

HB

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HOUSE BILL NO. 361 *ed amerk*

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/29/12

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Land Act, including certain lease, sale, and other
2 disposal of state land and materials; relating to production royalties from miners;
3 relating to rights to use state water; and providing for an effective date."

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

5 * Section 1. AS 38.05.055 is amended to read:

6 Sec. 38.05.055. Auction sale or sealed bid procedures. Unless another
7 method of sale is required under this chapter, AS 38.08, or AS 38.09, the sale of state
8 land shall be made at public auction or by sealed bid, at the discretion of the
9 director, to the highest qualified bidder as determined by the director. The director
10 may accept bids and sell state land under this section at no less than 70 percent of the
11 appraised fair market value of the land. To qualify to participate under this section in a
12 public auction or sale by sealed bid of state land that is other than commercial,
13 industrial, or agricultural land, a bidder shall have been a resident of the state for at
14 least one year immediately preceding the date of the sale [AUCTION] and submit

1 proof of that fact, as the commissioner requires by regulation. A bidder may be
 2 represented by an attorney or agent at a public [THE] auction. An aggrieved bidder
 3 may appeal to the commissioner within five days after the sale for a review of the
 4 director's determination. The sale shall be conducted by the director, and, at the time
 5 of sale, the successful bidder shall deposit an amount equal to five percent of the
 6 purchase price. The director shall immediately issue a receipt containing a description
 7 of the land or property purchased, the price bid, and the amount deposited. The receipt
 8 shall be acknowledged in writing by the bidder.

9 * **Sec. 2.** AS 38.05.065(a) is amended to read:

10 (a) The contract of sale for land sold at public auction or by sealed bid under
 11 AS 38.05.055 shall require the remainder of the purchase price to be paid in monthly,
 12 quarterly, or annual installments over a period of not more than 20 years, with interest
 13 at the rate provided in (i) of this section. Installment payments plus interest shall be set
 14 on the level-payment basis.

15 * **Sec. 3.** AS 38.05.069(a) is amended to read:

16 (a) After consulting with the Board of Agriculture and Conservation
 17 (AS 03.09.010), on a determination that the highest and best use of unoccupied land is
 18 for agricultural purposes and that it is in the best interests of the state to sell or lease
 19 the land, the commissioner shall grant to an Alaska resident owning and using or
 20 leasing and using land for agricultural purposes a first option [AT THE AUCTION] to
 21 purchase or lease the unoccupied land situated adjacent to land presently held by the
 22 Alaska resident for the amount of the high bid received at public auction or by sealed
 23 bid. If more than one Alaska resident qualifies for a first option under this section,
 24 eligibility for the first option shall be determined by lot and the option must be
 25 exercised on the conclusion of the public auction or opening of sealed bids. A parcel
 26 of agricultural land sold under this section may not be less than 20 acres, and a parcel
 27 of agricultural land that is acquired by exercise of the option granted in this subsection
 28 may not exceed 320 acres. Agricultural land that is acquired under this section must be
 29 used for agricultural purposes as required by law.

30 * **Sec. 4.** AS 38.05.069(c) is amended to read:

31 (c) Under this section,

1 (1) the director may transfer state land classified for agriculture only
2 for agricultural purposes;

3 (2) the sale or lease shall be at public auction or by sealed bid.

4 * **Sec. 5.** AS 38.05.070(b) is amended to read:

5 (b) The director, with the approval of the commissioner, shall determine the
6 land to be leased and the limitations, conditions, and terms of the lease. The director
7 shall preserve reasonable and traditional access to state land and water. If the
8 appraised value of the transaction is \$10,000 [~~\$5,000~~] a year or less the director may
9 negotiate a lease for a period not to exceed 10 years, and on the limitations,
10 conditions, and terms that the director considers are in the best interests of the state. A
11 lease negotiated under this subsection is not eligible for a preference under
12 AS 38.05.102.

13 * **Sec. 6.** AS 38.05.070 is amended by adding new subsections to read:

14 (d) If, after notice under AS 38.05.945 soliciting interest for a competitive
15 auction, the department determines that only one potential bidder has expressed
16 interest in bidding, the director may cancel the competitive auction and negotiate a
17 lease and its conditions and terms that the director determines to be in the best
18 interests of the state.

19 (e) The director may renew a lease issued under this section, AS 38.05.075, or
20 38.05.810 upon its expiration if the lease is in good standing and the lease renewal is
21 determined to be in the best interests of the state. A renewal issued under this
22 subsection is not subject to AS 38.05.035(e). A lease may only be renewed once for a
23 term no longer than the initial term of the lease.

24 * **Sec. 7.** AS 38.05.073(g) is amended to read:

25 (g) After soliciting proposals under (e) of this section, if the commissioner
26 determines that two or more potential lessees are acceptable, the commissioner may
27 select the potential lessee who submits the highest bid during a public [AN] auction or
28 by sealed bids, whichever method the commissioner chooses. The minimum bid must
29 equal the amount established by the commissioner plus the administrative fee
30 established under (k) of this section. The commissioner shall also require the potential
31 lessee to make an earnest money deposit under AS 38.05.860(b). After the

1 commissioner selects a potential lessee, the commissioner may begin negotiations with
2 the potential lessee to develop the terms and conditions for the lease.

3 * **Sec. 8.** AS 38.05.075(a) is amended to read:

4 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, 38.05.082,
5 38.05.083, 38.05.087, 38.05.102, 38.05.600, 38.05.810, and this section, **when**
6 **competitive interest has been demonstrated or the commissioner determines that**
7 **it is in the state's best interests,** leasing shall be made at public auction **or by sealed**
8 **bid, at the discretion of the director,** to the highest qualified bidder as determined by
9 the commissioner. **A bidder may be represented by an attorney or agent at a**
10 **public auction.** In the public notice of a lease to be offered at public auction **or by**
11 **sealed bid,** the commissioner shall specify a minimum acceptable bid and the lease
12 compensation method. The lease compensation method shall be designed to maximize
13 the return on the lease to the state and shall be a form of compensation set out in
14 AS 38.05.073(m). An aggrieved bidder may appeal to the commissioner within five
15 days for a review of the determination. The leasing shall be conducted by the
16 commissioner and the successful bidder shall deposit at the **public** auction **or with the**
17 **sealed bid** the first year's rental or other lease compensation as specified by the
18 commissioner, or that portion of it that the commissioner requires in accordance with
19 the bid. The commissioner shall require, under AS 38.05.860, qualified bidders to
20 deposit a sum equal to any survey or appraisal costs reasonably incurred by another
21 qualified bidder acting in accordance with the regulations of the commissioner or
22 incurred by the department under AS 38.04.045 and AS 38.05.840. If a bidder making
23 a deposit of survey or appraisal costs is determined by the commissioner to be the
24 highest qualified bidder under this subsection, the deposit shall be paid to the
25 unsuccessful bidder who incurred those costs or to the department if the department
26 incurred the costs. All costs for survey and appraisal shall be approved in advance in
27 writing by the commissioner. The commissioner shall immediately issue a receipt
28 containing a description of the land or interest leased, the price bid, and the terms of
29 the lease to the successful qualified bidder. If the receipt is not accepted in writing by
30 the bidder under this subsection, the commissioner may offer the land for lease again
31 under this subsection. A lease, on a form approved by the attorney general, shall be

1 signed by the successful bidder and by the commissioner [WITHIN THE PERIOD
2 SPECIFIED IN THE AUCTION NOTICE].

3 * **Sec. 9.** AS 38.05.083(a) is amended to read:

4 (a) The commissioner may offer to the public for lease at public auction or by
5 sealed bid under AS 38.05.075 or by negotiation under AS 38.05.070 a site for
6 aquatic farming or related hatchery operations. Before a final decision to issue or
7 renew a lease under this section, the commissioner shall give notice and allow
8 opportunity for comment in accordance with AS 38.05.945 and may hold a hearing to
9 take testimony. Before a final decision to issue or renew a lease under this section, the
10 commissioner shall consider all relevant comment or testimony submitted under this
11 section, AS 38.05.945, or 38.05.946.

12 * **Sec. 10.** AS 38.05.110(a) is amended to read:

13 (a) The commissioner shall provide for cruises of timber on [AND
14 APPRAISALS OF OTHER MATERIALS IN OR UPON] state land and shall assess
15 the supply of and current markets for timber on [AND OTHER MATERIALS IN]
16 privately owned land in close proximity to state land to determine

17 (1) the timber [AND OTHER MATERIALS] that should be offered for
18 sale; and

19 (2) the terms of sale of the timber [OR OTHER MATERIALS].

20 * **Sec. 11.** AS 38.05.120 is amended to read:

21 **Sec. 38.05.120. Disposal procedure.** Timber [AND OTHER MATERIALS]
22 shall be sold either by sealed bids or public auction, depending on which method is
23 determined by the commissioner to be in the best interests of the state, to the highest
24 qualified bidder as determined by the commissioner. An aggrieved bidder may appeal
25 to the commissioner within five days after the sale for a review of the determination.
26 The sale shall be conducted by the commissioner, and at the time of sale the successful
27 bidder shall deposit the amount specified in the terms of sale. The means by which the
28 amount of deposit is determined shall be prescribed by appropriate regulation. The
29 commissioner shall immediately issue a receipt containing a description of the timber
30 [OR MATERIALS] purchased, the price bid, and the terms of sale. The receipt shall
31 be accepted in writing by the bidder. A contract of sale, on a form approved by the

1 attorney general, shall be signed by the purchaser and the contract shall be signed by
 2 the commissioner on behalf of the state. The commissioner may impose conditions,
 3 limitations, and terms considered necessary and proper to protect the interests of the
 4 state. Violation of any provision of this chapter or the terms of the contract of sale
 5 subjects the purchaser to appropriate legal action.

6 * **Sec. 12.** AS 38.05.212(a) is amended to read:

7 (a) In exchange for and to preserve the right to extract and possess the
 8 minerals produced, the holder of a mining claim, leasehold location, or mining lease,
 9 including a mining lease under AS 38.05.250, shall pay a royalty on all minerals
 10 produced from land subject to the claim, leasehold location, or mining lease during
 11 each calendar year, or each fiscal year if the miner does not file the mining license
 12 tax on a calendar year basis. The department may exempt, by regulation, small
 13 operations from the production royalty otherwise required by this section.

14 * **Sec. 13.** AS 38.05.250(c) is amended to read:

15 (c) Each submerged land mining lease shall be for a period of up to 20 years
 16 and for so long as there is production in paying quantities from the leased area. A
 17 submerged land mining lease may be renewed for a period of up to 20 years at
 18 the discretion of the director if the director determines that the renewal is in the
 19 best interests of the state.

20 * **Sec. 14.** AS 38.05 is amended by adding new sections to read:

21 **Article 14A. Material Sales.**

22 **Sec. 38.05.550. Disposal of materials.** (a) All materials owned in fee by the #6
 23 state may be sold or conveyed as provided in AS 38.05.550 - 38.05.565.

24 (b) Materials may only be sold or removed from sources or sites designated by
 25 the department. The department shall issue a decision under AS 38.05.035(e) that the
 26 sale and extraction of materials from that location is in the best interests of the state at
 27 the time each source or site is designated. The department shall give notice, in
 28 accordance with AS 38.05.945, of the department's decision to designate a source or
 29 site for the sale and extraction of materials. After decision and notice, the department
 30 may sell materials continuously, without further finding or notice, from that
 31 designated source or site under this section until the source or site is closed by the

1 department.

2 (c) Each sale of materials must be made through a materials sales contract on a
3 form that has been approved by the attorney general. At the time of each sale the
4 department shall determine

5 (1) the location of the source or site from which materials are to be
6 removed;

7 (2) the method of disposal as provided in AS 38.05.555 - 38.05.565;
8 and

9 (3) the limitations, conditions, and terms of sale, which shall address
10 the utilization, development, and maintenance of the source of the materials.

11 (d) The commissioner shall provide for valuation of materials in or upon state
12 land. Materials sold or conveyed under AS 38.05.550 - 38.05.565 may, at the
13 director's discretion, be sold either at

14 (1) representative regional sales prices periodically determined by the
15 commissioner for each type of material and for defined geographic regions, under
16 procedures established by regulation; public notice under AS 38.05.945 must be made
17 whenever the commissioner revises the representative regional sales prices;

18 (2) fair market value determined by appraisal completed and approved
19 within two years of the date of sale; or

20 (3) a price less than appraised value, determined under
21 AS 38.05.810(a).

22 **Sec. 38.05.555. Negotiated sales and personal use of materials.** (a)
23 Notwithstanding any other provision of AS 38.05.550 - 38.05.565, the director may
24 negotiate the sale of any amount of materials from a source or site designated under
25 AS 38.05.550(b). The period of a contract for a sale of materials negotiated under this
26 section may not exceed five years.

27 (b) Sales of materials under this section must be made at a representative
28 regional sales price set by the commissioner under AS 38.05.550(d)(1) unless

29 (1) the director determines that it is in the best interests of the state to
30 sell the materials at fair market value determined by an appraisal provided by the
31 department;

1 (2) the applicant, at its own cost, elects to provide an appraisal,
2 acceptable to the department, determining the fair market value of the materials to be
3 sold; or

4 (3) the sale is to a state or federal agency, or political subdivision
5 under AS 38.05.810(a) and the material to be extracted and removed is used for public
6 purposes; sales under this paragraph may be at a price less than appraised value as
7 determined by the director.

8 (c) Subsequent sales of similar materials from the same source or site may be
9 made by the department at the price established by an appraisal provided under (b) of
10 this section.

11 (d) Individual negotiated contracts for the sale of materials authorized by (a)
12 of this section are not subject to AS 38.05.035(e) or 38.05.945.

13 (e) Materials from a source or site designated under AS 38.05.550(b) may be
14 extracted and removed for personal use without cost up to a limit of two cubic yards
15 per person within a one calendar year period. Extraction and removal of materials
16 under this subsection must be approved by the department before extraction
17 operations.

18 **Sec. 38.05.560. Competitive sales of materials.** (a) The department shall offer
19 materials from a source or site designated under AS 38.05.550(b) for competitive sale
20 if the department determines that

21 (1) the sale would result in an exclusive use by the purchaser of a
22 designated source or site;

23 (2) materials available at a designated source or site are insufficient to
24 supply all anticipated buyers;

25 (3) the size of the designated source or site is too small to
26 accommodate the extraction operations of all anticipated buyers; or

27 (4) it is in the best interests of the state.

28 (b) Notice of a competitive sale of materials from a source or site designated
29 under AS 38.05.550(b) shall be given under AS 38.05.945(a)(4) and shall

30 (1) describe the location of the designated source or site, and the type
31 and quantity of the materials to be sold;

1 (2) solicit potential bidders to register with the department to
2 participate in the proposed sale; only persons registered to bid at a proposed sale of
3 materials may bid; and

4 (3) include the minimum bid for materials to be sold.

5 (c) A notice of competitive sale required under (b) of this section may be
6 combined with a notice required under AS 38.05.550.

7 (d) If, after notice under (b) of this section, only one potential bidder has
8 registered to bid at a proposed competitive sale, the competitive sale may be cancelled
9 and the materials sold by negotiation under AS 38.05.555.

10 (e) Materials sold under this section may be sold either by sealed bid or by
11 public outcry or online auction, in the discretion of the department, to the highest
12 qualified bidder as determined by the department. An aggrieved bidder may appeal to
13 the commissioner under AS 44.37.011 within five days after the sale for a review of
14 the determination. The sale shall be conducted by the director or the director's
15 designee, and at the time of sale the successful bidder shall deposit the amount
16 specified in the terms of sale. The means by which the amount of deposit is
17 determined shall be prescribed by regulation. The director shall immediately issue a
18 receipt containing a description of the materials purchased, the price bid, and the terms
19 of sale. The receipt shall be accepted in writing by the bidder. A contract of sale, on a
20 form approved by the attorney general, shall be signed by the purchaser and the
21 contract shall be signed by the director on behalf of the state. The director may impose
22 conditions, limitations, and terms considered necessary and proper to protect the
23 interests of the state.

24 **Sec. 38.05.562. Violations.** Violation of any provision of AS 38.05.550 -
25 38.05.565 or the terms of the contract of sale subjects the purchaser to appropriate
26 legal action.

27 **Sec. 38.05.565. Sale or disposal of materials for special purposes.** (a) The
28 department may negotiate the sale or otherwise dispose of materials from sources or
29 sites other than those designated under AS 38.05.550(b) to

30 (1) municipalities, other state and federal agencies, or other entities
31 under AS 38.05.872; sales under this section may be at less than fair market value and

1 materials may be disposed of free of charge if the director determines that such a
2 disposal is in the public interest;

3 (2) a licensed public utility or a licensed common carrier under
4 AS 38.05.810(e); sales under this section shall be at representative regional sales
5 prices determined under AS 38.05.550(d)(1); or

6 (3) a holder of a permit, land lease, or right-of-way issued by the
7 department, if the materials to be extracted and removed during the construction, use,
8 or maintenance of a facility authorized by a permit, land lease, or right-of-way, are
9 necessary and incidental to the primary purpose of the permit, land lease, or right-of-
10 way, and the materials are put to beneficial use in a way that alters the character,
11 usefulness, or availability of the materials in their native forms; the department may
12 authorize the sale of materials under terms of the permit, land lease, or right-of-way;
13 sales of materials under this paragraph must be at

14 (A) the representative regional sales price established under
15 AS 38.05.550(d)(1) unless the sale is to a state or federal agency, political
16 subdivision, or other entity under AS 38.05.810(a); or

17 (B) a price less than appraised value as determined by the
18 director if the sale is to a state or federal agency, political subdivision, or other
19 entity under AS 38.05.810(a) and the materials to be extracted and removed
20 are used for public purposes.

21 (b) If materials are moved within and not removed from the boundaries of a
22 permit, land lease, or right-of-way issued by the department, without altering the
23 character, usefulness, or availability of the materials in their native forms, the
24 applicant may not be required to purchase the materials.

25 (c) In this section, "land lease"

26 (1) means a lease issued under AS 38.05.070 - 38.05.105;

27 (2) does not include a lease issued under AS 38.05.131 - 38.05.275.

28 * **Sec. 15.** AS 38.05.810(b) is amended to read:

29 (b) Notwithstanding AS 38.05.070 - 38.05.080 and 38.05.095, the director,
30 upon application filed by an applicant eligible under (b) - (d) of this section, may, by
31 negotiation and without competitive bid [PUBLIC AUCTION] in the manner

1 prescribed in (b) - (d) of this section, lease state land for a term of not more than 55
 2 years. Before leasing, the director shall prepare a land use plan and a land
 3 classification to insure that the proposed use is compatible with area utilization. Before
 4 the land may be leased under (b) - (d) of this section, it must be shown to the
 5 satisfaction of the director that the land is to be used for an established or definitely
 6 proposed project, and that the eligible applicant has the financial ability to carry out
 7 the project. The commissioner may establish limitations on the acreage which may be
 8 leased under (b) - (d) of this section to an applicant.

9 * **Sec. 16.** AS 38.05.810(e) is amended to read:

10 (e) The lease, sale, or other disposal of state land at appraised fair market
 11 value may be negotiated with a licensed public utility or a licensed common carrier by
 12 the director with the approval of the commissioner if the utility or carrier reasonably
 13 requires the land for the conduct of its business under its license. **Notwithstanding**
 14 **AS 38.05.550 - 38.05.565, the sale of materials necessary for construction, use, or**
 15 **maintenance of property leased, sold, or disposed of under this section may be**
 16 **negotiated by the director.** A lease with a licensed public utility that is an electric
 17 utility entered into under this subsection may not include, as part of the rent or other
 18 fee that is negotiated or charged, an amount that is based on or determined by a
 19 percentage of gross revenue for renewable energy produced by the electric utility.

20 * **Sec. 17.** AS 38.05.872 is repealed and reenacted to read:

21 **Sec. 38.05.872. Disposition of state land and resources for flood control**
 22 **projects.** (a) The department may make conveyances of title or other interests in state
 23 land, provide for exchange of land, or make other arrangements with respect to state
 24 land, as necessary to meet federally established requirements of flood control projects
 25 authorized inside the state by the United States.

26 (b) The commissioner may convey materials at less than fair market value to
 27 municipalities, other state and federal agencies, or other entities, and make other
 28 arrangements for land and materials as mitigation of a flooding area where excess
 29 material deposition significantly contributes to the flooding, consistent with a site-
 30 specific flood mitigation plan approved by the commissioner and determined to be in
 31 the best interests of the public.

54

1 * **Sec. 18.** AS 38.05.945(b) is amended to read:

2 (b) When notice is required to be given under this section,

3 (1) the notice must contain sufficient information in commonly
4 understood terms to inform the public of the nature of the action and the opportunity
5 of the public to comment on it;

6 (2) if the notice is of a preliminary written finding described in
7 (a)(3)(A) of this section, the department shall give notice at the beginning of the public
8 comment period for the preliminary written finding, notifying the public of the right to
9 submit comments; the department shall give notice by

10 (A) posting notice on the Alaska Online Public Notice
11 System for at least 30 consecutive days [PUBLICATION OF A LEGAL
12 NOTICE IN NEWSPAPERS OF STATEWIDE CIRCULATION AND IN
13 NEWSPAPERS OF GENERAL CIRCULATION IN THE VICINITY OF
14 THE PROPOSED ACTION AT LEAST ONCE A WEEK FOR TWO
15 CONSECUTIVE WEEKS];

16 (B) publication of a notice in display advertising form
17 describing the proposed action and referencing the online notice required
18 in (A) of this paragraph in newspapers of statewide circulation and in
19 newspapers of general circulation in the vicinity of the proposed action, if
20 available, [IN THE NEWSPAPERS DESCRIBED IN (A) OF THIS
21 PARAGRAPH] at least once a week for two consecutive weeks;

22 (C) public service announcements on the electronic media
23 serving the area to be affected by the proposed action; and

24 (D) one or more of the following methods:

25 (i) publication of a legal notice in newspapers of
26 statewide circulation or in newspapers of general circulation in the
27 vicinity of the proposed action, if available, at least once a week for
28 two consecutive weeks;

29 (ii) [(i)] posting in a conspicuous location in the vicinity
30 of the action;

31 (iii) [(ii)] notification of parties known or likely to be

1 affected by the action; or

2 (iv) [(iii)] another method calculated to reach affected
3 parties;

4 (3) if the notice is of an action described in (a) of this section, other
5 than notice of an action under (a)(3)(A) of this section, the department shall give
6 notice at least 30 days before the action by posting notice on the Alaska Online
7 Public Notice System for at least 30 consecutive days [PUBLICATION IN
8 NEWSPAPERS OF STATEWIDE CIRCULATION AND IN NEWSPAPERS OF
9 GENERAL CIRCULATION IN THE VICINITY OF THE PROPOSED ACTION]
10 and by one or more of the following methods:

11 (A) publication of a notice in display advertising form
12 describing the proposed action and referencing the online notice required
13 in this paragraph in newspapers of statewide circulation and in
14 newspapers of general circulation in the vicinity of the proposed action, if
15 available, at least once a week for two consecutive weeks;

16 (B) [(A)] publication through public service announcements on
17 the electronic media serving the area affected by the action;

18 (C) [(B)] posting in a conspicuous location in the vicinity of
19 the action;

20 (D) [(C)] notification of parties known or likely to be affected
21 by the action;

22 (E) publication of a legal notice, at least 30 days before the
23 action, briefly describing the proposed action and referencing the online
24 notice required in this paragraph in newspapers of statewide circulation
25 and in newspapers of general circulation in the vicinity of the proposed
26 action, if available; or

27 (F) [(D)] another method calculated to reach affected persons.

28 * Sec. 19. AS 38.05.945(b), as amended by sec. 18 of this Act, is further amended to read:

29 (b) When notice is required to be given under this section,

30 (1) the notice must contain sufficient information in commonly
31 understood terms to inform the public of the nature of the action and the opportunity

1 of the public to comment on it;

2 (2) if the notice is of a preliminary written finding described in
3 (a)(3)(A) of this section, the department shall give notice at the beginning of the public
4 comment period for the preliminary written finding, notifying the public of the right to
5 submit comments; the department shall give notice by

6 (A) posting notice on the Alaska Online Public Notice System
7 for at least 30 consecutive days;

8 (B) publication of a notice in display advertising form
9 describing the proposed action and referencing the online notice required in
10 (A) of this paragraph in newspapers of statewide circulation and in newspapers
11 of general circulation in the vicinity of the proposed action, if available, at least
12 once a week for two consecutive weeks;

13 (C) public service announcements on the electronic media
14 serving the area to be affected by the proposed action; and

15 (D) one or more of the following methods:

16 (i) publication of a legal notice in newspapers of
17 statewide circulation or in newspapers of general circulation in the
18 vicinity of the proposed action, if available, at least once a week for
19 two consecutive weeks;

20 (ii) posting in a conspicuous location in the vicinity of
21 the action;

22 (iii) notification of parties known or likely to be
23 affected by the action; or

24 (iv) another method calculated to reach affected parties;

25 (3) if the notice is of an action described in (a) of this section, other
26 than notice of an action under (a)(3)(A) of this section, the department shall give
27 notice at least 30 days before the action by posting notice on the Alaska Online Public
28 Notice System for at least 30 consecutive days and by one or more of the following
29 methods:

30 (A) publication of a notice in display advertising form
31 describing the proposed action and referencing the online notice required in

1 this paragraph in newspapers of statewide circulation and in newspapers of
 2 general circulation in the vicinity of the proposed action, if available, at least
 3 once a week for two consecutive weeks;

4 (B) publication through public service announcements on the
 5 electronic media serving the area affected by the action;

6 (C) posting in a conspicuous location in the vicinity of the
 7 action;

8 (D) notification of parties known or likely to be affected by the
 9 action; **or**

10 (E) [PUBLICATION OF A LEGAL NOTICE, AT LEAST 30
 11 DAYS BEFORE THE ACTION, BRIEFLY DESCRIBING THE PROPOSED
 12 ACTION AND REFERENCING THE ONLINE NOTICE REQUIRED IN
 13 THIS PARAGRAPH IN NEWSPAPERS OF STATEWIDE CIRCULATION
 14 AND IN NEWSPAPERS OF GENERAL CIRCULATION IN THE
 15 VICINITY OF THE PROPOSED ACTION, IF AVAILABLE; OR

16 (F)] another method calculated to reach affected persons.

17 * **Sec. 20.** AS 38.05.965(10) is repealed and reenacted to read:

18 (10) "materials"

19 (A) means all common variety rock and minerals of any
 20 quality, that are saleable and not subject to location under state or federal
 21 mining laws;

22 (B) includes aggregate, riprap, railroad ballast, road ballast,
 23 road metal, peat, silt, loam, sand, gravel, and quarry stone;

24 * **Sec. 21.** AS 46.15.155(a) is amended to read:

25 (a) Notwithstanding any contrary provision of this chapter, the commissioner
 26 may authorize the temporary use of a significant amount of water, as determined by
 27 the department by regulation, for a period of time not to exceed five consecutive years
 28 **for each authorization**, if the water applied for has not been appropriated in
 29 accordance with this chapter. **In the commissioner's discretion, a new authorization**
 30 **for the temporary use of a significant amount of water may be issued for a**
 31 **project at or before the expiration of the existing authorization issued for the**

1 same project.

2 * **Sec. 22.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change

5 (1) the heading of Article 4 of AS 38.05 from "Disposal of Timber and
6 Materials" to "Disposal of Timber";

7 (2) the catchline of AS 38.05.110 from "Sale of timber and materials; account"
8 to "Sale of timber".

9 * **Sec. 23.** Section 19 of this Act takes effect July 1, 2017.

10 * **Sec. 24.** Except as provided in sec. 23 of this Act, this Act takes effect July 1, 2012.

AMENDMENT #1 *set aside*
3/3/5

OFFERED IN THE HOUSE
TO: HB 361

BY REPRESENTATIVE DICK

- 1 Page 8, following line 17:
2 Insert a new subsection to read:
3 "(f) Notwithstanding (b) - (e) of this section, for the purpose of creating
4 incentives for the development of peat as a heat or energy source, the director may
5 negotiate the sale of peat to individuals, organized or unorganized communities, tribal
6 governments, or private profit or nonprofit organizations. Under this subsection, the
7 director shall provide,
8 (1) for personal use by an individual or for testing or product
9 development, not more than 20,000 cubic feet of peat free of charge; or
10 (2) for users requiring more than 20,000 cubic yards, the required
11 amount of peat at 20 percent of the appraised fair market value."

AMENDMENT #1

OFFERED IN THE HOUSE
TO: HB 361

BY REPRESENTATIVE DICK

1 Page 8, following line 17:

2 Insert a new subsection to read:

3 "(f) Notwithstanding (b) - (e) of this section, for the purpose of creating
4 incentives for the development of peat as a heat or energy source, the director may
5 negotiate the sale of peat to individuals, organized or unorganized communities, tribal
6 governments, or private profit or nonprofit organizations. Under this subsection, the
7 director shall provide,

8 (1) for personal use by an individual or for testing or product
9 development, not more than 20,000 cubic ~~yards~~ of peat free of charge; or

10 (2) for users requiring more than 20,000 cubic yards, the required
11 amount of peat at 20 percent of the appraised fair market value."

Biomass
Barley
willow

Regional sales

Market

AMENDMENT

~~1~~
#2

OFFERED IN THE HOUSE
TO: HB 361

1 Page 5, following line 19:

2 Insert a new bill section to read:

3 **** Sec. 11.** AS 38.05.115 is amended to read:

4 **Sec. 38.05.115. Limitations and conditions of sale.** (a) The commissioner
5 shall determine the timber [AND OTHER MATERIALS] to be sold [,] and the
6 limitations, conditions, and terms of sale. The limitations, conditions, and terms shall
7 include the utilization, development, and maintenance of the sustained yield principle,
8 subject to preference among other beneficial uses. The commissioner may negotiate
9 sales of timber [OR MATERIALS] without advertisement and on the limitations,
10 conditions, and terms that are considered to be in the best interests of the state. Within
11 a one-year period, the commissioner may not negotiate a sale without advertisement to
12 the same purchaser of

13 [(1)] more than 500 M.B.M. or equivalent other measure of timber [;

14 (2) EXCEPT AS PROVIDED IN (3) OF THIS SUBSECTION,
15 MORE THAN 25,000 CUBIC YARDS OF MATERIALS; OR

16 (3) MORE THAN 100,000 CUBIC YARDS OF MATERIALS TO A
17 COMMON CARRIER HOLDING A LEASE UNDER AS 38.35].

18 (b) Negotiated sales not exceeding 50 M.B.M. or the equivalent other measure
19 of timber [OR 2,500 CUBIC YARDS OF MATERIALS] are exempt from the
20 provisions of AS 34.15.150.

21 (c) The limitations of this section are not applicable to timber **that** [WHICH]
22 becomes state property under the provisions of AS 45.50.210 - 45.50.235."
23

1 Renumber the following bill sections accordingly.

2

3 Page 13, line 28:

4 Delete "sec. 18"

5 Insert "sec. 19"

6

7 Page 16, line 9:

8 Delete "Section 19"

9 Insert "Section 20"

10

11 Page 16, line 10:

12 Delete "sec. 23"

13 Insert "sec. 24"

#3

AMENDMENT

OFFERED IN THE HOUSE

TO: HB 361

- 1 Page 6, line 22:
- 2 Delete "in fee"

#4

AMENDMENT

OFFERED IN THE HOUSE

TO: HB 361

- 1 Page 15, line 23:
- 2 Delete "and quarry stone"
- 3 Insert "stone, pumice, and common clay"

#6

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE DICK

TO: HB 361

1 Page 8, following line 17:

2 Insert a new subsection to read:

3 "(f) Notwithstanding (a) - (e) of this section, for the purpose of creating incentives for
4 the development of peat as a source of heat or power, the director shall ^{may} negotiate the sale of
5 peat to individuals, organized or unorganized communities, tribal governments, or private
6 profit or nonprofit organizations. Under this subsection, the director shall ^{may} provide,

7 (1) for personal ²⁰⁰ use by an individual ^{for} or for testing or product
8 development for commercial use, not more than ²⁰⁰⁰ ~~30,000~~ ^{30,000} cubic yards of peat a year at
9 no cost for a period not to exceed ⁵ years; or

10 ⁽³⁾(2) for users requiring more than ^{2000 30,000} 20,000 cubic yards a year, the amount
11 of peat required by the user for a period not to exceed 10 years at the price of

12 (i) 20 percent of the representative regional sales price
13 determined by the director under AS 38.05.550(d)(1); or

14 (ii) 20 percent of the fair market value determined by an
15 appraisal completed under AS 38.05.550(d)(2), if the applicant
16 provides the appraisal at the applicant's expense and the appraisal is
17 approved by the commissioner."

~~Concept~~

#1

#6



Amendment to Amendment A.4

Line 7: Delete material

Insert: (1) for personal use by an individual not to exceed 200 cubic yards per year for personal use at no cost *or*

(1)

Line 8 and line 9: Delete material

Insert: (2) [for testing or product development] for commercial use, not more than ~~2000~~ cubic yards [per year] at no cost for a period not exceed ~~5~~ years
30000 Total *10*

(2)

Renumber accordingly

(3)

Line 10: Delete "20,000"

Time 20%

Insert "2,000"



Conceptual #2 to 6: withdrawn

Concept 6 to Amend #6.

Concept #3 to 6

Concept #4 to 6

Concept #5 to 6 Ad

Conceptual #1 #6
Amendment to Amendment A.4 Adopted

Line 7: Delete material

Insert: (1) for personal use by an individual not to exceed 200 cubic yards per year for personal use at no cost

Line 8 and line 9: Delete material

Insert: (2) for testing or product development for commercial use, not more than 2000 cubic yards per year at no cost for a period not exceed 5 years

Renumber accordingly

Line 10: Delete "20,000"

Insert "2,000"

Conceptual #2 to Amendment #6 — Withdrawn

Delete "For testing or Product development"

Delete "5" Insert "10"

Conceptual #3 Adopted

Delete "for testing or Product development"

Delete "2000" replace w/ "30,000 total"

Delete "for year"

Delete "5" Insert "10"

Conceptual # 4 to 6 - Withdrawn

After SubParagraph 1 insert "or"
SubParagraph 2 insert "or"

Conceptual # 5 to Amendment # 6 - Adopted

Insert "or"s

"for users ^{beginning} more than 30,000 cubic yards"
over 10 year period" (?)

Conceptual # 6 to Amendment 6 - Adopted
Delete "shall" lines 4 and line 6
Insert "May"

Amendment # 6 as Amended

Page 8, following line 17:

look ok ?

Insert a new subsection to read:

"(f) Notwithstanding (a)-(e) of this section, for the purpose of creating incentives for the development of peat as a source of heat or power, the director may negotiate the sale of peat to individuals, organized or unorganized communities, tribal governments, or private profit or nonprofit organizations. Under this subsection the director may provide,

(1) for personal use by an individual not to exceed 200 cubic yards per year for personal use at no cost; or

(2) for commercial use not more than 30,000 cubic yards total at no cost for a period not to exceed 10 years; or

(3) for ^{commercial} users requiring more than 30,000 ^{the} ~~the~~ ^{total} ~~the~~ ^{single} ~~of~~ (2) cubic yards over a 10 year period, the amount of peat required by the user for a period not to exceed 10 years at the price of

(i) 20 percent of the representative regional sales price determined by the director under AS 38.05.550(d)(1); or

(ii) 20 percent of the fair market value determined by an appraisal completed under AS 38.05.550 (d)(2), if the applicant provides the appraisal at the applicant's expense and the appraisal is approved by the commissioner."

Proposed Amendments to HB 361 either by amendment or committee substitute.

Proposed by DNR on 3/13/12

- 1) Below is a proposed change to AS 38.05.115 that was accidentally omitted in the original submission to the Legislature. This is a critical part of separation of material sales and timber sales statutes. Also the material sales issues addressed in the deleted paragraphs are covered under our new material sales Article (14A) in Sec. 14 of the bill. Leaving this section uncorrected would cause a conflict/confusion between the laws if HB 361 were to become law. The new material sales Article relies on the public notice and best interest decision to create material sale sites with size limitations, providing the option to offer without further public notice negotiated sales of any volume not exceeding five year contracts from those sites. AS 38.05.115 would be amended as follows:

AS 38.05.115. Limitations and conditions of sale.

(a) The commissioner shall determine the timber [AND OTHER MATERIALS]to be sold, and the limitations, conditions, and terms of sale. The limitations, conditions, and terms shall include the utilization, development, and maintenance of the sustained yield principle, subject to preference among other beneficial uses. The commissioner may negotiate sales of timber [OR MATERIALS]without advertisement and on the limitations, conditions, and terms that are considered to be in the best interests of the state. Within a one-year period, the commissioner may not negotiate a sale without advertisement to the same purchaser of [

(1)] more than 500 M.B.M. or equivalent other measure of timber[;

(2) EXCEPT AS PROVIDED IN (3) OF THIS SUBSECTION,
MORE THAN 25,000 CUBIC YARDS OF MATERIALS; OR

(3) MORE THAN 100,000 CUBIC YARDS OF MATERIALS TO A
COMMON CARRIER HOLDING A LEASE UNDER AS 38.35].

(b) Negotiated sales not exceeding 50 M.B.M. or the equivalent other measure of timber [OR 2,500 CUBIC YARDS OF MATERIALS]are exempt from the provisions of AS 34.15.150.

(c) The limitations of this section are not applicable to timber which becomes state property under the provisions of AS 45.50.210- 45.50.235.

- 2) A second issue is under proposed statute AS 38.05.550(a) Disposal of materials (SEC. 14 OF THE BILL). We have to eliminate the words "in fee" from the first sentence as this may not allow for sale of materials from Tentatively Approved lands. Another point is title 38 does not refer to lands "owned in fee" and this is a new term in the Lands Act. Therefore Section 14 page 6 line 22 would be modified as follows:

Sec. 38.05.550. Disposal of materials. (a) All materials owned [IN FEE] by the

- 3) A third issue is with the definition of "materials" under section 20 of the bill. As written the bill proposes to change the existing definition to one we suggested and includes a

list of different types of materials in subchapter (B). The problem is that the new list omits the terms "stone, pumice and common clay". "Quarry stone" may cover "stone" as an equivalent term but there is some question. However, the omission of "pumice and common clay" may lead to the interpretation that the omission was intended by the legislature to remove those types of materials as materials. This we do not want. The simplest thing is to replace "quarry stone" with "stone" (as there is no definition of quarry stone and stone is a more commonly understood term) and add back in the terms "pumice and common clay" to the list in sub-chapter (b). This section of the bill should read:

* **Sec. 20.** AS 38.05.965(10) is repealed and reenacted to read:

(10) "materials"

(A) means all common variety rock and minerals of any quality, that are saleable and not subject to location under state or federal laws;

(B) includes aggregate, riprap, railroad ballast, road ballast, road metal, peat, silt, loam, sand, gravel, stone, pumice and common clay;

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

cost # codes

Bill Version
Fiscal Note Number
Publish Date

HB 361

1

2/29/12 (H)

Identifier (file name) 0717-DFG-SFD-2-22-12

Dept. Affected ADF&G

Title PERMIT REFORM

Appropriation Sport Fisheries

Allocation Sport Fisheries

Sponsor GOVERNOR

Requester Rules by Request of the Governor

OMB Component Number 464

Expenditures/Revenues

(Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS								
Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES								

Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required;
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial version.

Prepared by Charles O. Swanton, Director
Division Sport Fish Division
Approved by Cora Campbell
Commissioner

Phone 465-6189
Date/Time 2/22/2012 3:18PM
Date 2/22/2012

FISCAL NOTE #1

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. HB 361

Analysis

There is no anticipated fiscal impact upon the Sport Fish Division.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version HB 361
 Fiscal Note Number 2
 Publish Date 2/29/12 (H)

Identifier (file name) LL0717-DOT-SWD-2-21-12 Dept. Affected DOT&PF
 Title Permit Reform Appropriation Design, Engineering & Construction
Stwd Design & Eng Services
 Sponsor Governor
 Requester Rules by Request of the Governor OMB Component Number 2357

Expenditures/Revenues (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES	FY13	FY13	FY14	FY15	FY16	FY17	FY18
Personal Services	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
Services	0.0		0.0	0.0	0.0	0.0	0.0
Commodities	0.0		0.0	0.0	0.0	0.0	0.0
Capital Outlay	0.0		0.0	0.0	0.0	0.0	0.0
Grants, Benefits	0.0		0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0		0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts	0.0		0.0	0.0	0.0	0.0
1003	GF Match	0.0		0.0	0.0	0.0	0.0
1004	GF	0.0		0.0	0.0	0.0	0.0
1005	GF/Prgm (DGF)	0.0		0.0	0.0	0.0	0.0
1037	GF/MH (UGF)	0.0		0.0	0.0	0.0	0.0
1178	temp code (UGF)						
TOTAL		0.0		0.0	0.0	0.0	0.0

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES	0.0		0.0	0.0	0.0	0.0	0.0
---------------------------	------------	--	------------	------------	------------	------------	------------

Estimated SUPPLEMENTAL (FY12) operating costs _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial version

Prepared by Brenda Hewitt, Legislative Liaison
 Division DOT&PF
 Approved by Marc Luiken
Commissioner

Phone 465-4772
 Date/Time 2/21/12 5:00 PM
 Date 2/21/12 5pm

FISCAL NOTE #2

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. HB 361

Analysis

This legislation relates to the Alaska Land Act and the disposal of state land and materials expanding options for the method of sale. The department does not see any fiscal impact from the changes proposed in this legislation.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version HB 361
 Fiscal Note Number 3
 (H) Publish Date 2/29/12

Identifier (file name) LL0717-DNR-MLW -02-27-12 Dept. Affected Department of Natural Resources
 Title DNR Permitting Efficiency Bill Appropriation Land & Water Resources
 Allocation Mining Land & Water
 Sponsor Governor
 Requester Rules by Request of the Governor OMB Component Number 3002

Expenditures/Revenues (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES	FY13	FY13	FY14	FY15	FY16	FY17	FY18
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
178	temp code (UGF)							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS

Full-time	0	0	0	0	0	0	0
Part-time	0	0	0	0	0	0	0
Temporary	0	0	0	0	0	0	0

CHANGE IN REVENUES

	***	***	***	***	***	***	***
--	-----	-----	-----	-----	-----	-----	-----

Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial Version.

Prepared by Brent Goodrum, Director
 Division Mining, Land & Water
 Approved by Daniel S. Sullivan, Commissioner
Department of Natural Resources

Phone 269-8600
 Date/Time 2/27/12 2:00 PM
 Date 2/27/2012

Analysis

LL 0717 proposes to make changes to the Alaska Land Act that are intended to increase efficiency, certainty and timeliness of DNR's land permitting, leasing, mining and land sales programs to permitting applicants.

These proposed changes are not anticipated to have a fiscal impact on the department or the State with the exception of the proposed revision to AS 38.05.212(a), Section 12 of the bill. Under that proposed revision the department would have the authority to exempt, by regulation, small operations from the production royalty. While the definition and threshold level for consideration would need to be established through regulation, DNR anticipates that the net reduction in actual royalties paid to the state under this exemption could be around \$10,000 per year. This is because mining operations are allowed to deduct certain operating costs against any royalty due to the state and it is anticipated that the deductions allowed most small operations would equal or exceed any royalty due. Most small operations actually pay no royalty but are still required to go through the accounting and filing operations. The primary benefit of this proposed statute change would come from the cost savings of both DNR and the small operators' administrative efforts to track, calculate and report minimal royalty payments. DNR would then be able to apply this savings in staff time to other, more pressing mining issues.

Because the number of small operations and the threshold level for this exemption must be established through the regulatory process, and because of the variability of the price of metals, DNR cannot provide an estimate of the actual reduction in royalty income at this time. As such the actual reduction to the state's revenue is indeterminate.

The other sections of the bill will either create efficiencies or prevent inefficiencies. The revisions will benefit both the applicant and the State. The applicant will be saved time and cost by the changes.

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Governor Sean Parnell
STATE OF ALASKA

February 27, 2012

The Honorable Gary Stevens
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Stevens,

Under the authority of Article III, Section 18 of the Alaska Constitution, I am transmitting a bill relating to the Alaska Land Act, including certain lease, sale, and other disposal of State land and materials; relating to production royalties from miners; and relating to rights to use State water. This bill will reduce the permitting burden and costs of applicants by creating efficiencies, streamlining, and eliminating redundancies in the permit application process.

This bill would accomplish the following:

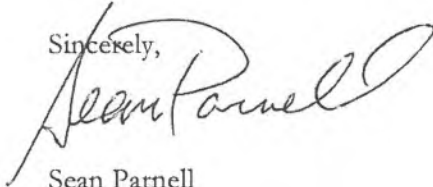
- (1) Allow the Department of Natural Resources to use sealed bid procedures, rather than public auction, if appropriate, for certain leasing and disposal of State land;
- (2) Raise the monetary cap for negotiating leases of State land from \$5,000 to \$10,000;
- (3) Give the Department of Natural Resources more flexibility regarding when to issue negotiated leases of land, as opposed to using a competitive bid process;
- (4) Allow the Department of Natural Resources to renew mineral and land leases under certain conditions without conducting the same process for initiating a new lease;
- (5) Separate out the respective rules and procedures for timber sales and material sales, such as for rock and gravel;
- (6) Allow the Department of Natural Resources to convey materials as needed for flood control purposes;
- (7) Allow the Department of Natural Resources to exempt small mining operations from having to pay production royalties; and

The Honorable Gary Stevens
February 27, 2012
Page 2

- (8) Provide more flexibility to the Department of Natural Resources in how they notify the public of proposed decisions.

Collectively, these various changes represent an effort by the Department of Natural Resources to make its administration of these programs more efficient. If enacted, these changes will help the Department improve its ability to responsibly manage the State's land and resources in accordance with constitutional principles and statutory directives.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean Parnell". The signature is written in a cursive style with a large, looping initial "S".

Sean Parnell
Governor

Enclosure

HB 361: DISPOSALS OF STATE RESOURCES

SECTIONAL ANALYSIS

FOR THE HOUSE RESOURCES COMMITTEE • FEBRUARY 29, 2012

Sections 1 through 4 of the bill revise land sales statutes to clarify that the Division of Mining, Land, and Water can use sealed bids instead of public auctions as the Department of Natural Resources has done for many years.

Sec. 5 revises leasing statutes to increase the appraised value of the transaction from \$5,000 to \$10,000 per year in order to qualify for negotiated leases.

Sec. 6 revises the statute by adding new subsections to the land leasing laws:

(d) This section revises land leasing laws to provide for conversion of a public, competitive offering process to a negotiated, non-competitive process if after public notice only one interested party expresses interest in acquiring the lease.

(e) This section revises land leasing laws to provide for renewals upon expiration of a lease issued under AS 38.05.070, 38.05.075, or 38.05.810. This would allow for a lease to be renewed one time at the discretion of the director of MLW if certain established conditions are satisfied.

Sections 7 through 9 revise land leasing statutes to clarify that MLW can use sealed bids instead of public auctions.

Sections 10 and 11 separate material sales from timber sales in the statutes. Timber sales would remain under AS 38.05.110 - 123 and a new section would be established for material sales (sand, gravel, rip-rap, stone etc.) under Section 14 of this bill. This will clarify the purposes, methods and procedures for these two different types of property sales, which would provide more certainty to the sales processes.

Sec. 12 changes this statute to conform to the Department of Revenue's mining license tax laws and allow miners to file MLT either by calendar year or the company's fiscal year. This section also gives DNR the authority to exempt, by regulation, small operations from the production royalty.

Sec. 13 revises mining statutes to allow the director of the Division of Mining, Land and Water to extend or renew a submerged land mining lease for up to a period of 20 years.

Sec. 14 proposes to revise the Alaska Land Act by adding new sections under a new Article (14A) to deal specifically with Material Sales. This proposed change, associated with proposed changes under Sections 10 and 11, is intended to separate the two very different types of property sales.

The substantive changes to the material sales statutes under this section separate out the respective rules and procedures for timber sales and material sales (such as for rock and gravel).

The proposed changes would:

- Allow the state to solicit competitive interest in material sales, and if there is none, avoid the longer competitive process;
- Establish how prices would be determined and allow for more use of the representative regional sales price rather than requiring appraisals of the material for each sale;
- Clarify that material may be sold at less than fair market value for certain instances that are in the public interest as related to conditions set in AS 38.05.872; and
- Allow material use that is incidental to other authorizations to be sold without a separate material sale authorization.

Sec. 15 revises public and charitable use statutes to clarify that DNR may negotiate the lease of state land without competitive bid as opposed to public auction. This change amends this section of the law to conform to changes proposed in Sections 1-4, and 7-9 of the bill.

Sec. 16 revises public and charitable use statutes to allow DMLW to negotiate within the leasing process the sale of material necessary for construction, use, maintenance of property leased under AS 38.05.810.

Sec. 17 repeals and reenacts the statute that allows the department to convey materials as needed for certain flood control purposes.

Sec. 18 revises public notice statutes in order to modernize public notice requirements for disposals of property rights.

Sec. 19 repeats Sec. 18 except that it removes the option to post a legal notice referencing the online notification in a newspaper of statewide circulation as of July 1, 2017 per section 23. That option was included as a transitional option to help the public transition to online methods.

Sec. 20 changes the definition of “materials” within the Alaska Lands Act.

Sec. 21 changes Alaska Water Law to clarify that temporary water use permits may be renewed.

Sec. 22 provides instruction to the revisor of statutes to make organizational changes to correspond with the proposed separation of timber sales and material sales being proposed in Sections 10, 11, and 14 of this bill.

Sec. 23 provides that Section 19 of the Act takes effect on July 1, 2017.

Sec. 24 provides that, except as provided in sec. 23 of the Act, the Act takes effect July 1, 2012.

Paul

HB 361: DISPOSALS OF STATE RESOURCES BRIEFING PAPER

FOR THE HOUSE RESOURCES COMMITTEE • FEBRUARY 29, 2012

The Division of Mining, Land and Water in the Department of Natural Resources has identified over 30 statutory changes that would help reduce applicant costs, create efficiencies by streamlining processes, reduce redundancies, and reduce opportunities for legal challenges. These changes would reduce the permitting burden on the applicant and free more time for staff to work on processing applications. Department of Law has drafted a bill that includes some of the highest priority changes that relate to the certain leasing and disposal programs and to water rights that are administered by the Department of Natural Resources.

The bill would accomplish the following primary objectives:

- 1) Give the department more flexibility on when to issue negotiated leases. as opposed to using a competitive bid process
 - The proposed changes would give DNR more flexibility to negotiate leases where appropriate for a term of up to 15 years, which would improve processing times and decrease administrative expenses.
 - Monetary caps would be raised from \$5000 to \$10,000 on negotiated leases. The consumer Price Index and land values have increased statewide over the last decade and the monetary cap for negotiating leases has not been adjusted to reflect these changes in value. This would allow more leases to be negotiated rather than having to be offered competitively, which is more time consuming and delays the issuance of the lease.¹
 - Offering more negotiated leases reduces the time it takes to issue leases and reduces costs to the applicant. This will help us reduce the backlog, and help ensure we are not hampering private-sector development by unnecessarily delaying lease issuances.
- 2) Allow department discretion in renewing certain land leases in good standing for term equal to initial term
 - Significantly reduces the administrative cost to the state for executing a new lease at the end of the primary term for these types of lease
 - Reduces cost and processing time for lessee at point of renewal when lessee is in good standing and following all the terms of their initial authorization.

Notes

list

1. Often leases that are offered competitively do not receive any competitive bidders, thus the time does not add any benefit to the process. This change would not prevent the state from offering competitively if it determined there was a competitive interest.

3) Separate out the respective rules and procedures for timber sales and material sales (such as for rock and gravel)

- Timber and material sale statutes are intertwined, which has led to misinterpretations because many of the existing statutes are specific to only timber or material sales, but not both.
- The proposed changes would provide clarity and efficiency for the material sales process by:
 - Allowing the state to solicit competitive interest in material sales, and if there is none, avoid the longer competitive process. This would allow sales to be offered through a more efficient negotiated sale process
 - Eliminating multiple duplicative decision processes for material sites that will have multiple sales
 - Establishing how prices would be determined and allowing for more use of the representative regional sales price rather than requiring appraisals of the material, thus reducing cost and processing time for applicants
 - Clarifying that material may be sold at less than fair market value for certain instances that are in the public interest
 - Allowing material use that is incidental to other authorizations to be sold without a separate material sale authorization, reducing processing time and cost for applicants
 - Defining materials in such a way as to add clarity and avoid lengthy disputes
 - Allowing the department to convey materials as needed for certain flood control purposes
- The proposed statute changes would ease the permitting burden on the private sector by allowing material sales to be issued more quickly and efficiently. Also, these changes would improve access to state materials for public benefit, such as to municipalities.

←

12% net profit in conjunction w/ Flood Control plan

?

~

4) Clarify that temporary water use permits may be renewed

- Under current statutes, a permittee must reapply for a Temporary Water Use Authorization (TWUA) permit if their project lasts longer than five years. The application must be submitted at the five-year mark and re-adjudicated by staff, even if the use is for the same amount of water from the same source for the same purposes.
- The proposed change would allow the division to provide a new TWUA at the five-year mark—if the water use is the same—without a formal decision process. This would allow applicants to avoid delays during renewal, and would save the division staff time which could be utilized for processing other authorizations.

Permanant?

competing use objections

5) Allow the department to use sealed bid procedures, rather than public auction, where appropriate

for what

- This change would clarify that DNR can use sealed bids to facilitate public auctions. The sealed-bid auction option is a more efficient and often more revenue positive option. Using this option will reduce the time it takes to sell or lease state land.
- Without this change, DNR could be challenged on the fact that it cannot utilize sealed bid auctions for public auctions, creating inefficiencies, and making it more difficult for the private sector to obtain state land.

6) Modernize public notice requirements for disposals of property rights

time frame

- Enables the department to notice disposals of property rights via the Alaska Online Public Notice System and de-emphasize notice given in printed media
- Helps to limit the cost of public noticing, as the cost for noticing in newspapers is continuing to increase as the popularity of print media decreases
- Increases flexibility for the department on how we issue public notices

7) Give the department the authority to exempt small mining operations from having to pay production royalties

- Creates a savings for small-production miners and the state—amounts being produced from these operations are diminutive and not worth the state's cost to complete the accounting and processing of the royalty

8) Revise a portion of the mining licensing tax law to allow companies to file their licensing tax by either calendar year or fiscal year

- Allows for a simplified process and administrative savings for filing, both for the state and the company
- Helps to coordinate licensing tax processing between the state and company, which creates efficiencies

9) Allow the director of the Division of Mining, Land and Water to extend or renew a submerged land mining lease for up to a period of 20 years

- Significantly reduces the administrative cost to the state for executing a new lease at the end of the primary term for these types of lease
- Benefits the lessee by providing them more certainty in renewing their lease, pending that they are in good standing with the state and in compliance with the terms of their lease

only if in production



MEMORANDUM
Department of Natural Resources

STATE OF ALASKA
Office of the Commissioner

TO: Rep. Eric Feige, Co-Chair
Rep. Paul Seaton, Co-Chair

DATE: March 13, 2012

TELEPHONE: 465-4730

FROM: Esther Tempel, Legislative Liaison

SUBJECT: HB 361 Follow-Up

During the March 5, 2012 hearing on HB 361, the following questions were raised. Please find below the responses from the Division of Mining, Land and Water along with the original questions that were asked (bolded).

Please let me or Dep. Director Wyn Menefee know if you require any further information or have any additional questions.

Note all references to the bill are working off of version 27-GH2717\A

How many leases would be affected by point one of the briefing paper (allowing more leases to be negotiated)?

Let us first clarify that this does not retroactively affect any existing leases. It only applies to future applications for leases. We can not accurately predict how many leases will be applied for and where. We can only look at the historical data and generalize the response.

The goal is to move more lease application processing from full competitive process to negotiated process. There are two parts of the bill that address this effort to shorten the processing time and reduce costs to the applicants. A negotiated process avoids the necessity to prepare an auction brochure, wait 30 additional days after posting notice of the auction, hold the auction and then issue the lease. (See attached chart)

On the first part under Section 5 (on page 3 line 5): the intent is to raise the initial threshold for allowing the director discretion to negotiate leases when the yearly appraised value of the transaction (i.e., rental value) does not exceed \$10,000 and the term will not exceed 10 years. The vast majority of our leases do not exceed this value. Most leases are already below the existing \$5000 threshold and only a handful of leases would be affected by this change each year. For example, certain larger tracts near communities or on the North Slope (leases of land outside of oil and gas lease boundaries or for non-oil and gas development) could exceed the \$5,000 value. Raising the threshold to \$10,000 would not automatically move the leases to the negotiated process, but rather provide the director discretion to use the negotiated process.

The second part under Section 6 (on page 3 line 14) would affect many more leases. The intent of part (d) is to first solicit competitive interest in an area where we have a lease application, and if there is no interest other than the applicant, we would begin to negotiate the lease with the applicant, thus avoiding the competitive auction process. We get between 10 – 20 lease applications per year that could potentially be affected by this revision.

Currently these revisions would allow this type of negotiated process for any lease that falls under AS 38.05.070. This includes leasing of uplands, and tide, submerged or shorelands except for resource extraction such as timber, mining or oil and gas leasing. The revisions are broad enough to be applicable for recreational facilities development, aquatic farm, hatchery, and shore fishery leasing. Where more specific statutes are applicable, such as in the shore fishery leasing under AS 38.05.082, the more specific statutes would prevail if there was a conflict.

Under briefing paper point 2, list what types of leases would be affected by this renewal clause?

This revision in Section 6 (on page 3 line 19) allows the director to renew leases that are in good standing one time. Because this revision is in AS 38.05.070 and includes direct references to leases issued under AS 38.05.075 (leasing procedures) and those issued under AS 38.05.810 (public and charitable leases), the renewal clause affects leases of uplands, and tide, submerged or shorelands except

for resource extraction such as timber, mining or oil and gas leasing. This could include everything from docks to lodges to energy production to storage facilities. It is applicable for recreational facilities development, aquatic farm, hatchery, and shore fishery leasing. It would not include leases under the Remote Recreational Cabin Site Program or agricultural preference rights.

Can renewals be applied for before the expiration of the lease?

There are three sections of HB361 that addresses renewals, sections 6 (general leases), 13 (submerged mineral leases), and 21 (temporary water use authorizations). There was concern expressed that lessees should have the ability to apply for renewal sooner than at the point of lease expiration. In all cases the statute would allow leases to be applied for before point of expiration. DNR would seek a determination of whether the lessee would want a renewal in sufficient time before expiration to allow for the renewal decision to be made before expiration. In some cases there may be some reasonable restrictions that would limit how far before the date of expiration a request for renewal could be received. For instance in aquatic farming and mineral leasing, there are requirements of annual reporting of production. DNR would not consider renewal of the lease more than a year before date of expiration to allow time for review of the last year's production reports to determine if the lessee was still in good standing following the stipulations in the lease. Note existing AS 38.05.250(c) allows for submerged mineral leases to be renewed year by year as long as there is production in paying quantities from the leased area, but does not allow for renewals of 20 year terms. This revision under section 13 allows the longer term renewal that provides more certainty for the lessee in business planning.

Do current land leases provide any first right of refusal to give the current lessee the upper hand on reissuance?

Under the current statutes, any reissuance of a lease at the end of a term would require a competitive process. If there was competitive interest and a new applicant were to win the auction, they would be required to reimburse the previous lessee for any of the improvements that the first lessee had built provided that they want to continue in the same use of the land. But the first lessee does not have the first right of refusal.

Under briefing paper point 4, verify that you could issue TWUA before end of term if it makes sense.

As mentioned before, under the revision in section 21, the temporary water use authorizations can be issued at or before the end of the lease.

Clarification of briefing paper point 8: it is mining royalty not mining license tax.

As a reminder, point 8 on the briefing paper is incorrect in saying that we are revising mining licensing tax law referring to Section 12 on page 6 of the bill. We are instead revising the mining royalty law. The statute revision is correct but the briefing paper used an incorrect term when referring to Section 12. The change in Section 12 does not conflict with the Department of Revenue's regulations which state that the mining license tax year is the same as that person's tax year for federal income tax purposes.

Follow up on Agricultural preference right auction question from Representative Seaton

The committee questioned whether the changes suggested in Section 3 (on page 2 line 22) adversely affected the state getting adequate compensation and would be used to stifle bidding. Upon further review of this section, DNR does not believe that the revision to allow the use of sealed bids in any way alters the probable outcome of an agricultural auction held under this section of statute. This area of statute in AS 38.05.069 provides an agricultural preference right. The apparent reason for the existence of this section is to allow agricultural land owners the right to broaden their land ownership if adjacent agricultural land becomes available. This preference right only comes into play when the commissioner has determined that the highest and best use of the unoccupied land to be leased is for agricultural use, and the adjacent owner is an Alaskan resident already using that adjacent parcel for agricultural purposes. This provides the right of the existing farmer to meet high bid to expand their farm. Whether the auction occurs through sealed bid or outcry auction, the adjacent land owner knows they can match high bid to purchase adjacent land through the preference right. They have no incentive to put in a high bid through sealed bid or to drive up the price through an outcry auction. They would wait to match the high bid in either event. Therefore it would not affect the outcome of the auction.

The revision DNR suggests does not address the underlying issue of whether the agricultural preference under the existing statute is the best policy; rather we seek to bring consistency in statute regarding the use of sealed bids or auctions. If there is a desire by the committee to address the underlying policy question of whether the state should offer the agricultural preference in the first place, we suggest that it be done in a separate statute revision.

Leasing actions required by HB361

Lease Application defines request	Below \$10,000 and less than 10 year term	Over \$10,000 or over 10 year term	
	Option to Negotiate without soliciting competitive interest	Through public notice solicit for competitive interest	
		<i>No competitive interest expressed</i>	<i>Competitive interest expressed</i>
	Requires best interest decision	Negotiate any terms	Prepare and hold auction
	Requires formal public notice	Requires best interest decision	Requires best interest decision
		Requires formal public notice, although initial notice would suffice	Requires formal public notice both at the outset and for auction
			Requires publication of auction brochure
			Requires additional 30 day public notice of auction

LEGAL SERVICES

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MEMORANDUM

March 13, 2012

SUBJECT: Sale of timber and materials; drafting issues (HB 361, Work Order No. 27-GH2717\A.5)

TO: Representative Paul Seaton
Co-Chair of the House Resources Committee
Attn: Louie Flora

FROM: Dennis C. Bailey 
Legislative Counsel

This memo accompanies the draft amendment making additional separations between the sale of timber and the sale of materials as set out in HB 361. Please be aware of the following issues that have come to my attention during drafting and review.

1. AS 41.24.470(b) also refers to timber or materials. Do you want to make changes to that subsection similar to the changes made in amendment 27-GH2717\A.5?
2. AS 38.05.860(b) addresses earnest money deposit issues for the sale of state land, minerals, timber, or materials to be made by sealed bid. Do you want to consider changes to this subsection as well?
3. Please understand that the current version of the bill is the original version from the Governor's office and has not been through our revising process. We expect to receive it for revising when it first becomes a committee substitute. The process can be expedited if you request a draft committee substitute before the bill is passed out of committee.

If I may be of further assistance, please advise.

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Anchorage Daily News

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State considers hunting rights for Alaska landowners

Large landowners would get special permits to big game.

By RICHARD MAUER

(03/04/12 19:01:03)

Six weeks before he learned he was under criminal investigation for violating his department's hunting rules, state Wildlife Division Director Corey Rossi told his staff about a pet project -- unprecedented in Alaska -- to give private landowners special rights to hunt big game, even out of season, and to be able to sell those rights to whomever they want.

Rossi lost his job in January with the filing of a criminal complaint that cited him for 12 misdemeanor violations during a 2008 bear hunt. He has pleaded not guilty and his case is moving through District Court in Anchorage.

But his project to privatize some of Alaska's game lives on in the Parnell administration. At least one deputy commissioner is still working on the landowner permit project. Rossi's replacement, Doug Vincent-Lang, says it remains under active consideration, though he needs time to review it.

"We don't waste time on ideas that have absolutely no merit," Vincent-Lang said.

The idea that wild game is a public resource and not the property of a landowner is a long-held doctrine in Alaska and most of North America. But that idea is being challenged, at least on a limited basis, by advocates of intensive game management, who argue that granting special game rights to property owners will encourage them to make life easier for big game on their land. One of the leading advocates of that position is the organization Sportsmen for Fish and Wildlife, in which Rossi was an active member before taking over the Wildlife Division.

According to Rossi's minutes of the Nov. 1-2 meeting of Wildlife Division leaders and others in Fish and Game, the attorney general's office was already drafting a new law that would implement the project. A budget was under development to manage the project with new staff positions, Rossi wrote.

"There is initial draft language, and the governor's office has asked for a full legal review," Rossi wrote.

Rossi's minutes were distributed this month by Vincent-Lang. A copy was leaked to the Daily News.

Owning hunting rights

The proposal would encourage owners of large private tracts to increase "public-interest benefits" on their land. They could do that by allowing access to hunters, improving habitat for species such as moose, or killing predators, Rossi wrote.

In return, landowners would get special hunting permits "that the landowner would be allowed to use or sell, perhaps with special authorizations such as the ability to hunt outside normal hunting seasons on their lands."

The proposal is modeled on similar programs in western states like Utah and Colorado, where it has been promoted by chapters of the advocacy group Sportsmen for Fish and Wildlife and its sister organization Sportsmen for Habitat. The organization has a big expo in Salt Lake City every year where it auctions special permits.

In the West, large landowners are mainly ranchers. In Alaska, Rossi noted in his minutes, they are Alaska Native corporations.

Mark Richards, co-chairman of the grassroots organization Alaska Backcountry Hunters and Anglers, said Alaska hunters wouldn't be the beneficiaries of Rossi's proposal.

"It doesn't take a rocket scientist to figure out who would win by privatizing more hunts in Alaska," Richards said in an email from his remote Interior cabin some 60 miles north of Eagle. "It would be the orgs that get the permits to auction off, and the wealthy hunters who could afford to buy them."

Sportsmen for Fish and Wildlife and similar organizations would also get "more power and influence to further game the system," Richards asserted.

Rossi has a strong connection to Sportsmen for Fish and Wildlife. In 2007, he was one of three founders of its Alaska chapter.

He was also a big-game guide. He was working as a guide for three out-of-state bear hunters in 2008 when he lied on his post-hunt reports to the state and failed to properly seal bear hides, according to the charges.

The June bear hunt took place about six months before he was brought into the Fish and Game department by then-Gov. Sarah Palin. She created a new position for him, assistant commissioner for "abundance management" -- the idea of managing moose and caribou to provide the greatest possible number of animals for hunters.

In 2010, Gov. Sean Parnell elevated Rossi to wildlife director, the official in charge of managing hunting and big-game habitat in Alaska. It was a controversial appointment because Rossi lacked a college degree and scientific training. But he was an expert at killing predators and vermin and had the backing of hunters who wanted fewer bears and wolves and more moose.

"With Director Rossi at the wheel, we at SFW look forward to some real positive changes within the Department that are long overdue!" executive director Dane Crowley of Sportsmen for Fish and Wildlife Alaska wrote at the time.

Constitution an obstacle?

In the minutes from the meeting in November, Rossi said the private-hunting project would require the Legislature to create a new kind of "landowner permit." He wanted the authority to dole out such permits at the department's discretion.

"Some discussions have occurred with various Native groups who have expressed strong interest in the concept, though at least one has firmly said it is not interested in providing hunter access," he wrote. "It is expected that for the program to move forward, the legislature would need to provide specific funding for the program, and new staff positions would be needed. There are many details still to be worked out, but the idea is moving forward."

One obstacle could be the Alaska Constitution. The Constitution provides that all resources, including wildlife, are "reserved to the people for common use." In the landmark 1989 McDowell

decision, the Alaska Supreme Court threw out a law that violated the equal access provision by giving rural residents priority over urban dwellers to fish and game.

Given that history, would it be possible for landowners to get more rights to game than others?

"Could a constitutional law be written? Yeah, sure it could," said Kevin Saxby, a senior assistant attorney general who advises the department on hunting issues. "The goal of the law would be to open up more access for more Alaskans, I presume, so that would serve the common use and the equal access provisions in Article 8 of the Constitution."

Saxby said he has only done "a tiny bit of work" on the initiative and wouldn't say whether that included writing a draft version of a bill. "Anything more is confidential until the governor makes a decision" to take the issue to the Legislature, he said.

Byron Bateman, president of Sportsmen for Fish and Wildlife in South Weber, Utah, said in a telephone interview that landowner permits in his state have "increased the opportunity for the ordinary citizen to be able to hunt some of these private lands that they would not have been able to afford."

He described Utah's hunting and landowner programs as an example for other states to follow.

"Utah has been a model as to how we manage all of our wildlife in the West. We've increased a lot of different populations," he said.

Sportsmen for Fish and Wildlife, along with the like-minded Mule Deer Foundation, hosts the Western Hunting and Conservation Expo in Salt Lake City, where special permits from around the West are auctioned. Among the hundreds auctioned over the weekend of Feb. 9-12 were about a dozen private landowner permits from Utah.

Bateman said those permits sold in the range of \$9,000 to \$18,500 each. Another indication of the value of permits appeared on Sportsmen for Fish and Wildlife's 2010 nonprofit tax returns, the most recent available. The returns show the organization raised \$2.4 million from selling permits, though it didn't break down how much of those were landowner permits. It did report how much it spent buying landowner permits: \$563,000.

The returns show Sportsmen for Fish and Wildlife spent \$1.1 million on conventions and conferences -- nearly as much as the \$1.4 million it spent on big-game habitat improvements, conservation, moving wildlife and studies.

To end hunting 'socialism'

Rossi's move to give landowners special rights to the wildlife on their property coincides with the ideology of Don Peay, a Utah guide and founder of Sportsmen for Fish and Wildlife.

Peay, who stressed that the Utah chapter isn't trying to push its view in Alaska or even with the Alaska chapter, said it's time to revisit the widely accepted principle in the United States and Canada that game is a public resource. Peay described that egalitarian doctrine, found in Alaska's state constitution and laws throughout the West, as "socialism." It offers no economic incentive for landowners to kill predators, improve big game habitat and even provide food and water for target species.

"We understand the North American model where wildlife belongs to the people, but we're also seeing dramatic reductions in game populations in the western United States under that model," he said. Population pressure, habitat loss from development and the rise of environmental

organizations opposed to predator control have put pressure on game herds that weren't envisioned when the laws were written a century or more ago, he said.

"When wildlife is a very highly valued asset, people want more of it and they'll invest additional funds to make sure it's abundant," Peay said.

The same is true of professional guides and outfitters, he added. "They tend to be more involved to make sure there's abundant game herds than a lot of guys who just buy their license the day before the hunt starts and then, when game disappears, the masses tend to complain -- but what did they do to allow that situation to happen and why weren't they more involved to fix it?"

Valerie Conner, conservation director for the Alaska Center for the Environment, said she doubted most Alaskans were ready to abandon or modify the concept of wildlife as a public resource. And managing wildlife to promote just moose and caribou for the benefit of guides and some sportsmen "is draconian," she said.

"It's an ecosystem out there, and the bears and wolves and other predators play a really vital role. They're just leading us down this path to eliminate as many predators as they can and create a game farm," she said. "If you're really concerned about managing on an ecosystem-wide basis, you wouldn't be taking out all the bears and wolves and incentivizing landowners to kill all the predators on their land. It's insane."

With the Alaska Board of Game and, increasingly, the Department of Fish and Game, representing primarily trappers, guides and abundance hunters, Conner said, there's almost no one speaking out for tourism and wildlife viewing in an official capacity.

"Diversity is equally as important as abundance," she said. "There's nobody on that board who represents the thousands of Alaskans who simply appreciate wildlife for its intrinsic value or to go look at it."

Reach Richard Mauer at rmauer@adn.com or 257-4345.

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STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES OFFICE OF THE COMMISSIONER

SEAN PARNELL, GOVERNOR

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February 28, 2012

Mr. Michael Payne
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Springs, MD 20910

Re: NMFS DEIS for Effects of Oil and Gas Activities in the Arctic Ocean

Dear Mr. Payne,

The State of Alaska reviewed the Draft Environmental Impact Statement (DEIS) for the Effects of Oil and Gas Activities in the Arctic. The stated purpose of the DEIS currently out for public comment has expanded significantly from the State's understanding to include the evaluation of potential effects of a Very Large Oil Spill, as well as the potential effects of seismic activity and alternate approaches for the Bureau of Ocean Energy Management (BOEM) to issue geophysical (G&G) permit decisions. Neither of these topics were considered in the original Environmental Impact Statement (EIS), so we were very surprised to find them being addressed in what we assumed was going to be an evaluation of the effects of Outer Continental Shelf (OCS) activities as they relate to authorizing the take of marine mammals incidental to oil and gas activities pursuant to the Marine Mammal Protection Act (MMPA). Per National Environmental Policy Act (NEPA) requirements, the public should have been informed about the expansion of the original EIS scope at a minimum, and the lead federal agency should have offered additional scoping opportunities to gather comments from the public, affected State and local agencies, and other interested stakeholders. This is a significant oversight of the NEPA process.

The DEIS addresses potential environmental impacts of oil and gas exploration in both State and federal waters of Alaska's OCS. For this reason, the State of Alaska should have been consulted during the EIS process, if not asked to join the EIS team as a Cooperating Agency. Unfortunately, since your agency made no attempt to collaborate with the State of Alaska, the restrictions, outcomes, and mitigation measures within the DEIS extend beyond the scope and jurisdiction of the National Marine Fisheries Service (NMFS), duplicate and contradict existing State lease stipulations and mitigation measures, and display an overreach of federal authorities and regulatory oversight.

Recognizing the significant role Alaska plays with regard to America's energy security, President Obama issued Executive Order 13580, "Interagency Working Group on Coordination of Domestic Energy Development and Permitting in Alaska," on July 12, 2011. The Executive Order tasks the Working Group to:

- Ensure the sharing and integrity of scientific and environmental information and cultural and traditional knowledge among agencies to support the permit evaluation process for onshore and offshore energy development projects in Alaska

"To responsibly develop Alaska's resources by making them available for maximum use and benefit consistent with the public interest."

- Coordinate federal engagement with States, localities, and tribal governments, as related to energy development and permitting issues in Alaska

It is disappointing that the goals of this presidential order are not being followed with respect to this DEIS process.

Furthermore, it is not clear from reading the DEIS why additional restrictions based on possible outcomes from the DEIS are needed when federal regulations already exist and where mitigation is already being evaluated in separate OCS EIS documents. For example, under the MMPA, incidental take authorizations are issued by NMFS for offshore activities to limit marine mammal encounters to negligible impacts. Incidental take authorizations and impacts to marine mammals in Alaska's OCS have most recently been evaluated as part of a separate DEIS which closed for public comment only one month ago by BOEM and for the 5-year (2012-2017) OCS Oil and Gas Leasing Program. It is not clear how your NEPA document may tier from other OCS EIS documents that are at a later stage of the NEPA process.

The DEIS is duplicative and presents additional OCS EIS documents without clearly identifying how mitigation from each document may be integrated into other federal decisions, particularly where multiple EIS's are evaluating oil and activities in the OCS. Furthermore, it is troubling that your agency's DEIS has failed to describe which specific action has triggered the NEPA process, explaining only that conceptual ideas of seismic effects from possible OCS oil and gas activities are being evaluated. This vague understanding of conceptual ideas would complicate and limit the ability to properly assess environmental impacts and provide suitable mitigation.

The four action alternatives evaluated in the DEIS include very restrictive drilling programs that do not accurately reflect the current number of companies holding leases in Alaska's OCS. Inevitably, this oversight and inclusion of an unrealistic range of alternatives would prevent certain companies from developing their OCS leases. Allowing only two exploratory drilling programs within a season and in the Beaufort and Chukchi Seas would significantly curtail leaseholder's abilities to develop their leases and prevents the economic viability of developing these areas. There are six operators holding leases in the Chukchi Sea and 18 operators with leases in the Beaufort Sea. The allowable exploratory actions in each of the alternatives are unrealistic and the decision making for choosing this level of allowable activity in the DEIS alternatives is arbitrary and should be re-evaluated.

Other proposed mitigation measures include seasonal closures that would reduce the potential to explore within the already brief open water season by approximately 50 percent. These closures further restrict an already short window of opportunity for companies to commence exploration activities. There are additional "special habitat area" closures that arbitrarily block lease access, and it is not made clear under which authority NMFS can impose these additional sensitive area closures. These proposed restrictions, individually and totally, would significantly limit the ability to develop Alaska's OCS.

We suggest that the efforts undertaken while developing this DEIS be re-evaluated to ensure adherence to the public process and for overall NEPA compliance. Furthermore, collaboration with other State, federal, and local stakeholders, as well as experts from the oil and gas industry, is essential to help improve the DEIS. For example, we understand from conversations with the Environmental Protection Agency (EPA) that they will be releasing their Ocean Discharge Criteria Evaluation (ODCE) soon, as part of the process of renewing the Arctic National Pollutant Discharge Elimination System (NPDES) General Permits for the Beaufort Sea and Chukchi Sea. Section 403(c) of the Clean Water Act requires that NPDES permits for ocean discharges be issued in compliance with the Ocean Discharge Criteria for preventing unreasonable degradation of ocean waters. It is not clear how NOAA

and BOEM can address the persistence of pollutants, bioaccumulation, and vulnerability of biological communities without the benefit of EPA evaluation. To note, the proposed zero discharge mandate described in the Arctic DEIS may be lacking EPA's critical input on the matter, possibly contradicting EPA's direction based on the pending ODCE evaluation. The EPA released the Arctic NPDES General Permits for public comment in March, 2012, but it is not clear yet when they will be releasing the ODCE for agency comment.

The State of Alaska has significant concerns regarding the mitigation measures and potential restrictions proposed in the DEIS, which if enforced, contradict President Obama's goal of reducing the nation's reliance on foreign oil. "Meeting this new goal of cutting our oil dependence depends largely on ... finding and producing more oil at home, and reducing our dependence on oil with cleaner alternatives fuels ..." (Speech at Georgetown University, March 29, 2011).

Furthermore, the State questions the economic analysis used for the DEIS, which did not accurately capture the positive economic benefits that would be realized from developing Alaska's OCS. Seismic surveys and potential exploration drilling would lend to positive impacts on economic growth, resident and worker employment opportunities, additional access for future development, as well as the royalty revenue, and production and property tax revenues that would result from developing Alaska's OCS.

Development of Alaska's OCS would greatly help secure our nation's energy needs. Studies estimate that the Alaska Arctic has more undiscovered oil than any Arctic nation. These studies estimate that the OCS contains 27 billion barrels of conventional oil and 132 trillion cubic feet of natural gas. Studies have also shown that development in Alaska's Beaufort and Chukchi Seas could result in the production of 700,000 barrels of oil per day for 40 years, in turn supplying more jobs, income, and energy for our state and nation, lowering our nation's trade deficit.

Finally, it is unclear whether NOAA intends to extend the public comment period to accommodate the postponed public meetings to be held in Kaktovik and Nuiqsut, Alaska in March. It seems appropriate to keep the public comment period open for all public entities until public meetings have been completed, versus closing the comment period on February 28, 2012, as currently proposed.

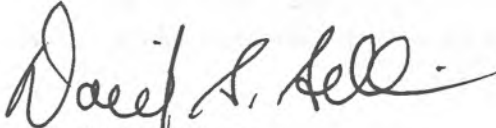
The Alaska OCS region is a vast yet untapped resource which has the potential to increase our nation's energy security, provide thousands of high-paying jobs, and generate billions of dollars in revenue. The State of Alaska has a vested interest in seeing those resources responsibly developed. From the federal perspective, exploration and development in the Alaska OCS region is important to the nation as a whole, especially considering sky rocketing oil and gas prices, which threaten economic recovery.

President Obama's Executive Order 13580, "Interagency Working Group on Coordination of Domestic Energy Development and Permitting in Alaska," was issued for the purpose of coordinating the "efforts of Federal agencies responsible for overseeing the safe and responsible development of onshore and offshore energy resources and associated infrastructure in Alaska and to help reduce our dependence on foreign oil."

As a result of the Executive Order, we were encouraged that the Obama Administration's views toward responsible oil and gas development were becoming more positive. However, this NMFS DEIS for the Effects of Oil and Gas Activities in the Arctic seems clearly to go against the goals and spirit of the Executive Order. The DEIS does not assess a particular project, is duplicative, creates the need for additional OCS EIS documents, and is based upon questionable authority. We are therefore concerned that the Executive Order is not being taken seriously, particularly in regard to creating a more coordinated, efficient process for Alaska OCS exploration, permitting, and development.

For these reasons, I am copying Deputy Secretary of the Interior, David Hayes and Deputy Assistant to the President on Energy and Climate Change, Heather Zichal, given that they are in charge of efforts to make energy development and permitting in Alaska more efficient. I encourage you to work with Mr. Hayes and Ms. Zichal to better harmonize this DEIS effort with the President's goals under Executive Order 13580.

We offer our general comments as well as those specific to the DEIS in the attached enclosure
Sincerely,



Daniel S. Sullivan
Commissioner

Enclosure

cc: David Hayes, U.S. Deputy Secretary of the of the Interior
Heather Zichal, Deputy Assistant to the President for Energy and Climate Change
Randy Ruaro, Deputy Chief of Staff, Office of the Governor
Kip Knudson, Director of State and Federal Relations, Office of the Governor
Larry Hartig, Commissioner, Alaska Department of Environmental Conservation
Joseph Balash, Deputy Commissioner, Alaska Department of Natural Resources
Ed Fogels, Deputy Commissioner, Alaska Department of Natural Resources
Jeff Jones, Special Assistant, Office of the Governor
William Barron, Director, Division of Oil and Gas, Alaska Department of Natural Resources
Thomas Crafford, Director, Office of Project Management and Permitting, Alaska
Department of Natural Resources
Mark Robbins, Associate Director, Office of the Governor
Gary Mendivil, Office of the Commissioner, Alaska Department of Environmental
Conservation
Sara Longan, Office of Project Management and Permitting, Alaska Department of Natural
Resources

CSHB 361(FIN): DISPOSALS OF STATE RESOURCES

BRIEFING PAPER

APRIL 3, 2012

The Division of Mining, Land and Water in the Department of Natural Resources has identified over 30 statutory changes that would help reduce applicant costs, create efficiencies by streamlining processes, reduce redundancies, and reduce opportunities for legal challenges. These changes would reduce the permitting burden on the applicant and free more time for staff to work on processing applications. Department of Law has drafted a bill that includes some of the highest priority changes that relate to the certain leasing and disposal programs and to water rights that are administered by the Department of Natural Resources.

The bill would accomplish the following primary objectives:

- 1) Give the department more flexibility on when to issue negotiated land leases, as opposed to using a competitive bid process
 - The proposed changes would give DNR more flexibility to negotiate leases after solicitation of competitive interest where only one party seeks the lease.
 - Negotiating leases rather than conducting the full process for a competitive lease will improve processing times and decrease administrative expenses.
 - Monetary caps would be raised from \$5,000 to \$10,000 on negotiated leases. The consumer Price Index and land values have increased statewide over the last decade and the monetary cap for negotiating leases has not been adjusted to reflect these changes in value. This would allow more leases to be negotiated rather than having to be offered competitively, which is more time consuming and delays the issuance of the lease.¹
 - Offering more negotiated leases reduces the time it takes to issue leases and reduces costs to the applicant. This will help us reduce the backlog, and help ensure we are not hampering private-sector development by unnecessarily delaying lease issuances.
 - This change does not apply to oil and gas leases.
- 2) Allow department discretion in renewing certain land leases in good standing for term equal to initial term
 - Significantly reduces the administrative cost to the state for executing a new lease at the end of the primary term for these types of lease.

1. Often leases that are offered competitively do not receive any competitive bidders, thus the time does not add any benefit to the process. This change would not prevent the state from offering competitively if it determined there was a competitive interest.

- Includes the requirement for a lease to be used for purpose of original decision in order to be considered in good standing.
 - Reduces cost and processing time for lessee at point of renewal when lessee is in good standing and following all the terms of their initial authorization.
 - This change does not apply to oil and gas or mineral leases.
- 3) Separate out the respective rules and procedures for timber sales and material sales (such as for rock and gravel)
- Timber and material sale statutes are intertwined, which has led to misinterpretations because many of the existing statutes are specific to only timber or material sales, but not both.
 - The proposed changes would provide clarity and efficiency for the material sales process by:
 - Allowing the state to solicit competitive interest in material sales, and if there is none, avoid the longer competitive process. This would allow sales to be offered through a more efficient negotiated sale process
 - Eliminating multiple duplicative decision processes for material sites that will have multiple sales
 - Establishing how prices would be determined and allowing for more use of the representative regional sales price rather than requiring appraisals of the material, thus reducing cost and processing time for applicants
 - Clarifying that material may be sold at less than fair market value for certain instances that are in the public interest
 - Allowing material use that is incidental to other authorizations to be sold without a separate material sale authorization, reducing processing time and cost for applicants
 - Defining materials in such a way as to add clarity and avoid lengthy disputes
 - Allowing the department to convey materials as needed for certain flood control purposes
 - The proposed statute changes would ease the permitting burden on the private sector by allowing material sales to be issued more quickly and efficiently. Also, these changes would improve access to state materials for public benefit, such as to municipalities.
- 4) Allow the department to use sealed bid procedures, rather than public auction, where appropriate
- This change would clarify that DNR can use sealed bids to facilitate public auctions. The sealed-bid auction option is a more efficient and often more revenue positive option. Using this option will reduce the time it takes to sell or lease state land.

- Without this change, DNR could be challenged on the fact that it cannot utilize sealed bid auctions for public auctions, creating inefficiencies, and making it more difficult for the private sector to obtain state land.
- This change addresses statutes that affect land sales, land leasing, contracts, agricultural preferences, and aquatic farm leasing, but does not affect oil and gas leasing.

5) Modernize public notice requirements for disposals of property rights

- Enables the department to notice disposals of property rights via the Alaska Online Public Notice System and de-emphasize notice given in printed media.
- Helps to limit the cost of public noticing, as the cost for noticing in newspapers is continuing to increase as the popularity of print media decreases.
- Increases flexibility for the department on how we issue public notice.
- Existing statutes require 30 day public notice for disposals of property rights.

6) Give the department the authority to exempt small mining operations from having to pay production royalties

- Creates a savings for small-production miners and the state—amounts of locatable minerals being produced from these operations are diminutive and the state's cost to complete the accounting and processing of the royalty is more than the revenue collected.

7) Revise a portion of the mining royalty law to allow companies to file their mining royalty by either calendar year or fiscal year

- Allows for a simplified process and administrative savings for filing, both for the state and the company.
- Helps to coordinate mining royalty processing between the state and company, which creates efficiencies.

8) Allow the director of the Division of Mining, Land and Water to extend or renew a submerged land mining lease for up to a period of 20 years

- Significantly reduces the administrative cost to the state for executing a new lease at the end of the primary term for these types of lease.
- Benefits the lessee by providing them more certainty in renewing their lease, pending that they are in good standing with the state with adequate production and in compliance with the terms of their lease.

CSHB 361(RES): DISPOSALS OF STATE RESOURCES

SECTIONAL ANALYSIS

APRIL 3, 2012

Sections 1 through 5 of the bill revise land sales statutes to clarify that the Division of Mining, Land, and Water can use sealed bids instead of public auctions as the Department of Natural Resources has done for many years.

Sec. 6 revises leasing statutes to increase the appraised value of the transaction from \$5,000 to \$10,000 per year in order to qualify for negotiated leases.

Sec. 7 revises the statute by adding new subsections to the land leasing laws:

(d) This section revises land leasing laws to provide for conversion of a public, competitive offering process to a negotiated, non-competitive process if after public notice only one interested party expresses interest in acquiring the lease.

(e) This section revises land leasing laws to provide for renewals upon expiration of a lease issued under AS 38.05.070, 38.05.075, or 38.05.810. This would allow for a lease to be renewed one time at the discretion of the director of MLW if certain established conditions are satisfied.

Sections 8 through 12 revise land leasing statutes to clarify that MLW can use sealed bids instead of public auctions.

Sections 13 through 15 separate material sales from timber sales in the statutes. Timber sales would remain under AS 38.05.110 – 123 and a new section would be established for material sales (sand, gravel, rip-rap, stone etc.) under Section 18 of this bill. This will clarify the purposes, methods and procedures for these two different types of property sales, which would provide more certainty to the sales processes.

Sec. 16 changes this statute to conform to the Department of Revenue's mining license tax laws and allow miners to pay their mining royalty either by calendar year or the company's fiscal year, whichever year they file their mining license tax. This section also gives DNR the authority to exempt, by regulation, small operations from the production royalty.

Sec. 17 revises mining statutes to allow the director of the Division of Mining, Land and Water to extend or renew a submerged land mining lease for up to a period of 20 years.

Sec. 18 revises the Alaska Land Act by adding new sections under a new Article (13A) to deal specifically with Material Sales. This proposed change, associated with proposed changes under Sections 13 through 15, is intended to separate the two very different types of property sales.

The substantive changes to the material sales statutes under this section separate out the respective rules and procedures for timber sales and material sales (such as for rock and gravel).

The proposed changes would:

- Allow the state to solicit competitive interest in material sales, and if there is none, avoid the longer competitive process;
- Establish how prices would be determined and allow for more use of the representative regional sales price rather than requiring appraisals of the material for each sale;
- Clarify that material may be sold at less than fair market value for certain instances that are in the public interest as related to conditions set in AS 38.05.872;
- Allow material use that is incidental to other authorizations to be sold without a separate material sale authorization; and
- Allow the use and sale of peat to create another alternative fuel for heat and power generation for personal and commercial use.

Sec. 19 revises public and charitable use statutes to clarify that DNR may negotiate the lease of state land without competitive bid as opposed to public auction. This change amends this section of the law to conform to changes proposed in Sections 1-5, and 8-12 of the bill.

Sec. 20 revises public and charitable use statutes to allow DMLW to negotiate within the leasing process the sale of material necessary for construction, use, maintenance of property leased under AS 38.05.810.

Sec. 21 repeals and reenacts the statute that allows the department to convey materials as needed for certain flood control purposes.

Sec. 22 revises public notice statutes in order to modernize public notice requirements for disposals of property rights.

Sec. 23 repeats Sec. 22 except that it removes the option to post a legal notice referencing the online notification in a newspaper of statewide circulation as of July 1, 2017 per section 25. That option was included as a transitional option to help the public transition to online methods.

Sec. 24 changes the definition of “materials” within the Alaska Lands Act.

Sec. 25 separates out material sales from AS 41.23.470(b). There was a conflict with a reference to AS 38.05.115 once material sales were separated out in that section.

Sec. 26 provides instruction to the revisor of statutes to make organizational changes to correspond with the proposed separation of timber sales and material sales being proposed in Sections 13, 14, 15 and 18 of this bill.

Sec. 27 provides that Section 23 of the Act takes effect on July 1, 2017.

Sec. 28 provides that, except as provided in sec. 27 of the Act, the Act takes effect July 1, 2012.

10 Year Leases

	ADL	Name	Industry	Size	Length
1	<u>220410</u>	Susitna Duck Club	Commercial rec	< 1 acre	10 Years
2	<u>228642</u>	US F&G	Small comm site	<1 acre	10 Years
3	<u>225566</u>	Mountaineering Club of AK	Mt. hut	< 1 acre	10 Years
4	<u>221799</u>	Mark's Guide Service	Guide site	1 acre	10 Years
5	<u>227956</u>	Alaska Rainbow Lodge	Guide site	1 acre	10 Years
6	<u>222642</u>	USFWS Comm Site	Small comm site	1 acre	10 Years

Mid length Leases

	ADL	Name	Industry	Size	Length
1	<u>44350</u>	AT&T Comm Site	Large comm site	< 1 acre	25 Years
2	<u>44351</u>	AT&T Comm Site	Large Comm site	< 1 acre	25 Years
3	<u>229762</u>	FAA-Rainy Pass	Weather station	< 1 acre	20 Years
4	<u>229109</u>	Backcountry Adventures	Guide site	3.54 acres	30 Years
5	<u>228829</u>	Copper River EMA	Ambulance station	2 acres	30 Years
6	<u>227818</u>	Iditarod Area School District	Science Camp	2 acres	20 Years
7	<u>60911</u>	P&C Lease, Alascom	Large comm site	3.67 acres	20 Years
8	<u>67915</u>	P&C Lease, USDHS Coast Guard	Small dock	87.3 acres	20 Years
9	<u>221779</u>	Negotiated Lease	Shore Fishery	1 acres	20 Years
10	<u>223655</u>	Tideland Lease	Small dock	< 1 acre	20 Years

55 Year Leases

	ADL	Name	Industry	Size	Length
1	<u>230925</u>	CINGSA	Gas Injection	7 acres	55 Years
2	<u>223351</u>	TDX Dock at St. Paul	Crab Processing	10 acres	55 Years
3	<u>64269</u>	Amerada Hess Pipeline Corp	Dock	435.2 acres	55 Years
4	<u>32549</u>	Hilcorp Alaska-Cook Inlet	O&G Dock	170 acres	55 Years
5	<u>36127</u>	Subdivision Lease	Residential-1963	1.6 acres	55 Years
6	<u>57396</u>	Mt. Eyak Ski Resort	City of Cordova	508 acres	55 Years
7	<u>60211</u>	William Wren	Dock	7.9 acres	55 Years

SB 219 Lease Renewal Chart

Issue Original lease	Reissue under current Law	Reissue under Revised Law for existing leases	Reissue under Revised Law for new leases
Agency Notice	Agency Notice	Agency Notice	Initially decide if going to renew; other more important use? Another use would warrant full AS 38.05.035(e) decision process
Preliminary Decision	Preliminary Decision	Public Notice	Public Notice was given at initial lease but will also be done at renewal
Public Notice	Public Notice	Administrative Record of Decision	Administrative Record of Decision
Final Decision	Final Decision	Appeal	Appeal
Appeal	Appeal	Appraisal every 5 years	Appraisal every 5 years
Early Entry Authorization	Appraisal every 5 years	Issue Lease Renewal	Issue Lease Renewal
Survey and Appraisal	Issue new Lease		
Issue Lease			

Under current statutes, the Division of Mining, Land and Water are unable to renew leases and instead have to reissue new leases.

Leasing actions required by CSHB361(FIN)

Lease Application defines request	Below \$10,000 and less than 10 year term	Over \$10,000 or over 10 year term	
	Option to Negotiate without soliciting competitive interest	Through public notice solicit for competitive interest	
		<i>No competitive interest expressed</i>	<i>Competitive interest expressed</i>
	Requires best interest decision	Negotiate any terms	Prepare and hold auction
	Requires formal public notice	Requires best interest decision	Requires best interest decision
		Requires formal public notice, although initial notice would suffice	Requires formal public notice both at the outset and for auction
			Requires publication of auction brochure
			Requires additional 30 day public notice of auction