</i>
ST.1002	Warm Springs Bay <i>DELETED FROM 2005 LAND LIST BY LEGISLATURE</i>		267	This parcel consists of the remaining state land in the southern part of the Warm Springs community, a popular recreation area for the Sitka community. Area is generally flat and is covered by a mixture of forested wetlands and spruce/hemlock coastal rainforest in the drier parts. Considered suitable for commercial recreation or remote settlement. Previous state subdivision exists on the north side of Warm Springs Bay. <i>Public Recreation -- Dispersed.</i>
SD.1001	Whitney Island		316	This unit occupies the generally level southern end of Whitney Island, which is situated immediately west of Cape Fanshaw, an important commercial and recreational anchorage. Most of the island is covered by wetlands except for areas adjacent to the coast covered by spruce and hemlock forest where this parcel is situated. <i>Public Recreation and Tourism-Undeveloped.</i>
JU.1001	William Henry Bay		321	Parcel is situated on the west side of Lynn Canal, northwest of Juneau. It occupies the drainage of William Henry Creek in the northwestern part of William Henry Bay. Hemlock and spruce are the dominant vegetation. Areas adjoining the coast at the mouth of the creek are somewhat flat, but are steeper inland. Considered to have commercial recreation or remote settlement potential. <i>General Use.</i>
	2010 Revised Southeast Region Subtotal		34,643	

01/11/2010

University of Alaska Land Grant List 2010 Parcel Descriptions

Parcel #	Name	Approx. Area in Acres	Description/ <i>Plan Designation</i>
Educational Properties			
JU.AU.1002	Auke Weir	6	Situated close to the UAJ campus along Auke Creek in Juneau, an anadromous fish stream, the parcel includes a fish weir and is suitable for academic and research projects of the UAJ. Includes existing UAJ facilities. <i>Public Recreation/Habitat.</i>
LG.PC.01	Caribou-Poker Creeks Drainage	24,250	Situated north of Fairbanks, parcel is currently used and administered by University for hydrologic and water quality research. Occupies portion of the current research watershed used by UA. <i>Watershed.</i>
MA.XS.1001	Delta Ag & Forestry Exp. Station	363	Parcel is currently patented to the UA (No. 15524) with restrictions on use to forestry an agricultural research, and contains a reverter. University wants to acquire unrestricted title to allow other uses. <i>Agriculture and Settlement.</i>
N2.FA.1004	Fairbanks Parking Garage (includes Court House conveyance) <i>COURTHOUSE CONVEYED UNDER OTHER AUTHORITY</i>	1	Parcel is already conveyed. UAF agreed to "count" the acreage should there be a State Land Grant. Parcel was acquired by DOT/PF with federal funds. Provides addition to the University campus. <i>Not classified.</i>
NZ.FA.1004	Key Bank Site (See Fairbanks Area Parcels map) <i>CONVEYED UNDER OTHER AUTHORITY</i>	1	This parcel adds land to UAF from an area of excess highway right-of-way. It was acquired by DOT/PF with federal funds; the University may be required to reimburse ADOT/PF, to compensate for the loss of federal highway funds. <i>Not classified.</i>
MA.KR.1001	Kodiak Rocket Range <i>DELETED FROM 2005 LAND LIST BY LEGISLATURE</i>	2,880	This parcel occupies an area on southern Kodiak Island that includes the Kodiak Launch Complex. Portions of the parcel are used for grazing. Conveyance would be subject to the current Inter-agency Land Management Agreement for the Rocket Launch Facility and the grazing lease. Current access and public use areas are retained, including access to Fossil Beach. <i>Grazing, General Use.</i>
MA.PF.1002	Poker Flat (Special Use Area)	6,680	This is a large area under permit that the University has reserved for a buffer for its Poker Flat research activities. <i>Resource Management, Forestry, Mining, Public Recreation, Wildlife Habitat.</i>
MA.PF.1001	Poker Flat Lease	533	This area is under lease (ADL 414207) from the state and contains university-owned facilities. <i>Forestry, Mining, Public Recreation.</i>

01/11/2010

University of Alaska
Land Grant List 2010
Parcel Descriptions

Parcel #	Name	Approx. Area in Acres	Description/ <i>Plan Designation</i>
MA.SF.1001	Silver Fox Mine	120	This proposal is adjacent to patented federal claims which the University owns in fee. Now used for UAF mining program. <i>Settlement.</i>
ST.1001	Sitka Campus	6	Parcel contains the Sitka campus. Management authority would be transferred from the Department of Education to the University. <i>Public Facilities.</i>
TV.RF.1001	Tok Research Forest	4,015	Parcel is to be used for forestry research by UAF. <i>Forestry.</i>
TV.TV.1001	University Research Forest <i>CONVEYED UNDER HB 130</i>	51,820	This parcel contains portions of the Tanana Valley State Forest as well as other state land classified Forestry and Settlement. Parcel is to be retained and managed by DNR for the next fifty years after which it will be conveyed to the University. Parcel would also be used for forestry research by UAF. DNR would continue to manage the other uses that occur within this area, including timber harvest and public recreation. Public access is to be maintained. <i>Forestry and Settlement.</i>
	2010 Revised Educational Properties Subtotal	35,973	
2010 REVISED TOTAL		199,838	

HISTORICAL
INFORMATION

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

- ☐ 400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FAX: (907) 465-3886
- ☐ 550 WEST 7TH AVENUE, SUITE 1400
ANCHORAGE, ALASKA 99501-3650
PHONE: (907) 269-8431
FAX: (907) 269-8918

January 14, 2005

Dear Interested Alaskan:

The Governor is announcing new legislation that would transfer 260,000 acres of state land managed by the Department of Natural Resources to the University of Alaska. I am pleased to provide this list of lands for this transfer. The transfer will fulfill the intent of Senate Bill 7 passed by the 2000 Alaska Legislature as Chapter 136 SLA 2000. It will do so in a manner that is quicker, less expensive, and provides more valuable lands to the university than the process envisioned by SB 7.

Background — Senate Bill 7. In 2000, the Alaska Legislature passed SB 7, which provided a 10-year process during which the University of Alaska would select up to 260,000 acres of state-owned land to be conveyed to the university for the primary purpose of generating revenue for the university. Specifically, the bill provided that:

- “most land grant colleges in the western United States have obtained a larger land grant from the federal government than the University of Alaska has received;
- an academically strong and financially secure state university system is a cornerstone to the long-term development of a stable population and to a healthy, diverse economy in the state;
- it is in the best interests of the state and the University of Alaska that the university take ownership of a significant substantial portfolio of income producing land in order to provide income for the support of public higher education in the state;”

SB 7 had a 10-year fiscal note and forecast the need for approximately \$1.7 million each year to complete the selection, decision, and transfer process.

Unfortunately, implementing the bill proved difficult, expensive, time-consuming, and subject to litigation. To date, no lands have been conveyed to the University of Alaska to implement the law. In addition, uncertainty over what state land the university may or may not select creates a disincentive for investment and development, and the 10-year conveyance process had the potential to discourage the development and use of state land.

Land List and Accompanying Legislation. Over the course of the past several years, the University of Alaska and the Department of Natural Resources (DNR) have worked to reach agreement on lands proposed for transfer to the university to fulfill the intent of SB 7. These lands include some that were not selectable under SB 7. However, the proposal includes a portfolio of lands that should produce income for the university both in the near-term and long-term, and will provide more income than was available to the university under the provisions of SB 7. The new

“Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans”

legislation requested by the Governor eliminates the lengthy selection process required under SB 7 and directs DNR to convey these specific lands to fulfill the 260,000-acre intent of SB 7.

This new legislation provides a single decision for determining what lands will be transferred to the University of Alaska, rather than a protracted 10-year decision process. This is a quicker and significantly less expensive process. It also eliminates the potential disincentive to development because once the legislation passes, the eventual land manager is immediately clear.

Summary of the Lands to be Transferred to the University of Alaska. The lands proposed to be conveyed to the university are summarized below:

Type of Property	No. of Parcels	Approximate Acreage
Investment Properties, Southeast Alaska	44	40,102
Investment Property, Other than Southeast	14	39,222
Nenana Basin Oil and Gas	1	90,000
Educational Properties	12	90,676
Total:	71	260,000

In developing a list of investment properties to be transferred, DNR and the University of Alaska focused primarily on lands that had been designated settlement, general use, or general public recreation in DNR Area Plans. The list does not include any lands designated for timber harvest in Southeast Alaska because conveying these to the university would decrease DNR's allowable cut there. Nor does it include lands tentatively scheduled for sale by DNR within the next five years, as conveying these would leave DNR unable to meet near-term land sale goals. The list does not include lands on which municipal selection applications have been filed. The list does not include any producing oil and gas or mineral properties, nor legislatively designated State Game Refuges, Critical Habitat Areas, Parks, or Public Use Areas.

The 44 parcels in southeast are expected to have the greatest near-term income potential. Because of the limited state land in southeast, these tracts are comparatively small and are distributed throughout southeast Alaska.

The remaining investment properties, distributed throughout the state, include some lands suited for commercial or industrial development, but the majority is suited for residential or recreational development.

The Nenana Basin Oil and Gas property is a single 90,000-acre tract within the Nenana Basin. It is located west of the Nenana River generally across the river from the City of Nenana. DNR and the University believe the tract has significant potential for gas development, and the area is part of the Oil and Gas License owned by Andex Corporation. The tract would be transferred to the University of Alaska subject to the Andex license.

The 12 educational properties are intended to strengthen the University of Alaska's education and research programs. Most are located in the Fairbanks area. The largest is a 51,820-acre tract southwest of Fairbanks within the Tanana Valley State Forest. This area, which includes the Bonanza Creek Experimental Forest, would become the University Research Forest. It will be one of the largest university-related forests in the country and will be an important asset to the university for forestry and related research. For at least the next 50 years, DNR would continue to manage the

public uses in this area, such as recreation, and would continue to use the area for commercial timber sales, consistent with the needs of the University Research Forest.

Land Transfer Process. Under the proposed legislation, DNR will convey the lands to the University of Alaska within three years of the bill's passage. During those three years, DNR will complete the required title search, and will reserve appropriate public access easements, navigable waters, etc. Actual authority for management will change on the date the deeds are recorded.

Conveying these lands will accomplish the goals of SB 7 in a manner that is faster and less expensive than the 10-year process previously envisioned. I am pleased to recommend this portfolio of lands for transfer to the University of Alaska. I believe that these lands will provide the university with significant value and future revenue to help fund public education. The transfer helps fulfill the promise of a land grant University.

Sincerely,



for Tom Irwin
Commissioner

University of Alaska Land Grant List 2005

Parcel #	Name	Approx. Area in Acres
Southeast Alaska		
SD.1001	Beecher Pass	1,193
PA.1002	Biorka Island	438
KT.1002	Cleveland Peninsula	4,055
PW.CC.1001	Coffman Cove	1,984
CS.DI.1001	Duke Island	1,440
CS.EW.1001	Earl West Cove	3,564
PW.ED.1001	Edna Bay	250
PW.EC.1001	El Capitan North	1,847
PW.ES.1005	El Capitan South	865
NS.EX.1002	Excursion Inlet	477
SD.1001	Favor Peak	1,290
HA.CH.1001	Haines - Chilkoot	60
CR.1001	Harris Road Junction	320
PW.HO.1001	Hollis	622
PW.HK.1001	Hook Arm	1,280
MF.1002	Idaho Inlet	539
JU.NL.1001	Ivanhoe	120
CS.KI.1001	Kelp Island	535
CS.LE.1001	Leask Cove	460
JU.LM.1001	Lena Creek	610
NS.NS.1001	Lisianski Peninsula	1,443
JU.1002	Lynn Canal	1,358
NS.MI.1001	Middle Island	665
PA.1002	Mite Cove	320
PW.MS.1001	Moira Sound/Nowiskay Cove	160
CS.MB.1001	Moser Bay	906
PW.NA.1001	Naukati Sound	937
KT.1004	Neets Creek	1,500
CS.OV.1001	Olive Cove	450
ST.1002	Pelican	851
PA.1001	Port Alexander	267
PA.1001	Port Conclusion (See Port Alexander map)	10
PW.PD.1001	Port Delores	1,100
SD.1001	Read Island	706
CS.RB.1001	Rowan Bay	665
SD.1001	Sumdum	5
ST.1003	Tenakee Springs	346
SD.1001	Thoms Place	2,360
PW.TH.1001	Thorne Bay	2,557
CS.TL.1001	Three Lake Road	640
CS.WA.1001	Ward Cove	3

University of Alaska Land Grant List 2005

Parcel #	Name	Approx. Area in Acres
Non-producing Oil and Gas Resources		
	Nenana Gas Basin Tracts - Mineral *	90,000
	Nenana Gas Basin Tracts - Land **	90,000
	Oil and Gas Resources, Subtotal	90,000
Investment Properties		
Northern/ Interior Region		
DH.IS.1001	Dalton Highway MP 48 to 54	1,360
DH.SR.1001	Dalton Highway MP 345 to 347	880
MA.HR.1001	Haul Road Nodes-Coldfoot	1,700
M1.JC.1001	Jarvis Creek (Mineral)	16,000
FA.JC.1001	Jennie M. Creek C	5
N1.LS.1001	Lake Snohomish	740
NZ.FA.1003	Noyes Slough (See Fairbanks Area Parcels map)	7
N5.RS.1001	Summit Lake (Parks Highway)	960
N1.WT.1001	West Twin Lake	1,560
N5.WL.1001	Wien Lake	1,780
	Northern Interior Region Subtotal	24,992
Southcentral Region		
SU.DC.1001	Deception Creek	280
SU.FP.1001	Frying Pan Lake	450
MA.MC.1001	McCarthy-Nizina	12,500
SU.WC.1001	Willow Creek Road	1,000
	Southcentral Region Subtotal	14,230
	Investment Properties Total	39,222

* The mapped extent of the parcel exceeds this amount, but will be reconfigured when the Remote Staking for Teklanika II has been completed to equal approximately 90,000 acres.

** The University will provide, at no charge to the state, reasonable access to the state land and resources west and north of the Nenana parcel.

University of Alaska Land Grant List 2005

Parcel #	Name	Approx. Area in Acres
ST.1002	Warm Springs Bay	267
SD.1001	Whitney Island	316
JU.1001	William Henry Bay	321
	Southeast Region Subtotal	40,102
Educational Properties		
JU.AU.1002	Auke Weir	6
LG.PC.01	Caribou-Poker Creeks Drainage	24,250
MA.XS.1001	Delta Ag & Forestry Exp. Station	363
N2.FA.1004	Fairbanks Parking Garage (includes Court House conveyance)	2
NZ.FA.1004	Key Bank Site (See Fairbanks Area Parcels map)	1
MA.KR.1001	Kodiak Rocket Range	2,880
MA.PF.1002	Poker Flat (Special Use Area)	6,680
MA.PF.1001	Poker Flat Lease	533
MA.SF.1001	Silver Fox Mine	120
ST.1001	Sitka Campus	6
TV.RF.1001	Tok Research Forest	4,015
TV.TV.1001	University Research Forest	51,820
	Educational Properties Subtotal	90,676
TOTAL		260,000