

Leg. Finance-House & Senate Finance Comte Files (1991-1992) 911

The right of access to its lands over the White River road beginning at F.H. 39 and ending at the junction with the proposed Leask Lakes road, and the Leask Lake ROW to and through the exchange area, in perpetuity or until replaced with a public ROW;

b. CFC will also convey to the State a 60 foot general access ROW for use by the State and or public of the Talbot Lake road, beginning at its junction with F.H. 39 and ending at the boundary of the proposed exchange area.

2. State:

The State will convey to CFC the surface estates only to parcels A-C as described on Attachment B and as shown on Map 1. The State is to convey only the land, excluding in addition to the mineral estate, all rights to sand, gravel, and rock. The conveyance of the State land to CFC shall also be subject to the following:

Reservation by the State of all rights in those areas between "Timber Harvest Areas" and "Boundary of Exchange Areas", as depicted in Map 1 as "Open Space", except for the owner's right of entry and movement (walk across or hunt), and to clear, construct and use and maintain mainline and spur roads, temporary staging and storage areas, and borrow pits and debris waste sites associated with access to and timber development of the CFC Leask Lake parcels. The owner of the open space may not cut trees, make improvements or clear the land except as indicated above, or construct any buildings on areas subject to this reservation;

Reservation by the State of a general access/road ROW corridor 300 feet in width to provide for a "through road and utility" corridor;

Reservation by the State of a general access/road ROW 100 in width for public use on the mainline logging road that CFC will construct (shown on Map 1) as well as the remaining 10,500 feet which will not be upgraded from the area just south of Parcel A to the northern boundary of Parcel A;

Easements 100 feet wide between each section of land owned by the State, as established by AS 19.10.010, except that the State shall cooperate with CFC toward the removal of such rights-of-ways from these parcels in the survey and platting process necessary to convey these lands to CFC should CFC so choose.

The State shall not, nor is there anything in this agreement that shall be construed as to obligate the State, to convey title to Parcel A to CFC until CFC has performed adequate work on required White River and Leask Lake road upgrades. The State shall, after receiving proof that the following work has been completed, convey to CFC title to this parcel, subject to CFC having to first furnish the State a bond for not less than 100% of the estimated remaining work, to ensure that the work is completed. CFC may demand and receive immediate title (within 30 days of notice of satisfaction to the State's office of record) after completing: 1) completion of the road bed (widening and realignment), ditches, bridge installation, and any culvert installation which is not expected to be otherwise damaged by logging operations, and 2) installation and grading of the surface material from the Lake Harriet Hunt intersection of the White River Road to the intersection of the White River Road with the Leask Lake Road.

B. Subsurface Interest and Retained Sealaska Rights:

The ownership of the surface and subsurface estate of the CFC parcels is split between CFC and Sealaska Corporation. The state's acquisition of the surface estate, overlying Sealaska's subsurface estate, will not enhance or diminish any rights and interests of Sealaska as the subsurface owner. Sealaska shall have all rights of reasonable access, use and development of its subsurface. Sealaska's exercise of its rights as subsurface owner shall include reasonable protection of the state's surface estate and resources. Rock and gravel used for road construction from these lands will have to be purchased from Sealaska.

C. Other Required Performance, Solely a CFC Responsibility (Road Construction/ Upgrades, Logging Practices), Penalties for Lack of Performance by CFC:

1. Other Required Performance, Solely a CFC Responsibility;

a. Road Construction/Upgrades: CFC agrees to construct or upgrade at its cost approximately 11.11 miles of White River and Leask Lake roads, the general alignment being depicted on Map 1.

Road construction and upgrades shall be completed as soon as practicable, and not later than 10 years from the date the exchange is approved by the Legislature. Construction and upgrades shall meet or exceed standards outlined in Attachment C, unless otherwise waived in writing by the State. Reasonable concessions will be allowed for cut slopes involving good rock. The six inches of graded rock required for surfacing shall be screened to 2 inches, minus.

CFC agrees to widen and improve the surface on approximately one half mile of the White River road within one year of approval of this agreement by the legislature.

CFC further agrees to make the widening of the first three miles of the White River Road and establishment of the full width base road one of its first priorities. It is understood, however, that the placement of culverts, and final surfacing shall be delayed where logging trucks may be expected to damage the same.

b. Construction of Parking Areas: CFC further agrees to construct at least two parking areas at points south of Leask Lakes mutually agreeable to the State and CFC, the parking areas to be located on State land and to be constructed with State furnished rock; the mining and processing to be done by CFC. Each parking area shall be designed and constructed to accommodate 10 full size and 5 mid-size passenger vehicles.

CFC will provide parking in the area of the LTF for five to six vehicles. This parking shall not be farther than 1,000 feet from the shores of Upper George Inlet.

c. Identification of Sites to Beneficially Waste Material: CFC further agrees to work with the state during road construction to identify areas and to ensure that waste rock and other material is wasted in a manner which will best benefit the state by providing additional turnouts or parking areas, one area of interest being at the intersection of the CFC logging spurs into the Southern portion of CFC Area 1 and the White River Road.

d. Logging Practices (Application of "New Forestry Techniques" for Logging: CFC agrees to use "New Forestry Techniques" in the harvesting of timber on the Leask Lake parcels, to the extent that it is feasible and prudent.

2. Penalties for Failure to Perform: Failure of CFC to perform the necessary upgrades in a timely manner, shall constitute a breach, and unless corrected within 60 days prior notice by the State to CFC's address of record, shall result in a forfeiture of the remaining unconveyed lands to the State. If all lands have been conveyed, the State shall retain that portion of the CFC bond required to ensure that the project can be completed.

D. State Protection: The State, as provided for in Section II.A.2. of this Agreement shall retain title and or require bonding to ensure that the required road construction is completed by CFC.

E. State Reservation of Right to Construct and Adjust: The State reserves the right, with 60 days constructive notice to CFC, to accomplish, or otherwise have accomplished a portion or all of the road upgrades itself, providing that it does not otherwise interfere with a CFC Contract which is in force to accomplish the same in a reasonable time (one year). Should the State exercise this option, it shall have the right to reduce proportionally the amount of land and resources scheduled for conveyance to CFC accordingly. The basis for any adjustment shall be the existing appraisal. Unless otherwise mutually agreed to, adjustments will come from Parcel A, from north to south.

F. Maintenance of Roads and LTF: CFC shall be responsible only during periods of use for maintenance of those sections of road and areas used by it or its agents during their logging operations.

G. Use and Closure of Roads: CFC will be allowed by the State to close portions of the road and LTF to public use during road construction and or logging. An attempt will be made to minimize such closures.

H. Conveyance Instruments, Title Documents, and Encumbrances:

1. Conveyance Instruments, Title Documents: The State will transfer its land and interest in land to CFC through a quit claim deed or State patent. The State obtained its lands that are part of this Agreement through the Alaska Statehood Act. The State has Tentative Approval to its lands.

CFC will transfer its land and interest in land to the State through a warranty deed. The CFC secured its land and interest in land from the Federal Government under the Alaska Native Claim Settlement Act through patent and interim conveyance.

The State and CFC agree to provide a current title or litigation report on their properties prior to the conveyance of land or interest in land.

Should there be any CFC or State lands not yet patented by the Bureau of Land Management, the State and /or CFC agree to provide the other party a confirmatory patent or deed as may otherwise be required in this agreement to any land or interest in land that have been conveyed as a result of their exchange;

Conveyance instruments, with exception of Leask Lake Parcel A shall be exchanged simultaneously.

2. Additional Encumbrances:

a. **State Land:** There are no liens, claims, encumbrances, easements, right-of-way, leases, reservations, covenants, or other agreements that affect the land that is to be transferred by the State to CFC, except those listed earlier in this document as conditions or "subject to's" and the following:

The land is subject to the restrictions, limitations, and conditions of Title VI of the Civil Rights Act of 1964;

There is excepted and reserved from the conveyance a right-of-way for ditches or canals constructed by the authority of the U.S. in accordance with the Act of August 30, 1890, 26 Stat. 391; 43 U.S.C.959;

Also excepted and reserved is a right-of-way for the construction of railroads, telegraph and telephone lines in accordance with the Act of March 12, 1914, 38 Stat. 305; 48 U.S.C. Sec. 305.

Subject to Mineral Closing Order 643.

b. **CFC Land:** CFC has the following liens, claims, encumbrances, easements, right-of-way, leases, reservations, covenants, or other agreements that affect the land it intends to transfer to the State in addition to those disclosed as reservations or "subject to's" earlier in this document:

Klukwan Forest Products, Inc. has the right of access on and over the existing logging road within the White River Valley, as depicted in Map 1. The use of this road shall continue until or when Klukwan Forest Products deeds this right back to CFC when current logging operations are finished;

There is a 100 foot easement for the power transmission line from Swan Lake to Ketchikan to the Alaska Energy Authority. This easement traverses portions of the White River Valley and White River Hillside areas and is shown in Map 2;

There is a 100 foot right-of-way to the State for the access road, including the parking lot, in the Lake Harriet Hunt area as shown in Map 2;

There is a one year permit or lease to Alaska Travel Adventures for Float and tourist staging facilities at Lake Harriet Hunt;

The KGB retains a ownership right to all commercial timber in the northern 40 acres of the Talbot Lake parcel. This right was purchased from Klukwan Forest Products who had previously purchased those rights from CFC.

I. Survey and Appraisal: Surveys of State and CFC land involved in the Land Exchange shall be done in accordance with the survey requirements of the State and KGB. CFC will accept the responsibility to contract and administer all land surveys. All surveys of real property necessary to affect the exchange will be completed prior to the exchange of deeds. Lot, in combination with aliquot part descriptions will be used whenever possible to configure and describe the land included in this exchange.

Costs: Appraisal and survey costs will be equally borne by the state, CFC and the KGB. Other incidental costs will be borne by the party actually accruing the expense. It is recognized by all parties, however, that the State responsibility shall be construed as having been met through the previous appropriation and tendering of \$30,000 to the KGB by the State Legislature for the purpose of survey and appraisal of the lands to be exchanged.

J. Spur Roads, and Rock Pits on State Land: The State will require ACMP and Forest Practices reviews and approval, and DNR approval for the location and construction of all spur roads, and rock pits located on lands it owns ~~or~~ has an interest in. DNR will require a right-of-way permit for all spur roads located on lands it owns, and timber and/or material contracts for any material removed from State lands or retained interests, except that no permit shall be required for material (rock) needed for the construction of parking areas on State land, not removal of material from Sealaska's remaining interests.

K. Other Consideration: There is no amount of money or other considerations to be paid to, or offered by, any party to the proposed exchange to equalize the values of the land or interest in land proposed for exchange other than that outlined in this agreement.

L. **Liability:** The parties to this agreement agree to hold each other harmless from liabilities that may otherwise be caused by their individual actions, uses of land and contracts, except where such actions, due to the nature of the agreement are shared.

M. **ACMP Consistency:** The exchange of CFC and State lands has been determined to be consistent with the Alaska Coastal Management Program (ACMP) pursuant to AS 46.40. However, nothing in this agreement is intended or should be construed as allowing CFC or the State to carry out timber cutting or other development without further review and permits. CFC development of land acquired from the State will require CZM project review to the same extent as private land. If CFC needs State or federal permits to undertake a particular use (for example, a state permit to place a road culvert in a fish stream or to install a new sewage system as part of a subdivision development), another ACMP determination specific to that particular use will be necessary. However, future ownership changes by CFC, i.e. sales of land or timber to other private individuals or companies may not require State approval and therefore may not be subject to the ACMP.

N. **Succession in Documents:** This Agreement supersedes all previous agreements and is the sole document now under consideration.

O. **Modification of the Agreement:** This Agreement, unless amended by mutual consent, subject to legislative approval, represents all consideration.

P. **Existing Permits and Leases:** CFC agrees that unless otherwise approved by the Department of Natural Resources in writing, existing DEC Waste Disposal Permit #9113-BA012 shall be used exclusively for debris generated from the Upper George Inlet LTF, and that the waste site and State Tideland Leases ADL's 100898, and 105135 shall be groomed and released to the State within six months of the completion of the Logging of CFC's Leask Lake property, or within 10 years of the approval of this exchange by the legislature, whichever occurs first.

Q. **Schedule for Completion:** The following represents a tentative schedule that the State, CFC and the KGB agree to attempt to adhere to for completion of this exchange.

<u>REQUIREMENT</u>		<u>STATE</u>	<u>CFC</u>	<u>KGB</u>	<u>Completion</u>
Submission to Legislature	X				04/07/92
Legislative Approval					05/15/92
Request Survey Instructions			X		05/16/92
Issue Survey Instructions	X				06/01/92
Complete Survey			X		09/01/92
Preparation of Title Documents	X	X			10/01/92
Execution of Title Documents	X		X		10/15/92

SIGNATORIES TO FINAL EXCHANGE AGREEMENT ADL 105565:

CAPE FOX CORPORATION

BY: _____
CHIEF OPERATING OFFICER

DATE: _____

STATE OF ALASKA

BY: Harold C. Hume
**COMMISSIONER,
DEPARTMENT OF NATURAL RESOURCES**

DATE: 4/6/92

KETCHIKAN GATEWAY BOROUGH

BY: _____
BOROUGH MANAGER

DATE: _____

Attachments: Maps 1,2, and Attach.-"A"- "C"

SIGNATORIES TO FINAL EXCHANGE AGREEMENT ADL 105565:

CAPE FOX CORPORATION

BY: *[Signature]*
CHIEF OPERATING OFFICER

DATE: 4/6/92

STATE OF ALASKA

BY: _____
**COMMISSIONER,
DEPARTMENT OF NATURAL RESOURCES**

DATE: _____

KETCHIKAN GATEWAY BOROUGH

BY: *[Signature]*
BOROUGH MANAGER

DATE: 4-6-92

Attachments: Maps 1,2, and Attach. "A" & C

ATTACHMENT-"A" TO FINAL EXCHANGE AGREEMENT ADL 105565

CAPE FOX PROPERTIES

Area 1

Township 74 South, Range 91 East, Copper River Meridian; uplands within:

Section 2	Lots 3 through 8, NW1/4SE1/4, S1/2SW1/4, NE1/4SW1/4;
Section 3	S1/2SE1/4;
Section 9	SE1/4, all that lies south of the northern edge of the main line "White River Road";
Section 10	E1/2, W1/2, all that lies south of the northern edge of the main line "White River Road";
Section 11	W1/2, NE1/4, N1/2SE1/4;
Section 16	NE1/4, all that lies south of the northern edge of the main line "White River Road", N1/2SE1/4, SW1/4SE1/4, W1/2, all that lies south of the northern edge of the main line "White River Road";
Section 17	E1/2SE1/4, all that lies south of the northern edge of the main line "White River Road";
Section 20	E1/2NE1/4;
Section 21	W1/2NE1/4, NW1/4, E1/2SW1/4, NW1/4SW1/4, SE1/4;
Section 28	NE1/4NE1/4.

Containing approximately 2,283 acres more or less.

Area 2

Township 74 South, Range 91 East, Copper River Meridian; uplands within:

Section 3	Lots 1 through 3;
Section 4	Lots 1 through 10, NE1/4SE1/4;
Section 5	NE1/4.

Containing approximately 478 acres more or less. And all shorelands within:

Section 3	W1/2NW1/4;
Section 4	N1/2.

Containing approximately 162 acres more or less.

Total area of Area 2 is approximately 640 acres more or less.

Area 3

Township 74 South, Range 91 East, Copper River Meridian; uplands within:

Section 18 W1/2SE1/4, SE1/4SW1/4.

Containing approximately 99 acres more or less. And all shorelands within:

Section 18 SW1/4SE1/4, SE1/4SW1/4.

Containing approximately 21 acres more or less.

Total area of Area 3 is approximately 120 acres more or less.

Area 4

Township 74 South, Range 91 East, Copper River Meridian; uplands within:

Section 9 S1/2NE1/4;
SE1/4, all that lies north of the northern edge of the main line
"White River Road";
SE1/4SW1/4;

Section 10 W2, all that lies north of the northern edge of the main line
"White River Road";

Section 16 W1/2, all that lies north of the northern edge of the main line
"White River Road";

Section 17 E1/2SE1/4, all that lies north of the northern edge of the main
line "White River Road";

Containing approximately 650 acres more or less.

Area 5

Township 74 South, Range 91 East, Copper River Meridian; uplands within:

Section 1 Lot 2;

Section 2 Lots 1 and 2, W1/2NE1/4, NW1/4, NW1/4SW1/4'

Section 3 NE1/4, N1/2SE1/4, E1/2NW1/4.

Containing approximately 673 acres more or less.

Total acreage for the five parcels is: 4,366 acres.

ATTACHMENT-"B" TO FINAL EXCHANGE AGREEMENT ADL 105565

STATE PROPERTIES TO BE CONVEYED TO CFC

Township 73 South, Range 91 East, Copper river Meridian:

Section 13 Lot 1, SW1/4NW1/4, E1/2NW1/4, SW1/4;

Section 14 S1/2 SE1/4 NE1/4, NE1/4 SE1/4, E1/2 SE1/4 SE1/4, S1/2 NW1/4
SE1/4,

A triangular area with corners at the NE corner of the SE1/4
SW1/4 NE1/4, the SE corner of the NE1/4 NW1/4 SE1/4, and at
the SW corner of the NE1/4 NE1/4 SW1/4,

A triangular area with the corners at the NE, and SE corners of
the NW1/4 SE1/4 SE1/4 and the NW corner of the NE1/4 SW1/4
SE1/4,

A triangular area with corners at the NE, SE, and NW corners of
the SE1/4 NE1/4 SW1/4;

Section 22 SW1/4 SW1/4 NE1/4, S1/2 SE1/4, W1/2 NW1/4 SE1/4, SW1/4, S1/2
S1/2 NW1/4;

Section 23 NE1/4 NE1/4 NE1/4;

A triangular area with corners at the NE, SE, and NW corners of
the SE1/4 NE1/4 NE1/4,

SW1/4 NE1/4, W1/2 SE1/4, E1/2 SW1/4, E1/2 W1/2 SW1/4, SE1/4
NW1/4, E1/2 SW1/4 NW1/4;

Section 24 N1/2 SW1/4, NW1/4;

Section 26 NE1/4 NE1/4, E1/2 NW1/4 NE1/4, SW1/4 NE1/4 SW1/4; W1/2
SE1/4 SW1/4, SW1/4 SW1/4, S1/2 NW1/4 SW1/4,

A triangular area with corners at the SW corner of the NW1/4
NW1/4 SW1/4, the NE corner of the SW1/4 NE1/4 SW1/4, and the
NW corner of the NW1/4;

Section 27 N1/2;

Section 35 S1/2 NE1/4, W1/2 SE1/4, SW1/4, W1/2 NE1/4 NW1/4, S1/2 NW1/4,
NW1/4 NW1/4;

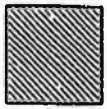
Contains approximately 2335 acres.

COMPARATIVE ROAD STANDARDS

STANDARDS	George Inlet & Leask Lakes (Public) Roads	Ordinary Temporary Logging Road (Same Location)
<u>Alignment</u>		
horiz.	25 mph (200' rad.)(28½ deg. curve)	variable - down to 80 - 100' when necessary
vert.	no standard given	max. 20%
<u>Width</u>		
running surf.	20'	14' - 18' (not constant)
shoulders	none	none
<u>Drainage</u>		
ditch	2' continuous w/ no blind ends	2' to none; if unstable backslopes ditches abandoned & replaced by outsloping & waterbars
culverts	CMP's properly sloped, good repair, stable catch-basins, ends open & beyond fill toe	wood or CMP's replaced by crossdrains where necessary
<u>Slopes</u>		
cut	laid back to as much as 1½:1 if required	averages 1:1 in soil
fill	1½:1	1½:1
<u>Surfacing</u>		
road crnc.	6"	6"
material	graded shot rock	pit run shot rock
<u>Distances</u>		
stopping	160'	no standard
passing	no standard	no standard (turnouts only)
<u>Intersections</u>		
logging spur	no standard (temporary use only)	"Y" intersections okay; no sight requirements
public spur	"T" intersections to min. 70 degree; 160' sight distance; 100' of max. 5% approach grade	not applicable
<u>Standard</u>		
<u>Reductions</u>	horizontal alignment reduction down to 100' radius in no more than two locations of no more than 500' each	not applicable
<u>Signing</u>	none	none
<u>Bridges</u>		
abutments	perm.: piling, treated timber, concrete, or steel	log sill
type	perm. Hamilton type or equiv.	Hamilton type (to be removed) or log stringer
width	16' between bullrails min.	varies; 12' - 18' between bull rail logs
<u>Guard Rail</u>	on bridge approaches and where there is a continuous drop of at least 20' of vertical dist. on a sideslope of at least 50%	none

ATTACHMENT - FIG. TO FINAL EXCHANGE AGREEMENT

Legend



Cutting Unit 19



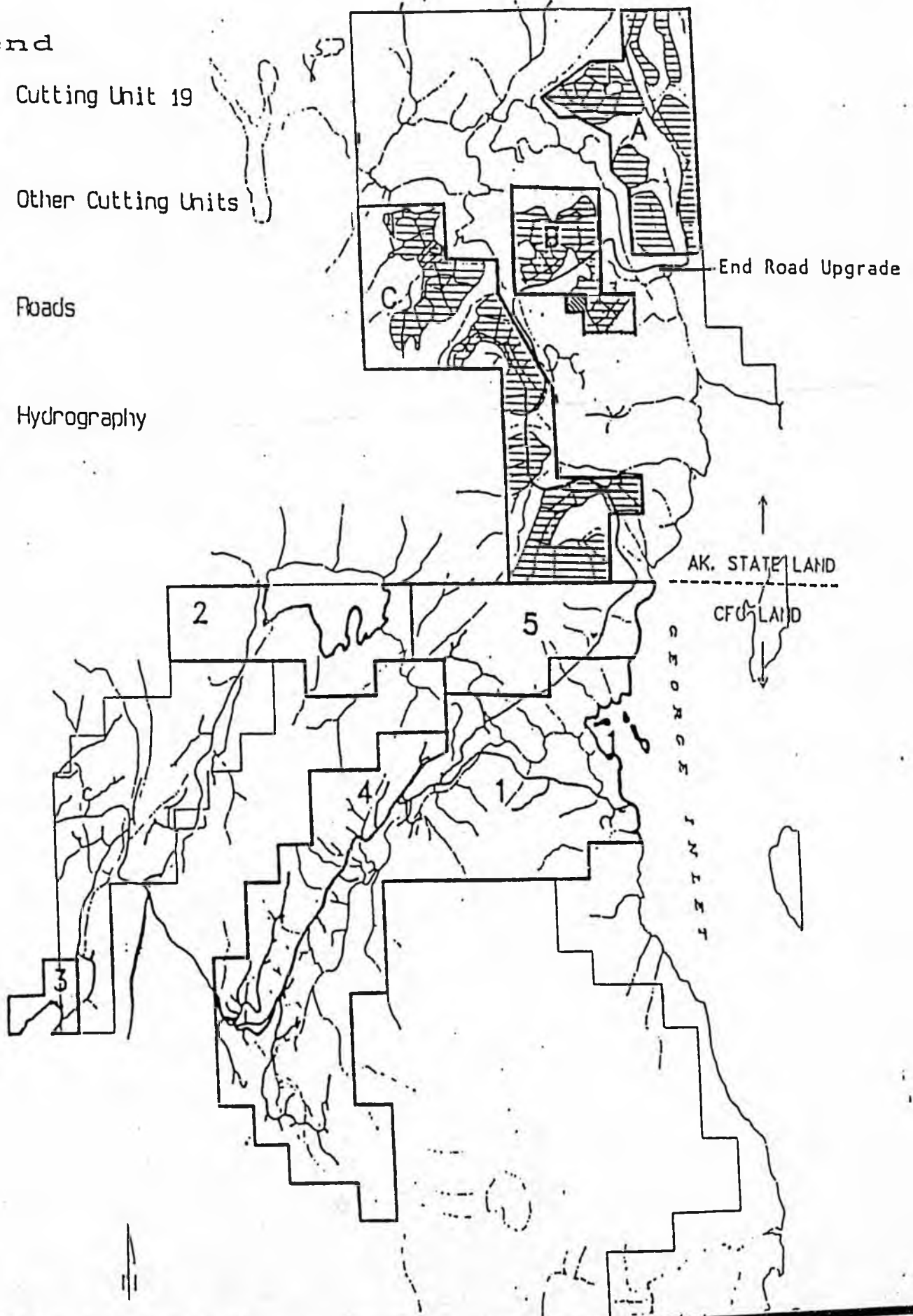
Other Cutting Units



Roads



Hydrography



SB-25

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND

**Proposed Exchange With Cape Fox Corporation
ADL No. 105565**

**REPORT ON PROPOSED
LAND EXCHANGE**

**INDEX TO REPORT ON PROPOSED LAND EXCHANGE
ADL NO. 105565**

- I. Introduction
- II. Proposed Action, Maps and Legal Description
- III. Objectives
- IV. Authority
- V. Administrative Record
- VI. Background
- VII. Physical Characteristics
- VIII. Appraised Values
- IX. Benefits and Detriments
- X. Alternatives
 - A. Purchase
 - B. Lease
 - C. Selection
 - D. Condemnation
 - E. Convey Timber Rights on State Lands Only
 - F. Exchange as Proposed by PEA
 - G. Modified Leask Lake Exchange Proposal
 - H. No Action Scenario
 - I. Other Access Alternatives
 - J. Other Exchange Alternatives
- XI. Public Access
- XII. Classification and Planning
- XIII. **Subsurface** (Mineral) Rights
- XIV. Title
- XV. Environmental Assessment
- XVI. Issues, Including Discussion
- XVII. Summary of Public Comments
- XVIII. Decision

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF LAND

Proposed Exchange with Cape Fox Corporation
ADL No. 105565

REPORT ON PROPOSED LAND EXCHANGE

I. Introduction

This report is prepared pursuant to Alaska Statutes (AS) 38.50.130 for a proposed land exchange between the State of Alaska and Cape Fox Corporation, a Village Corporation established under the Alaska Native Claims Settlement Act (PL 92-203). The report discusses the objectives of the exchange, the physical aspects of the land involved in the exchange, the appraised fair market value of each tract, the benefits and detriments which can be expected to accrue, and alternatives to the proposed exchange. A summary of information and comments received through the public hearing process are incorporated in this report.

A draft of this exchange report was distributed for public review on February 10, 1992. Public comments have resulted in several modifications to the exchange agreement. Public comments and information acquired during public review have resulted in some changes and updates to this exchange report. The draft report included sixteen attachments that totalled over 250 pages. Rather than reproduce these attachments, they are incorporated into this final report by reference. Copies of the attachments are available from the DNR Southeast Regional Office.

Supplemental information attached to this report includes the Final Exchange Agreement, attached hereto.

II. Proposed Action, Maps and Legal Description

Through this proposed exchange, Cape Fox Corporation (CFC) would acquire 2,335 acres of the state's land (surface) estate less rights to sand, gravel, and rock, near Leask Lake, in exchange for an equal value from CFC's 4,366 acre surface estate at White River, Lake Harriet Hunt, and Talbot Lake (see attachment "A" and "B" and Map 1 to the Final Exchange Agreement for the location and legal description of proposed exchange areas). The state and CFC parcels are located near Upper George Inlet on Revillagigedo Island north of Ketchikan.

CFC would acquire lands with at least 30,000,000 board feet (30,000 Mbf) of harvestable commercial timber. The Department of Natural Resources (DNR) would restrict cutting of timber and development on over 40% of the land proposed for conveyance to CFC. These Leask Lake parcels would be conveyed to CFC with a restriction that requires all non-harvested areas to

Proposed Exchange with Cape Fox Corporation

remain as permanent open space. In the proposed exchange, CFC is required to upgrade the existing White River and proposed Leask Lake roads to recreation standards. Conveyance of an equal value amount of state land will be deferred until substantial portions of the required upgrades have been completed.

III. Objectives

Primary state objectives are: 1) to acquire lands in the vicinity of White River and Lake Harriet Hunt to provide greater opportunities for roaded recreation in the Ketchikan area, while attempting to minimize adverse impacts, and 2) to acquire additional resource lands.

IV. Authority

Land Exchange Statutes and Regulations; AS 38.50 (11 AAC 67.200-280). AS 38.50.010, allows the Director, with the concurrence of the commissioner, to dispose of state land or interest in land by exchanging it for land, interest in land, or other consideration for: 1) the purpose of consolidating state land holdings, 2) creating land ownership and use patterns which will permit more effective administration of state public domain, 3) facilitating other objectives or state programs, or 4) other public purposes. AS 38.50.040, authorizes the Director to exchange any state land or interest in land regardless of the authority under which the land or interest was obtained by the state.

Other statutes and regulations: AS 38.05.185 (11 AAC 86.135) - Mineral Closing Orders. AS 38.05.035(e) - Findings. AS 38.05.945, AS 38.50.110, 11 AAC 02.010-.080 - Public Notice. AS 38.04.065 (11 AAC 55.040(i)(4) - Planning and Classification.

V. Administrative Record

The administrative record consists of case file ADL 105565, and DNR, Division of Land, Southeast Region Office (SERO) state selection file NFCG-143. Incorporated by reference are: Alaska statutes and regulations.

VI. Background

The proposed exchange area is located approximately 10 miles north of Ketchikan. Although the application now under consideration was accepted by DNR in March of 1991, CFC interest to exchange dates back to 1977. On November 18, 1980 the state actually amended its Upper George Inlet selection (NFCG-143) to add lands at Leask Lake to accommodate a possible

Proposed Exchange with Cape Fox Corporation

exchange. A "memorandum of understanding" for CFC's earlier proposal was developed in 1982 but was never executed. The initial exchange proposal died due to its complexity, personnel changes within the Division of Land, and lack support by key personnel within the Division of Land's Southeast office.

Several attempts were later made by CFC to revive the exchange, but it was not until 1989 that another serious attempt was mounted. At that time CFC supported by a resolution of the Ketchikan Area State Parks Advisory Board wrote the state. This was followed by several letters from the public indicating concern over the inclusion of Leask Lake.

Due to the controversy associated with this proposal, DNR asked the Ketchikan Gateway Borough (KGB) to assemble a work group consisting of agency representatives and interest groups to explore alternatives, and return a recommendation. Although DNR knew there was support for acquisition of the White River corridor, it was not clear whether to include state land at Leask Lake. The department did not want to pursue a new proposal without additional direction and indication of community support.

KGB's Assembly directed its Planning Department to identify and evaluate alternatives. If Leask Lake appeared to be the best alternative, the planning department was directed to develop a consensus approach that would include the best features of various proposals involving that area. A community survey to determine residents' recreational needs and attitudes was performed by the McDowell Group as part of the study. The Planning Department report, which contained five alternatives, was submitted to the Assembly for review and selection of a preferred alternative. The Assembly selected the "Timber/Environment" alternative which involved the state's Leask Lake lands.

The report, accompanied by Borough Assembly Resolution No. 954 recommending an exchange between CFC and the state, was submitted by CFC to the state as a part of its exchange application package. At the time of submittal, KGB felt the Timber/Environment alternative, a variant of the original CFC exchange proposal, best recognized the expressed public desires for additional recreation areas and road access while protecting and managing fish and wildlife habitat. DNR generally agreed, and felt that criticisms leveled at the Borough process could be resolved through its own agency and public review processes.

DNR proceeded with distribution of the exchange package to agencies and interested parties for first review on April 21, 1991. Comments were consolidated and forwarded to DNR's Director of the Division of Land. On May 22, 1991 Division Director Gustafson executed and forwarded to CFC a

Proposed Exchange with Cape Fox Corporation

letter indicating the state's interest in negotiate a preliminary land exchange agreement under 11 AAC 67.230 with two conditions: 1) written clarification of Sealaska's position relative to inclusion of its subsurface estate in the proposed exchange; and 2) submission of CFC's written analysis of alternatives to the state timber land near Leask Lake. The state received Sealaska's confidential response on May 31, 1991, and CFC's response as to alternatives on June 26, 1991. Sealaska also reviewed and concurred in the language developed for Section XIII of this document.

An environmental assessment was completed by DNR on June 27, 1991. The assessment revealed no significant environmental contamination or unauthorized activity on state or CFC land.

DNR in cooperation with CFC, and KGB then developed a Preliminary Exchange Agreement (PEA). At the request of KGB, a parcel of CFC land at Talbot Lake was added to this PEA. The PEA executed by Director Gustafson on July 1, 1991 and accompanied by the letter of intent and comments generated from the initial review, were forwarded to agencies and interested parties on July 3, 1991. A copy of "Cape Fox Corporation Leask Lakes-White River Land Exchange Deer Winter Habitat Evaluation" was later received, and circulated by DNR on September 6, 1991. The State of Alaska Department of Fish and Game (ADF&G) also reviewed the resource matrix and deer study. ADF&G and ANI personnel met in Anchorage to resolve data differences. The table in XVI.D. represents data created from that meeting.

Request for Proposals for a Timber Cruise of the state's Leask Lake parcels, and appraisal of all exchange parcels was jointly developed by DNR, CFC and KGB. The timber cruise contract was awarded to Klukwan Forest Products. Don Karabelnikoff of Karabelnikoff and Associates was awarded the contract to appraise both state and CFC properties. To help, Mr. Karabelnikoff retained additional professional appraisal support from Calvin L. Kerr of Kerr and Associates (logging methods and timber values), Michael L. Robbins, and Charles Horan.

An updated and rough summary of resources by acreage together with Klukwan Forest Products, Inc. estimates of timber remaining on CFC exchange parcels was received and forwarded to Alaska Department of Fish and Game's Ketchikan office on September 8, 1991. On September 10, a DNR representative met with Tongass Conservation Society's (TCS) attorney Gregg Cook to discuss the exchange and provide information requested by TCS in earlier correspondence.

Results of the cruise of timber at Leask Lakes were received by DNR on September 20, 1991. The area was later modified to add the Leask Lake

Proposed Exchange with Cape Fox Corporation

Right-of-Way and Unit 19 timber. An extract from Klukwan Forest Products, Inc. estimates of Timber, and Kerr's estimates of logging costs and timber values for both the state and CFC lands can be viewed in Attachment - "F" to the original exchange report. These values have since been adjusted for additional Leask lands removed from the conveyance and lands placed in open space.

VII. Physical Characteristics

Physical characteristics of the land involved in the exchange, including the surface and mineral resources are addressed below. A matrix describing acreages of generalized land types in the exchange can be found in Attachment - "E" of the original report, although the data shown for Talbot Lake is not reliable. The appraisal document, not attached as a part of this document, also contains an expanded analysis of social and economic factors.

Available data indicates little or no commercial potential for minerals or the extraction of rock, sand or gravel on state or CFC lands proposed for exchange. state lands involved are now open to mineral entry, but DNR intends to close to mining and mineral entry the state lands involved in the exchange.

CFC lands proposed for exchange contain an estimated 37,984 Mbf of timber, consisting of 29% spruce, 49% hemlock, and 22% cedar. Operable acres is estimated at 2,273 (16.7 Mbf/acre) acres or about 52% of the CFC land.

Original State lands proposed for exchange and cutting contain an estimated 42,642 Mbf of timber, consisting of 19.1% spruce, 75.9% hemlock, and 4.0% cedar. This was based on 1500 acres or 61% of the state land. Additional portions of the state lands are timbered but will be conveyed subject to a restriction limiting development activities. The acreage scheduled to be conveyed and amount of timber scheduled to be cut has been adjusted downward for reasons covered later in this document. Actual cut will be reduced to approximately 40,000Mbf and approximately 1350 acres.

Please see Attachment - "F" for the original detailed summaries of timber by area, and Attachment - "D" for additional descriptive material. Both references are to attachments to the original report.

State Lands:

Leask Lake: The state land proposed for exchange at Leask Lakes consists of approximately 2,335 of 5,240 acres of unclassified state property. This

Proposed Exchange with Cape Fox Corporation

state land adjoins CFC's White River properties. The tracts consist essentially of undisturbed mature ("old growth") forest, primarily western hemlock, but with substantial amounts of spruce and cedar at specific locations. The terrain is generally rolling or broken. The lakes are relatively small and are bordered with extensive meadows and marshes. Leask Creek is approximately two miles long and runs through a narrow draw. The area includes a number of important habitat resources, with the aquatic resources focusing on the lakes, their tributaries, and Leask Creek which empties into Upper George Inlet to the east. Leask Lake is anadromous and includes runs of steelhead trout, and coho, sockeye, and pink salmon. Wetlands are extensive and scattered throughout the area, comprising important hydrologic features adjacent to the lakes and Leask Creek, as well as isolated palustrine types in upland forested areas.

The area possesses important scenic values, and offers a range of recreational (fishing, viewing, and hunting) and commercial forest opportunities. Although most of the area meets the preferred elevation criteria for wintering deer, low snow interception capacity in most of the commercially viable timber stands and low coverages of preferred winter forage species in closed canopy stands may limit deer use in these areas during moderate to severe winters.

The proposed layout for the timber cut on the state's Leask Lake land, has been modified to accommodate CFC recommendations on the deer study completed by America North Inc., but does not address all aspects of the "old growth" issues. It does offer significant protection for fish streams, some critical deer winter range, travel paths, and recreation resources.

Archaeology: DNR's Division of Parks and Outdoor Recreation, Office of History and Archaeology was contacted and had no objection to the exchange. Although they indicated there was evidence of pre-historic use within the region, no known cultural sites were identified on the subject parcels.

CFC Lands:

The Cape fox Corporation land to be acquired by the state, totals 4,366 acres that are described as five parcels. Three of the parcels are contiguous tracts that encompass much of the White River drainage, the other two border Lake Harriet Hunt and Talbot Lake. Of the 4,366 acres the state is acquiring, approximately 1,000 acres are clear-cut, 2,000 acres are wetlands, and the remaining 1,300 acres contain varying amounts and types of timber.

Note: The Environmental Assessment section contains additional material to supplement descriptions of CFC tracts outlined below.

Proposed Exchange with Cape Fox Corporation

Map Area - 1; White River Valley: This area consists of 2,283 acres occupying the eastern portion of the valley of the White River, from its mouth at Upper George Inlet some 4.5 miles southwesterly to the national forest boundary near Brown Mountain. This property also includes the existing CFC White River Road, and approximately 250 acres of corporation land north of the road. The property is a broad valley containing a low gradient, low velocity stream having significant anadromous fish runs. Areas of previous timber harvest exist in the southern parts of the exchange area and along approximately 70 % of both sides of the White River. Approximately 21% of the area has been clear-cut. The remainder of the property includes scattered stands of spruce, hemlock, and cedar. Wetlands adjoin parts of the White River and significant portions of the areas to the east of the stream throughout its length, and to the north of the stream within three miles of its mouth at Upper George Inlet. Wetland types cover approximately 65% of this area. These wetlands are predominately of a palustrine type, but riverain wetlands occupy significant portions of the valley and provide hydrologic connections to White River. A number of important habitat areas occur along the stream, including waterfowl, fur bearers, as well as coho, chum, king, and pink salmon. White River has runs of steelhead and cut-throat trout and Dolly Varden. The area contains a log transfer site at George Inlet and beaches which are much in demand in Ketchikan.

Map Area - 2; Lake Harriet Hunt: This parcel consists of approximately 640 acres of land at and under Lake Harriet Hunt. This area is accessed by a state-maintained two-lane road. The area occupies the southern, eastern, and western portions of the area near Lake Harriet Hunt, and adjoins National Forest properties. The area is generally flat to moderately rolling. It consists of a mixture of wetland areas, mostly adjacent to the lake, and stands of hemlock, cedar, and spruce at the western and eastern boundaries of CFC's properties. The wetland types which, non-exclusive of the lake, cover 70% of the area include riverain, palustrine, and lacustrine. They are particularly extensive in the southern and southwestern areas of the parcel. Important habitat resources exist adjacent to the lake, associated with fur bearers and waterfowl populations. State land adjoins the Lake Harriet Hunt area immediately to the north, and this area has been proposed at various times for a state park. In addition, the Ketchikan Gateway Borough selected 600 acres of state land as part of its municipal land entitlement; this parcel is situated immediately west of the CFC holdings.

The area proposed for exchange is predominately level and open muskeg or non-commercial timber land. The area, including the lake, receive significant recreation use year round, including cross country skiing, snow machine use, ice skating, canoeing, boating, hiking, picnicking, swimming, camping and ATV use.

Proposed Exchange with Cape Fox Corporation

Map Area - 3; Talbot Lake: This area consists of 120 acres around and under Talbot Lake and is accessed from the by a single lane road and on the west by the old Ward Creek Trail. About 48% of the area is covered by open-growth commercial stands, the remainder is for the most part composed of wetland types, with relatively flat or rolling land to the northeast and east to relatively steep land to the west. The lake is quite small, but does represent some recreational opportunities, predominately picnicking and hiking. KGB has purchased timber rights previously sold by CFC to Klukwan Forest Products, Incorporated.

Map Area - 4; White River Second-growth: This area contains 650 acres, approximately 9% of which consists of wetland types. The land is steep, undulating or broken in the southeast portion, and steeply pitching southeast to the White River over the remainder. The area comprises the greater part of the western slopes of White River Valley. About 67% of the area has been clear-cut. Little of the remaining area represents important habitat. Protection of the White River road, including protection of the view shed after the slopes regenerate and continuity of management are the prime interests.

Map Area - 5; White River Hillside: This parcel consists of 673 acres of hillside and beaches located along the west shore of Upper George Inlet, and south of Leask Lake. The area is probably second only to Map Area-1 of the CFC properties in total resource values. Only 20% of this area has been clear-cut. Thirty-two percent of the area has recognized habitat potential for deer or fur bearers. The area also includes several small islands near the mouth of White River.

VIII. Appraised Values

The fair market appraised value of the five CFC parcels, after adjusting for 17 acres of timber in the northern forty already owned by KGB, and rounding is \$7,950,000. The three Leask Lake parcels, after adjustments removing 110 acres in cruise units 7 and 19, changing an additional 33 acres in these units from **cut** to "open space", and reducing the amount of road CFC will be **responsible** for constructing or upgrading by 10,500 feet, to 11.11 miles, were valued after rounding at \$7,950,000 (assuming there is no road fee associated with logging operations).

This was a complicated appraisal assignment for which the contract appraiser, Karabelnikoff and Associates, used a complex statistical analysis to arrive at values. The appraisal assignment was complicated because of several factors including: 1) only the surface estate is being appraised; 2) much of the land supports commercially valuable timber; 3) the state land to be transferred to CFC that is not designated for timber harvest is permanently reserved as "open space"; and 4) the proposed exchange requires the CFC to build roads suitable for public use.

Proposed Exchange with Cape Fox Corporation

The appraiser assumed that the highest and best use of the land is to log the timber and then make the land available for a wide range of recreational uses, including cabin sites and lodge operations. The appraiser, therefore, determined the net value of a logging operation, and then determined the residual value of the land after logging. The value of the subsurface estate was then deducted from the surface values. For the state tracts near Leask Lake, two significant deductions were made. First, residual land value was reduced due to the restriction that non-harvested areas remain as permanent open space, which adjusted the residual value of these tracts to 10% of their market value. In essence, the restrictions imposed on these parcels made them of limited value to CFC. Second, the costs of the road upgrade are deducted from the total appraised value of the state land and timber. The summary of values for each parcel is shown below.

CAPE FOX PARCELS

	-1-	-2-	-3-	-4-	-5-
Timber Value	\$2,700,000	\$405,000	\$102,000	\$45,000	\$2,141,000
Residual Land Value +	\$1,438,290	\$650,080	\$68,409	\$165,100	\$278,622
Subsurface Adj. -	\$14,383	\$6,501	\$684	\$1,651	\$2,786
Final Value =	\$4,123,907	\$1,051,579	\$169,725	\$208,449	\$2,416,836
Total Original Value of Cape Fox Parcels:					\$7,970,496
Less 17 ac. of KGB timber (Talbot Lake)					- 20,389
Total Adjusted Value of Cape Fox Parcels:					= \$7,950,107
Rounded:					\$7,950,000

LEASK LAKE PARCELS

	Original w/Road Fee	Orig w/o Road Fee	Adj w/o Road Fee
Timber Value	\$ 9,411,000	\$ 9,828,042	\$ 9,090,000
Residual Land Value +	\$ 1,775,224	\$ 1,775,224	
Subsurface Adj. -	\$ 17,752	\$ 17,752	
Open Space Adj. -	\$ 636,781	\$ 636,781	
Real Estate Value =	\$10,531,691	\$10,948,733	\$10,124,988
Extra Road Cost -	\$ 2,529,000	\$ 2,529,000	\$ 2,171,045
Final Value	\$ 8,002,691	\$ 8,419,733	\$ 7,953,943
Rounded:			\$ 7,950,000

Proposed Exchange with Cape Fox Corporation

Public review and comments have lead to changes in the specific configuration of the exchange, ultimately affecting final dollar values of the exchange. The appraiser organized the data to accommodate such adjustments. Adjustments have been made to compensate for less road upgrades, less cutting, and elimination of acreage to be conveyed to CFC. Existing data indicates the exchange as proposed in the Final Exchange Agreement to be of equal value.

DNR and an independent appraiser have thoroughly reviewed the draft appraisal and found the values to be generally correct. Much of the value of the appraised parcels are derived from timber and road construction values, which DNR finds acceptable. The residual land values were arrived at through the use of a complex statistical analysis. This analysis, while statistically valid, is not widely accepted in the appraisal community. Both the timber and land appraisals have been adjusted for modifications that result from the public review process. Final values have been incorporated in the Final Exchange Agreement.

IX. Benefits and Detriments

There are social, economic, and environmental benefits and detriments (adverse impacts) that may be derived from the exchange.

The exchange would increase public opportunities for roadside recreation in the Ketchikan area by adding approximately 11.11 miles of road; an increase of about 25%. Over both the short and long term, the exchange would provide the opportunity for additional state ownership of important recreation and habitat resources. For the most part, negative aspects of the trade are confined to the community benefitted. Although it is possible that the roads desired could be built and/or upgraded by other means, it is doubtful given declining state revenues. The existing roads in their current condition or ownership would not provide the public legal or safe access to CFC lands. The state has retained the option so that if the road upgrades are not accomplished, the amount of state lands committed to the exchange will be reduced accordingly. If the state did the upgrades the commitment of state lands could be reduced by about 274 acres.

Additional logging that results from the exchange will provide temporary jobs. Because of the nature of CFC, much of the logging proceeds are expected to recirculate within the community and positively affect the local economy. Acquisition by the state of Areas 1 and 5 will offer opportunity for additional protection of the remaining timbered areas along the mouth of White River and adjacent hillside, protecting both important habitat and views from George Inlet. The exchange should remove obstacles to support for more permanent protection, such as a legislative designation, of the remaining Leask Lake land, and state lands adjacent to the Salt Chuck. After the exchange, the state will still own 2,905 acres around Leask Lakes and additional lands in and around the Salt Chuck.

Proposed Exchange with Cape Fox Corporation

Some adverse affects or impacts can also be expected. "Old growth" forest land will be fragmented. The exchange would consolidate public ownership at White River, but at the same time fragment ownership near Leask Lake. Opening additional lands to public use, with or without adequate management, can have adverse impacts. The recreation and use of Leask Lake as a natural ecosystem would be altered, and the existing wilderness experience although not entirely lost would be reduced or further removed. Although work has been done to protect aesthetics in the Leask Lake area, it is expected that some of the clear cuts will be observable from the lake. Deer, and "interior forest" species, e.g. martin, although not expected to be lost, can be expected to decline. The significance of the impact of timber cutting on deer is expected to increase during moderate to severe winters (please see Attachment - "G" to the draft report and Section XVI.D. of this report). Numbers and resultant viewing opportunities could be affected by timber cutting and increased human access. The need for more intensive and costly wildlife and road management will likely increase as human use of the area intensifies. Hunting bag limits may have to be altered. Maintenance money for roads, bridges, and other service facilities will have to be provided. Without funding for maintenance (see Attachment - "I") estimated at \$20,000-\$30,000 per year, acquisition of CFC lands will not ensure that road access will be maintained. If the roads are not upgraded and maintained they will probably be closed. DNR does not have the funds needed to maintain the roads, and would more likely look to the Borough to provide those services.

X. Alternatives

AS 38.50.100 requires that, the director consider other alternatives to achieve the objectives of the proposed exchange in an effort to determine whether the proposed exchange will best serve the public interest. In making this determination, the director is required to consider, among other things, the advantages and disadvantages of acquiring the land or interest in land for the state by means of purchase, lease, selection or condemnation.

A. Purchase: This option would be acceptable to Cape Fox Corporation, but would cost the state almost \$8,000,000 without upgrade of the White River road or construction of the road to Leask Lake. If, however, another way to build public roads could be found, this alternative would provide many of the other exchange benefits with less impact on the Leask Lake area. Timber harvest would likely be much lighter. Ownership patterns would be consolidated without fragmentation of the Leask Lake parcel. Physical access comparable to that proposed by the exchange would require additional funding. Because of declining state budgets, a legislative appropriation for outright purchase is considered unlikely. There is also a feeling that protection of the White River, Lake Harriet Hunt and other CFC land should

Proposed Exchange with Cape Fox Corporation

involve some level of sacrifice by the community benefitted.

B. Lease: A lease of all CFC lands involved in the exchange, assuming 8% rental would cost the state approximately \$640,000 per year, without addressing the necessary road upgrades. This option is not practical for many of the same reasons addressed in "A". Furthermore, under this option, the state would never acquire ownership of the CFC land.

C. Selection: This is not an option. The state cannot select lands either interim conveyed or patented to CFC. Selecting other federal land to exchange to CFC is also not an option. The state has used most of its National Forest Selection entitlement, and cannot select land from the National Forest for timber alone, which is the type of land Cape Fox is interested in (Please also refer to Section X, Subsection I);

D. Condemnation: DNR's authority to condemn land is limited to providing access to its resources, e.g. timber. Although the Department of Transportation and Public Facilities has broader powers and could possibly condemn the road corridor it has indicated no interest in owning or managing the White River road. DOT/PF could not condemn adjacent CFC lands which the community desires for public use. All condemnations require payment of "fair market value", and considering CFC's willingness to sell, condemnation is unnecessary. Condemnation, even if an available option, would still require the state to purchase the land, see A (Purchase) above.

E. Trade Timber Rights on State Lands Only: Trading only timber rights on state land at Leask Lake, appeared to be a solution more acceptable to parties both generally supportive and opposed to inclusion of Leask Lake lands in the exchange. Although this solution would diminish the value of the state lands exchanged, it would also prevent the fragmentation of ownership of the state's Leask Lake parcel. However, there are significant problems with this approach. If the land remained in state ownership, CFC's timber harvest would be subject to the Annual Allowable Cut requirements needed for the state to manage at a sustained yield harvest rate. This could make harvesting and the exchange uneconomical for CFC. Furthermore, other recent attempts by the state to separate timber from the other bundle of property rights has lead to litigation. This is not a practical alternative.

F. Exchange as Proposed in the Preliminary Exchange Agreement (PEA): This proposal would achieve the objective of state ownership of the CFC land and resources but does not address road upgrades and thus would not provide assurance of timely physical access to the acquired lands. However it would reduce the state timber and lands scheduled for conveyance by about 30%.

Proposed Exchange with Cape Fox Corporation

G. Modified Leask Lake Exchange Proposal: This is the current proposal. DNR has modified the exchange proposed in the PEA to: 1) require upgrade by CFC of both the existing White River Road and the proposed road to Leask Lake to recreation standards; 2) reduced the acreage and timber volume and adjusted the cutting pattern to better conform to CFC's recommended modifications to the deer study; 3) added a provision to ensure that the road upgrades are provided before state timber or lands that fund the upgrades can be cut or title conveyed; 4) added a provision that would allow the state or its agent to accomplish the road upgrades and reduced the amount of state acreage committed to the exchange accordingly for doing so; and 5) added language to ensure that CFC rights to use the DEC permitted waste disposal site (#9113-BA012) and state tideland leases (#'s: 100898 and 105135) adjacent to the Log Transfer Facility at Upper George Inlet terminate consistent with the intent of the PEA as it applies to the use of the LTF, and that disposal of waste on the DEC permit area is restricted to that generated from the long transfer facility. DNR also removed an additional 40 acres, and placed another 13.5 acres south of Leask Lake into Open Space to provide protection for additional viewshed.

H. No Action Scenario: Until recently, and with few exceptions, "no action" has been the state's position since 1977. In light of CFC and Borough (community) efforts, a decision to take no action would disappoint both the Borough and CFC, with possible serious economic consequences to CFC. It would put the community no closer to achieving goals indicated by KGB's public survey, and may actually reduce support which appears to be building for legislative designation of the Salt Chuck at Upper George Inlet as a "Critical Habitat Area." Removal of Leask Lake from the exchange could also expose the area to consideration for inclusion in one or more outstanding settlements (such as the Mental Health Trust Lands) or selection by KGB should it receive additional entitlement. A no action scenario would most likely lead to additional cutting on CFC lands.

L. Other Access Alternatives: Several access alternatives have been considered. These include Forest Service proposals using either logging receipts and/or a combination of logging receipts and "hard money" for design and construction. DOT/PF has also contracted a study of possible transportation corridors for Revillagidedo Island (see Attachment - "O" of the original report for some of the alignments). This study may have been precipitated by a desire to intertie the Tyee and Swan Lake Hydro Projects.

Although DOT/PF may favor routes to the west and north of Lake Harriet Hunt, and these would be fine for accessing Leask Lake, neither provide desired roaded access to White River, and Upper George Inlet. DOT/PF proposal H&K (see Attachment - "O" of the original report) which for the most part parallels the KGB/CFC alignment, best achieves access to both of these areas.

Proposed Exchange with Cape Fox Corporation

DOT/PF's proposal (see Attachment - "O" to the original report) which would connect Ketchikan to the Bradfield Canal near the Tyee Hydropower Project, carries a price tag of up to \$150,000,000 or about \$1,000,000 per mile. If funds were limited, and the KGB/CFC proposed roads were in place, attention could be focused on stretches of road beyond Leask Lake, eliminating the immediate need for construction of the first eleven miles from Ketchikan, and deleting or deferring the need for almost \$11,000,000 required to provide the Ketchikan connection from its intersection with the proposed Leask Lake recreation road.

Any road dissecting rather than skirting the Naha, a U.S. Forest Service LUD II area, could be expected to encounter opposition. Although the Forest Service alignment running north of Lake Harriet Hunt best accesses its lands, the KGB/CFC alignment proposed in Alternative "G" (see Map 1, attached to the Final Exchange Agreement) provides the best access to lands now in state ownership or proposed for state ownership, and could act as a recreation loop if a better road is later constructed using DOT/PF's interior alignment.

J. Other Exchange Alternatives: Exchanges are difficult even when they are strongly supported and clearly benefit the areas involved in the exchange. The small amount of non-trust land in Southeast Alaska in state ownership, coupled with the high demand for its lands, e.g. need for lands for University of Alaska and Mental Health settlements, etc., adds to the difficulty. Alternatives (see Attachment - "K" to the original decision) were explored by CFC and the Borough, and Leask Lake was determined to be the only suitable site, and more importantly the only site of further interest to CFC. Although an attempt was made to interest CFC in timber rights in the Thorne Bay area, it indicated that it was clearly not interested because the more valuable timber in the Thorne Bay parcel has already been cut. KGB does own a stand of timber located at Whipple Creek estimated to contain approximately 15.3 million board feet. KGB, however, feels that there are problems which need to be addressed and is not willing to commit substantial amounts of this resource to an exchange at this time. It is likely that in addition to the problems that need to be worked out, that the Borough perceives these lands as not great enough to accommodate the primary objectives of the exchange but may be substantial enough to generate funds necessary to manage the lands ultimately acquired from the state exchange. This could be extremely important, given predictions again of diminished state revenue.

Proposed Exchange with Cape Fox Corporation

XI. Public Access

Public access to all major water bodies and courses in the area are expected to be enhanced by the exchange. Roaded access to White River and Upper George Inlet, now possible only with the consent of CFC, would be controlled by the state or its assignee. A road to the vicinity of Leask Lake will also be added. One may expect vehicular access by the general public to be curtailed until the roads are actually upgraded, and curtailed and or restricted during periods of major construction and/or logging. The exchange, and upgrade of the roads will not only provide access closer to Leask Lake, but also to and along the shores of Upper George Inlet both north and south of the existing CFC log transfer facility.

Regardless of the roaded access, legal public access to all the parcels acquired by the state, including the White River Valley and Lake Harriet Hunt, will result from the exchange. Portions of Lake Harriet Hunt, now controlled by CFC, would pass to the state. Legal and physical access to Talbot Lake will also be provided.

XII. Classification and Planning

The state's Leask Lake parcel is neither classified nor covered by a state area plan. However, neither is required by state statutes or regulations for an exchange. All areas covered by the proposed exchange are within the Ketchikan Gateway Borough and covered by its approved Comprehensive and Alaska Coastal Zone Management plans. Future use of the land acquired by both the state and CFC, including the timber harvest on CFC land near Leask Lake, will be subject to the Coastal Management and comprehensive plans. The proposed exchange is consistent with these plans.

XIII. Subsurface (Mineral) Rights

The ownership of the surface and subsurface estate of the CFC parcels is split between CFC and Sealaska Corporation respectively. AS 38.50.050 prevents the director from separating the surface estate of land from the mineral rights unless he finds that the separation of estate is necessitated by a prior separation of ownership (which exists in this situation) or that the conveyance or receipt of the surface or mineral estates, one without the other, is necessary to achieve a significant public purpose.

Acquiring lands in vicinity of White River and Lake Harriet Hunt to provide greater opportunities for roaded recreation and acquisition of additional resource lands are objectives with significant public purpose that will not be attained without the exchange. Equal value land exchanges for subsurface resources are difficult to accomplish due to the extreme problems of establishing subsurface values. Further, Sealaska is reluctant to reduce its

Proposed Exchange with Cape Fox Corporation

land base which has much to do with their perception that the land is a heritage which should not be diminished. The problem and policy is evident even when dealing with small exchanges and sales. Although both the state, and Sealaska would prefer retaining the integrity of the estates, the state does not feel that it would be practical in this case and that the split of the estates is necessary and justified to meet objectives a with significant public purpose.

The state's acquisition of the surface estate, overlying Sealaska's subsurface estate, will not enhance or diminish any rights and interests of Sealaska as the subsurface owner. Sealaska shall have all rights of reasonable access, use and development of its subsurface. Sealaska's exercise of its rights as subsurface owner shall include reasonable protection of the state's surface estate and resources.

The potential for marketing and removal of large amounts of sand, gravel, rock and minerals is low, and that there are adequate ways to guide any removal to ensure reasonable protection of other surface resources.

XIV. Title

The state received Tentative Approval to the Leask Lake lands March 14, 1983. These lands were selected for community expansion and recreation under the National Forest Community Grant. CFC has patent to most of its lands and Interim conveyance to the remainder. Please see Attachment - "L" to the original report for a map indicating CFC status, and specific conveyance documents and title reports pertinent to both state and CFC properties.

XV. Environmental Assessment

An ~~enviromental~~ environmental assessment of all potential exchange lands was completed by ~~the~~ SERO on June 25, and 26, 1991. No major environmental ~~contaminations~~ or unauthorized uses were discovered on either the state or CFC land.

XVI. Issues

Primary issues are as follows:

A. Issue: Should the state commit land and "old growth" timber near Leask Lake to acquire one or more of the five parcels of CFC lands which includes some land where timber has been harvested?

Proposed Exchange with Cape Fox Corporation

Discussion: Although deer, interior species, and the quality of a more remote experience can be affected by this trade, the total benefits to Ketchikan and the state are considered to outweigh detriments. The state would gain access or control over almost twice as much surface estate, and although differently configured, almost as much timber as it would give up. About one-fourth (1,000 acres) of the CFC lands have been harvested, the remainder includes valuable timber land and wetlands that support a variety of recreation, fish and wildlife resources. The cut-over land in time will be reforested, making it even more valuable.

B. Issue: Although the exchange will consolidate ownership and grant the state control of more acreage, it will also fragment ownership near Leask Lake.

Discussion: Fragmentation of Leask Lake lands is considered one of the undesirable results of the exchange proposal. It is, however, off-set by consolidation into state ownership of the surface estate of the White River lands which are more accessible and useable to the public. Although there were ways to reduce the fragmentation on state lands, attempts to minimize habitat impacts, with special attention to fish and deer were considered more important. From a habitat perspective, the fragmentation is preferred over conveyance of a larger contiguous block. A larger block would likely include valuable riparian areas.

C. Issue: In light of other possible alternatives for providing access to the Leask Lakes area, is it worth the estimated \$2,500,000 to upgrade the roads now; particularly with no assurance from CFC that the upgrades will occur in the near future?

Discussion: Considering continuing state budget shortages and the lack of any Forest Service plans to construct roads, this exchange is the most viable means of providing access to the Leask Lakes area and other recreation land. Although DNR would have preferred a condition requiring CFC to provide the roads immediately, it also understands that CFC's actions are dependent on market forces. Although under the agreement CFC has ten years to log and build the roads, CFC intends to market the timber as soon as practicable. CFC anticipates that roads should be constructed and available for access within three to five years. The state has retained the opportunity, to accomplish the upgrades and reduce the resources scheduled for conveyance to CFC accordingly. Although there are many other access proposals, there are none that can be depended on at this time, nor that could be expected to be designed and constructed in less than three to four years.

Proposed Exchange with Cape Fox Corporation

There are also different places the proposed Leask Lake road could be terminated to reduce the amount and cost of road construction. Terminating the road four miles south of the state's northern boundary, and east of Leask Lake would save about \$720,000. This would translate into about 90 acres of state land, and 2,600,000 board feet of timber that would not have to be committed to the exchange. Terminating the road at this location would, however, require those desiring to access the Naha from a location east of Leask Lake to hike through several miles of intermittent clear cuts.

Although timber types, volumes, and values vary greatly, the average acre cruised at Leask Lake contains approximately 29,000 board feet of timber valued at about \$7900 per acre. The cost of road upgrade also varies by location but averages approximately \$180,000 per mile.

D. Issue: The exchange will impact deer and interior species. Deer will more probably be affected during medium to severe winters.

Discussion: ADF&G estimates as much as 71% greater mortality to deer during medium to severe winters on the Leask Lake exchange area, due to scheduled cutting associated with the exchange. CFC felt it was important to balance this loss against deer that would be protected on CFC lands by not cutting. The magnitude of losses is dependent on the scope of the area viewed.

The decline of deer populations is off-set by other benefits of the exchange. For example, logging on CFC land that could occur if not acquired by the state would also impact wildlife populations. The table below was constructed from data developed by CFC consultant ANI, and ADF&G.

DNR Summary of Results of Combined ANI/ADF&G Impacts Analysis on Deer Populations created by the Exchange:

Impact Analysis-Exchange Areas Only:

Year	Assumption	No. Deer	%Decrease
1992	Base (LL&CFC Exch. Land)	258	-
2030	No Add. Cut	239	7
2030	Log CFC Land Only	206	20
2030	Log LL Land Only	142	45
2030	Log Both CFC&LL	109	58

Proposed Exchange with Cape Fox Corporation

Impact Analysis-All State Leask Lake Land (5000ac plus) & All CFC Exchange Land (4,000ac plus):¹

<u>Year</u>	<u>Assumption</u>	<u>No. Deer</u>	<u>%Decrease</u>
1992	Base (All LL & CFC Exc.)	345	-
2030	No Add. Cut	326	6
2030	Log CFC Land Only	293	15
2030	Log LL Land Only	225	35
2030	Log Both LL&CFC	192	44

E. Issue: The survey of Ketchikan residents while indicating the need for additional roaded recreational opportunities, stresses even more the need to protect habitat.

Discussion: KGB's public survey is subject to interpretation. Habitat protection was rated the highest. Next with only a tenth of a point of separation came both increased recreational opportunities, and increased roaded recreational opportunities. The survey appeared to indicate a sensitivity to the environment, but also a desire for increased recreational access. DNR has interpreted this survey as an indication that the residents of Ketchikan are willing to accept some timber harvest to achieve more roaded access. The timber cutting layout at Leask Lake has been completed with a sensitivity to protection of prime fish habitat and recreation values.

The desire for additional roaded access is a statewide issue. The results of a survey by Dittman Research Corporation of Alaska conducted during the period August 7 through August 14, 1991 of 528 Alaskans over the age of 18, in 51 Alaskan communities indicated that 59% supported to some degree expansion of Alaska's road network.

F. Issue: Talbot Lake is an "add-on". It involves timber rights purchased by KGB from KFP and should not be considered. Are there other CFC parcels that should not be considered, to help reduce the impact on the lands near Leask Lake?

¹ Estimates assuming moderate to severe winter. No adjustments for reduction in acreage (110 acres) scheduled for conveyance to CFC or additional acreage placed in "open space" (33 acres).

Proposed Exchange with Cape Fox Corporation

Discussion: Talbot Lake is an "add-on" recommended by the Borough due to its proximity to Ketchikan, the presence of the lake, access road, and trail system. The value of the timber already owned by KGB were removed from the appraisal value of the parcel. Although it could be dropped from the exchange, it is valued under \$150,000 and would do little in itself to alter impacts of the exchange. It could, however, reduce the potential cut from state land by about 500 Mbf or 18 acres.

G. Issue: Should the state trade for only the surface rights and not acquire Sealaska's subsurface ownership.

Discussion: Because the surface and subsurface ownership of the CFC land is already split, for the state to acquire the subsurface would require an additional exchange with Sealaska. There are no known subsurface resources on either the CFC/Sealaska land or the state land at Leask Lake. Appraising and exchanging subsurface land is difficult, and considering low subsurface values and Sealaska's lack of interest in an exchange, DNR has concluded the exchange should proceed for surface estates only. For further discussion of this issue, please refer to Section XIII - Subsurface (mineral) Rights in this report.

H. Issue: Should the Leask Lakes area be designated a state park and the Salt Chuck a State Critical Habitat Area.

Discussion: Previous statewide planning for state parks has not identified Leask Lakes as a priority for legislative designation as a state park. The exchange does not include the most valuable recreation or habitat land immediately adjacent to either the lakes or the Salt Church. In fact, less than half (2,335 acres or 44%) of the state's 5,240 acre Leask Lakes tract is proposed for transfer to CFC. The remaining land has been recommended by the Ketchikan Area State Parks Advisory Board for legislative designation for recreation use. The exchange would not preclude such designations.

I. Issue: Should the state trade the Leask Lake land, which is used for wilderness recreation, to acquire road accessible recreation.

Discussion: Much of the opposition to the exchange is based on the desire to protect the "wilderness" recreation values of the Leask Lakes area, while much of the support is from those who desire road accessible recreation. It is clear that what Ketchikan lacks, and many residents desire, is more road accessible recreation. The CFC parcels the state is acquiring, include the White River - a relatively slow-flowing river that provides opportunities for sport fishing, two road accessible lakes including Lake Harriet Hunt, beaches

Proposed Exchange with Cape Fox Corporation

along and road access to Upper George Inlet, and other road accessible public lands. The road to the Leask Lakes area will also provide more convenient access to Leask Lakes. There is also significant acreage set aside for roadless and wilderness recreation near Ketchikan, including the Naha drainage and over 2 million acres in Misty Fiords National Monument. The exchange and resultant timber harvest on land CFC acquires will negatively impact the wilderness recreation values of Leask Lakes. However, there are ample (and better) areas for this recreation.

The benefits of the exchange in terms of increased roaded recreation will occur to many more people. In balance, the exchange increases the public's recreation opportunities.

J. Issues: Should the state enter into an exchange that gives CFC more timber land to cut?

Discussion: Land exchanges only succeed when all the parties to the exchange receive benefits. A primary benefit to CFC is more timbered land to harvest in order to generate revenue. Benefits to the state are road accessible land for recreation and other uses close to Ketchikan.

K. Issues: Should the exchange proceed without an approved land appraisal?

Discussion: DNR has thoroughly reviewed the appraisal and finds the values generated by the appraisals to be generally correct. Much of the value of the appraised parcels are derived from timber and road construction cost appraisals, which DNR finds acceptable. At issue are the residual land values (see Section VIII - Appraised Values in this report). These values were arrived at through use of complex statistical analysis, which while statistically valid, are not widely accepted in the appraisal community.

DNR has chosen to proceed with the exchange despite the lack of a final appraisal for several reasons:

1. The values arrived at seem correct.
2. The same process was applied to both the CFC land and the state parcels, the same comparable properties were used to set the values.
3. If the exchange is not approved by the current legislative session, the exchange may never occur, and a revised appraisal cannot be completed in time for consideration by the current legislature. If the exchange does not occur this year, CFC may harvest additional timber in the land it proposes to trade to the state, or may lease or sell some of this land.

Proposed Exchange with Cape Fox Corporation

4. The legislature can approve an exchange which does not have an appraisal approved by DNR.

L. Issue: Several public commentators suggest that DNR is by-passing the legislative appropriation process and state procurement code by trading CFC land in (partial) exchange for CFC's road-building.

Discussion: Alaska Statutes 38.50.020 allows DNR to enter into exchanges that include "other considerations" besides land or cash. State procurement codes and legislative appropriations deal with how the state spends money.

- M. Issue:** Will the exchange result in visual impacts?

Discussion: The timber harvest that results from the exchange will negatively impact views looking south and east from Leask Lakes and northwest from upper George Inlet. Leask Lakes have a fairly boggy shoreline and there is no recreation development or maintained trail to the lakeshore, hence, the recreation use of the lakes is limited. In response to public concerns, 40 acres close to Leask Lakes were removed from the final exchange proposal and an additional 13 acres was placed in Open Space to protect wildlife and visual resources. An additional 70 acres was removed and 20 acres placed in Open Space in Cruise Unit 19 to protect deer habitat. If the exchange does not occur, CFC is likely to harvest additional timber visible from Upper George Inlet.

XVII. SUMMARY OF PUBLIC COMMENTS

The report on the proposed exchange was released on February 10, 1992. Public hearings were held in Saxman (March 11), Ketchikan (March 11) and Juneau (March 12). The public comment period closed on March 26, 46 days after the exchange report was released.

The exchange report was a 20-page document, with 16 attachments. The report and attachments (over 250 pages) were mailed to 42 individuals, agencies or special interest groups, all members of the Alaska Legislature, the Ketchikan Gateway Borough, and others. A public notice describing the exchange and the public hearings was published in the Ketchikan Daily News, Juneau Empire, Fairbanks News Miner, and Anchorage Times.

A total of 137 individuals signed-in at the three public hearings (30 in Saxman, 93 in Ketchikan, and 14 in Juneau). Eighty-six (86) persons testified at the hearings. Fifty-five (55) letters or notes, one petition with 109 signatures were received by March 26, 1992, was submitted and one questionnaire signed by 45 people. Most individuals who commented (270

Proposed Exchange with Cape Fox Corporation

out of 287)² are residents of the Ketchikan Gateway Borough (based on mailing addresses).

Nearly all persons who commented on the exchange voiced either support or opposition to the exchange. Many voiced reasons for their position, and only a few provided specific suggestions on how to modify the prepared exchange.

A total of forty-four (44) persons testified at the hearings in support of the exchange. Eighteen (18) notes or letters were received in support of the exchange. The Ketchikan Gateway Borough submitted testimony in support of the exchange. The Borough, as well as the cities of Ketchikan and Saxman are previously on record in support of the exchange. The Ketchikan Chamber of Commerce and Ketchikan Community Liaison Committee support the exchange. Sealaska Corporation, Kootznoowoo, Inc., Goldbelt, Inc., Cape Fox Corporation, the Ketchikan Indian Corporation and Alaska Native Brotherhood all expressed support for the exchange. Timber interests that commented in support of the exchange were Fox River Timber Company, Sealaska Timber Corp., Klukwan Forest Products and the Alaska Forest Association.

The following are reasons stated by supporters of the exchange:

- A. Increased road-accessible recreation.
- B. It will provide jobs and other economic benefits to Ketchikan, including jobs from timber harvest.
- C. The original area available for selection by Cape Fox Corporation (CFC) under the Alaska Native Claims Settlement Act were inappropriate, the exchange will correct this and provide better ownership patterns.
- D. The exchange provides long-term benefits and is in the state's interest.
- E. Development (roads, timber harvest, recreation) will result from the exchange.
- F. The exchange may make additional land available for development.
- G. The exchange can be accomplished (CFC, the state, the borough, and Sealaska were all in agreement).
- H. There is already enough wilderness. What's needed is more road-accessible recreation.
- I. Elderly need recreation and cannot back-pack and hike.
- J. The exchange benefits me (the commentor).
- K. If the exchange fails, the land (and timber) near Leask Lakes will be transferred to the Mental Health Trust and cut anyway.

² A total of 287 individuals either testified at hearings, wrote letters, or signed the petition, excluding duplicates (9 people testified at the hearings and also wrote a letter or signed a petition).

Proposed Exchange with Cape Fox Corporation

- L. Families need a place to go to picnic and recreate that is a short drive from Ketchikan and not too difficult to reach.
- M. Leask Lakes is beautiful and the exchange and related road construction will provide access to the area.
- N. The open areas, including clear-cuts, provide good berry picking.
- O. The logged areas make wildlife viewing and hunting easier.
- P. Prefer to recreate along the White River than a muddy lake.
- Q. The exchange provides additional land for recreation and resource development.
- R. Benefits of the exchange outweigh detriments.
- S. Sets a good pattern for other equal value exchanges.
- T. Man needs to be able to use resources.
- U. Provides better management of important resources.
- V. White River has good fishing and wildlife viewing.
- W. The beach near the mouth of White River is a unique resource that the state will acquire through the exchange.

A total of 42 persons testified at the hearings in opposition to the exchange. Thirty-six (36) letters or notes were received in opposition to the exchange. Organizations that responded in opposition to the exchange were the Tongass Conservation Society, the Tongass Sportfishing Association, Sierra Club Legal Defense Fund, the Alaska Environmental Lobby, the Northern Alaska Environmental Center, and the Southern Alaska Conservation Council (SEACC). A "questionnaire was submitted with 45 signatures, forty-two (42) indicating their opposition to the trade and 3 showing they support the exchange.

The following are reasons or concerns expressed by those who opposed the exchange (and resultant timber harvest):

- A. The exchange will negatively effect views from Leask Lakes and Upper George Inlet.
- B. The exchange is bad public policy.
- C. The state should not exchange timbered land for clear-cut land.
- D. Access will not be available in winter.

- E. Wildlife habitat and species (particularly deer) will suffer.
- F. Land ownership around Leask Lakes will be fragmented.
- G. The state should not try to prop-up a shaky corporation (CFC).
- H. Does not want to see more logging, timber activity.
- I. The state should not trade without acquiring the subsurface.
- J. Keep Leask Lake a high quality recreation area.
- K. The exchange will affect hunting.
- L. There is no public benefit or overriding public interest in the exchange.

Proposed Exchange with Cape Fox Corporation

- M. Timber harvest of CFC land will be exported without primary manufacturing, therefore the economic benefits will be less than predicted.
- N. Leask Lake should be designated a State Park or Critical Habitat Area.
- O. Leask Lakes timber is old growth, the state should protect old growth.
- P. The exchange cannot be evaluated because the appraisal is not complete. The draft appraisal failed to consider habitat and recreation values, under-valued some CFC land, and used incorrect discounting factors.
- Q. DNR is by-passing the legislative appropriation process and state procurement code by giving CFC land and timber in [partial] exchange for CFC building roads. The state is financing a capital project (road-building) without competitive bids.
- R. Pristine land at Leask Lake provide better recreation experience.
- S. Leask Lake as a state park, in its pristine condition, would provide long-term economic development through tourism. One person cited the impact Chilkat Eagle Preserve has had in Haines as an example.
- T. The Leask Lake area resources are superior to White River's resources even before White River area timber was cut.
- U. The White River area does not provide quality recreation.
- V. The exchange is not equal value.
- W. The timing of construction, quality and maintenance of roads is uncertain.
- X. The proposed exchange has too much uncertainty (primarily road improvements and maintenance).
- Y. Pristine recreation makes more economic sense.
- Z. The exchange would set a bad precedent - by the state acquiring clear-cut land and giving a Native Corporation more timber to cut. It encourages corporations to manage land for short-term gain and not for sustained yield.
- AA. Proper exchange procedures were not followed because there is no approved appraisal and the legal (newspaper) notice did not include maps.
- BB. DNR did not adequately evaluate Leask Lake resources and other options.
- CC. There are alternate ways of providing road-accessible recreation through U.S. Forest Service road building.
- DD. The community is split regarding the exchange - public support is at best tepid.
- EE. Regarding the Community Survey conducted for the Borough, "considering wildlife and fisheries habitat impacts" was by a wide margin the most important value.

Proposed Exchange with Cape Fox Corporation

- FF. The impacts of the trade on wildlife other than deer have not been investigated.
- GG. The proposal may be inconsistent with the important upland habitat standard of the Alaskan Coastal Management Program due to impacts on deer. The exchange violates the sustained yield requirement of the Alaskan Constitution. DNR may be required to go through an area land-use planning process before trading land.
- HH. Enforcing logging and other restrictions on land conveyed to CFC may be problematical.

The Ketchikan Area State Parks Advisory Board (SPAB) and several individuals were neutral on the exchange. The SPAB passed a resolution stating that if the exchange is pursued, the remainder of the Leask Lake land should be designated by the Legislature for recreational purposes. The SPAB also passed a resolution stating that if the exchange fails, the entire Leask Lake area should be legislatively designated as a State Park.

For the department's response to these comments, please refer to the revised Issues discussion, Section XVI in the exchange report.

XVIII. Suggested Addition to Commissioner's Decision:

The department conducted a 46-day public review of the proposed exchange. Public hearings were held in Saxman, Ketchikan and Juneau. A total of 137 individuals signed-in to these meetings, with testimony split between those in support (44) and those opposed (42) to the exchange. Fifty-five (55) letters or notes were received, with 36 opposed and 18 in favor. A petition signed by 109 persons was submitted in support of the exchange. A "questionnaire" with 45 signatures was submitted, with forty-two (42) indicating opposition and 3 showing support for the exchange. Very few specific suggestions were made to modify the exchange, most only expressed their reasons for support or opposition to the proposal.

While the numbers of people testifying on the exchange were divided, those in favor of the trade include the Ketchikan Gateway Borough, the Ketchikan Chamber of Commerce, several Native corporations and timber interests. Those opposed included several environmental organizations.

My decision to proceed with this exchange is based not only on this public testimony, but also taking into consideration the extensive public discussion conducted by the Ketchikan Gateway Borough that resulted in this exchange proposal. After hours of public hearings, the Borough Assembly and Planning Commissioner endorsed this proposal. Both the City Councils of Ketchikan and Saxman are on record in support of this exchange.

Proposed Exchange with Cape Fox Corporation

Several modifications have been made to the exchange agreement in response to specific suggestions made in the public review process. The acreage of land to be conveyed to CFC has been reduced to 2335 (approximate) by retaining 110 acres in Parcel B of the proposed exchange land, 40 acres of which is land close to Leask Lake. An additional 33 acres has been altered from cut to open space. This deletion is to be lessen visual and wildlife impacts. An additional 70 acres was deleted and 20 acres redesignated as open space to provide added protection to deer in Parcel B. The final exchange agreement more clearly addresses the road building requirements, specifically the agreement will specify land which will not be conveyed to CFC until road construction is well underway.

I am submitting this exchange for legislative approval without a final, approved land appraisal. The appraisal for this exchange was prepared under contract to the Ketchikan Gateway Borough. The appraisal assignment was complex to begin with because 1) much of the land supports commercial timber; 2) surface and subsurface ownership are split; 3) the state land transferred to Cape Fox Corporation that is not designated for timber harvest is permanently reserved as "open space", and; 4) the proposed exchange requires CFC to build roads for public use. The appraisal firm used a complex statistical analysis to arrive at the values, and DNR continues to have concerns over some aspects of the appraisal methodology.

I have chosen to proceed without approving the appraisal for several reasons:

1. The values arrived at seem correct, this is after extensive review by DNR's appraisers and independent appraisers hired to review the report.
2. The same appraisal process was applied to the CFC and state land.
3. The majority of the appraised values come from commercial timber or road building costs which DNR has approved and we are not at issue with the appraisal - at issue is the residual land value.
4. The exchange cannot wait for another legislative session. It has taken over a year to reach the final exchange agreement, to delay another year would require that CFC forego another year's opportunity to raise any revenue from the land it is willing to trade to the state. By next legislative session, CFC may harvest additional timber on land it agreed to trade to the state, or may sell or lease some of this land.
5. The legislature can approve an exchange that does not have an appraisal approved by DNR, provided they believe it is in the public interest. This exchange is clearly in the public interest.

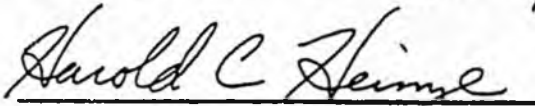
Proposed Exchange with Cape Fox Corporation

I find the Final Exchange Agreement as proposed, and attached hereto to be in the state's interest, and that the exchange as proposed should be advanced for submission to the Legislature for approval.

It is further my finding that the split of surface and subsurface estates is necessary and justified because of a prior separation of estates as a result of ANCSA, and to achieve the objectives of the exchange and significant public benefits.

The Final Exchange Agreement and this report will be the Department's final administrative documents for the exchange. An appeal to the final exchange agreement, and report of exchange executed by the Commissioner of DNR must be made to Superior Court of the State of Alaska.

Executed this 6th day of April, 1992.


Harold C. Heinze
Harold Heinze, Commissioner
Department of Natural Resources

Attachments: Final Exchange Agreement with attachments

SB468

SENATE FINANCE COMMITTEE REPORT

DATE: 4/10/92

FURTHER:

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
INTO OFFICE: _____

The Finance Committee considered SB 468

Authorizing the Alaska State Housing Authority to issue bonds in the amount of 57 million dollars to finance the design and construction of a government center building in Juneau; efd.

and recommends:

replace with _____ CS _____ (FINANCE)

or adopt previous _____ CS _____ (_____)

attaches amendment(s)

same title
 new title
 technical
title change
(HB only)

adopts _____ letter intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

appropriation--no fiscal note

DO PASS:

1. _____
Co-Chair. Signature/Recommendation

PREVIOUS FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

OTHER RECOMMENDATIONS:

2. _____
Co-Chair: Signature/Recommendation

Died

SENATE BILL NO. 468

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE

Introduced: 4/10/92
Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing the Alaska State Housing Authority to issue bonds in the amount
2 of \$57,000,000 to finance the design and construction of a government center building in
3 Juneau; and providing for an effective date."

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

5 * Section 1. The Alaska State Housing Authority may issue bonds to finance the design and
6 construction of a government center building in Juneau to be owned by the authority. The principal
7 amount of the bonds may not exceed \$57,000,000. This section grants the legislative approval required
8 by AS 18.55.100.

9 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

SB473

SENATE FINANCE COMMITTEE REPORT

DATE: 4/15/92

FURTHER:

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
INTO OFFICE: _____

The Finance Committee considered SB 473

"An Act making an appropriation from the earnings reserve account of the Permanent Fund to the Education Facilities Financing Authority; and providing for an effective date."

and recommends:

- replace with _____ CS _____ (FINANCE)
or adopt previous _____ CS _____ (_____)
 attaches amendment(s)

- same title
 new title
 technical
title change
(HB only)

adopts _____ Letter of Intent

further referral to the _____

- do pass
 do not pass
 no recommendation
 individual recommendations

Died

NEW FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

appropriation--no fiscal note

PREVIOUS FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

DO PASS:

1. _____

Co-Chair: Signature/Recommendation

OTHER RECOMMENDATIONS:

2. _____

Co-Chair: Signature/Recommendation

SENATE BILL NO. 473

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE

Introduced: 4/15/92
Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act making an appropriation from the earnings reserve account of the Permanent
2 Fund to the Education Facilities Financing Authority; and providing for an effective date."

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

4 * Section 1. The sum of \$700,000,000 is appropriated from the Permanent Fund earnings reserve
5 account (AS 37.13.145) to the Education Facilities Financing Authority to capitalize the education
6 facilities fund.

7 * Sec. 2. The appropriation made by sec. 1 of this Act takes effect only if the lieutenant governor
8 certifies that a majority of the voters casting ballots on the question in an advisory vote in the 1992
9 general election have approved the creation of the education facilities fund in the Education Facilities
10 Financing Authority to be initially funded by an appropriation from the earnings reserve account of the
11 Permanent Fund.

12 * Sec. 3. The appropriation made by sec. 1 of this Act is to capitalize a fund and does not lapse.

13 * Sec. 4. If the appropriation made by sec. 1 of this Act takes effect under this Act, it takes effect
14 on the later of the effective date of an Act enacted by the Seventeenth Alaska State Legislature creating

1 the Education Facilities Financing Authority and the certification by the lieutenant governor of the results
2 of the advisory vote.

SB474

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

SB 474

SENATE FINANCE COMMITTEE REPORT

DATE: 4/29/92

FURTHER:

DATE TURNED INTO OFFICE: _____

The Finance Committee considered SENATE BILL NO. 474

"An Act relating to fees charged by state agencies."

and recommends:

replace with _____ CS _____ (FINANCE)

or adopt previous _____ CS _____

attaches amendment(s)

same title
 new title
 technical title change
(HB only)

adopts **Diad** letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

Incorporated in
HB 572

IN

NEW FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

appropriation--no fiscal note

DO PASS:

1. _____

Co-Chair: Signature/Recommendation

PREVIOUS FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

OTHER RECOMMENDATIONS:

2. _____

Co-Chair: Signature/Recommendation

STATE OF ALASKA
1992 LEGISLATIVE SESSION

FISCAL NOTE

No. 1

Bill Version: SB 474

(S) Publish Date: 4-29-92

Revision Date: _____

Department Affected: Commerce & Econ. Dev.

Title: Fees Charged by State Agencies

BRU: Banking, Securities & Corporations

Sponsor: Senate HES

Component: _____

Requestor: Senate L & C

COMPONENT SERIAL NO.

1	2	3	3
---	---	---	---

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND RESOURCE:	3.5	7.0	7.0	7.0	7.0	7.0
------------------------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER						
FUND SOURCE:	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS (Attach a separate page if necessary.)

Regulations with established fees should be promulgated by mid-FY 93.

Prepared By: Willis F. Kirkpatrick, Director Phone: 465-2521

Division: Banking, Securities & Corporations Date: 4/22/92

Approved by Commissioner: Glenn A. Olds *Glenn A. Olds*

Agency: Department of Commerce & Economic Development Date: 4-21-92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., and Impacted Agency(ies).

KP/dg11937D-1/042292a

Page 1 of 1

SENATE BILL NO. 474

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Introduced: 4/15/92

Referred: L&C, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to fees charged by state agencies."

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

3 * Section 1. AS 05.10.070 is amended to read:

4 Sec. 05.10.070. APPLICATION FOR LICENSE. A club, corporation, organization,
5 association, or fraternal society affected by this chapter may apply to the commission for a
6 license. An application must be in writing and upon a form prescribed by the commission and
7 must be verified in the manner the commission requires and accompanied by an annual license
8 fee set by the commission by regulation under AS 05.10.125 [OF \$100].

9 * Sec. 2. AS 05.10.120(a) is amended to read:

10 (a) The commission may grant annual licenses upon application in compliance with the
11 regulations adopted by the commission and the payment of the fees prescribed by regulation
12 under AS 05.10.125 for managers, referees, examining physicians, boxers, wrestlers, seconds,
13 and trainers.

14 * Sec. 3. AS 05.10 is amended by adding a new section to read:

1 Sec. 05.10.125. FEES. The commission shall establish by regulation the fees for licenses
2 issued by the commission under this chapter.

3 * Sec. 4. AS 05.30.020 is amended to read:

4 Sec. 05.30.020. REGISTRATION AND REGISTRATION FEE. A registration is valid
5 for two years [COMMENCING SEPTEMBER 1, 1968]. The registration fee shall be
6 established by regulation by the Department of Public Safety [IS \$5, WHICH SHALL BE
7 PAID INTO THE GENERAL FUND].

8 * Sec. 5. AS 06.01.010 is amended by adding a new subsection to read:

9 (g) The commissioner may establish by regulation a fee for the filing of an application
10 required by this title. The fee is in addition to investigation expenses that may be charged to the
11 applicant.

12 * Sec. 6. AS 06.20.030(b) is amended to read:

13 (b) An applicant shall pay to the department at the time of submitting an application a
14 sum, in addition to that specified in (a) of this section, set by the commissioner by regulation
15 [OF \$200] as an annual license fee for a period terminating on the last day of the current
16 calendar year. If the application is filed after June 30, an [THE] additional sum set by the
17 commissioner by regulation shall be paid to the department [IS \$100].

18 * Sec. 7. AS 06.30.815 is amended to read:

19 Sec. 06.30.815. FEE FOR FILING COPY OF CHARTER OF FEDERAL SAVINGS
20 AND LOAN. A fee set by the commissioner under AS 06.01.010 [OF \$10] shall accompany
21 each copy of the charter of a federal savings and loan association or certificate showing the
22 organization by conversion.

23 * Sec. 8. AS 06.30.820 is amended to read:

24 Sec. 06.30.820. FEE FOR APPROVAL BY COMMISSIONER. The commissioner may
25 charge a fee set by regulation under AS 06.01.010 for [OF NOT EXCEEDING \$10 UPON]
26 each application submitted for the commissioner's approval under [, AS PROVIDED BY] this
27 chapter.

28 * Sec. 9. AS 06.40.040 is amended to read:

29 Sec. 06.40.040. ANNUAL LICENSE FEE. On or before December 20 of each year, each
30 licensee shall pay a fee established by the department by regulation [OF \$200] to the
31 department as an annual license fee for the next succeeding calendar year. At that same time the

1 licensee shall file with the department a new bond that complies with AS 06.40.030.

2 * Sec. 10. AS 10.06.843 is repealed and reenacted to read:

3 Sec. 10.06.843. REGULATIONS RELATING TO FEES. (a) The department shall
4 establish by regulation the fees specified or authorized in this chapter.

5 (b) The filing fee for a document not otherwise provided in this chapter shall be
6 established by the department by regulation.

7 (c) The department may by regulation charge a corporation subject to this chapter a fixed
8 fee, for routine administrative services rendered to a corporation by the department, that is in
9 place of the fees specified in this chapter. However, a fixed fee under this subsection may not
10 include the fees specified under AS 10.06.140 and 10.06.828, or the tax under AS 10.06.845.

11 * Sec. 11. AS 14.48.090(a) is repealed and reenacted to read:

12 (a) The commission shall establish by regulation and collect fees for

13 (1) authorization to operate;

14 (2) renewal of authorization to operate;

15 (3) an agent's permit; and

16 (4) renewal of an agent's permit.

17 * Sec. 12. AS 15.25.050(a) is amended to read:

18 (a) At the time the declaration is filed, a [EACH] candidate shall pay a nonrefundable
19 filing fee to the director. The filing fee for each office shall be set by the director by
20 regulation [FOR CANDIDATES FOR OFFICE OF GOVERNOR, LIEUTENANT GOVERNOR,
21 UNITED STATES SENATOR, AND UNITED STATES REPRESENTATIVE IS \$100. THE
22 FILING FEE FOR CANDIDATES FOR OFFICE OF STATE SENATOR AND STATE
23 REPRESENTATIVE IS \$30].

24 * Sec. 13. AS 15.35.041 is amended to read:

25 Sec. 15.35.041. REQUIREMENT OF FILING FEE FOR SUPREME COURT
26 CANDIDATE. At the time the declaration is filed, a [EACH] candidate for retention shall pay
27 a filing fee to the director. The filing fee shall be set by the director by regulation [FOR A
28 CANDIDATE FOR RETENTION ON THE SUPREME COURT IS \$100].

29 * Sec. 14. AS 15.35.057 is amended to read:

30 Sec. 15.35.057. REQUIREMENT OF FILING FEE FOR COURT OF APPEALS
31 CANDIDATE. At the time the declaration is filed, a [EACH] candidate for retention shall pay

1 a filing fee to the director. The filing fee shall be set by the director by regulation [FOR A
2 CANDIDATE FOR RETENTION ON THE COURT OF APPEALS IS \$100].

3 * Sec. 15. AS 15.35.071 is amended to read:

4 Sec. 15.35.071. REQUIREMENT OF FILING FEE FOR SUPERIOR COURT
5 CANDIDATE. At the time the declaration is filed, a [EACH] candidate for retention shall pay
6 a filing fee to the director. The filing fee shall be set by the director by regulation [FOR A
7 CANDIDATE FOR RETENTION ON THE SUPERIOR COURT IS \$30].

8 * Sec. 16. AS 15.58.060(a) is amended to read:

9 (a) Each general election candidate shall pay to the lieutenant governor at the time of
10 filing material under this chapter. The fee for each office shall be established by regulation
11 by the lieutenant governor [THE FOLLOWING:

12 (1) PRESIDENT OR VICE-PRESIDENT OF THE UNITED STATES, UNITED
13 STATES SENATOR, UNITED STATES REPRESENTATIVE, GOVERNOR, LIEUTENANT
14 GOVERNOR, SUPREME COURT JUSTICE AND COURT OF APPEALS JUDGE, \$150
15 EACH;

16 (2) SUPERIOR COURT JUDGE AND DISTRICT COURT JUDGE, \$75 EACH;

17 (3) STATE SENATOR AND STATE REPRESENTATIVE, \$50 EACH].

18 * Sec. 17. AS 15.58.060(b) is amended to read:

19 (b) The state chair [CHAIRMAN] or executive committee of a political party shall pay
20 to the lieutenant governor at the time of filing material under this chapter the fee established by
21 regulation by the lieutenant governor [\$300] for each page purchased.

22 * Sec. 18. AS 18.65.310(a) is amended to read:

23 (a) Upon payment of a [\$5] fee established by regulation by [,] the Department of
24 Public Safety, the department shall issue a card identical to the motor vehicle operator's license
25 provided for in AS 28.15.111, except that the card shall be of a different color and shall state in
26 bold type letters across the face of it that it is for identification purposes only.

27 * Sec. 19. AS 18.65.410 is amended to read:

28 Sec. 18.65.410. APPLICATIONS. Application for a license as a security guard or
29 security guard agency shall [MUST] be made on forms provided by the commissioner. The
30 application must require the furnishing of information reasonably required by the commissioner
31 to carry out the provisions of AS 18.65.400 - 18.65.490, including classifiable fingerprints to

1 enable the search of criminal indices for evidence of a prior criminal record. The application
2 must be accompanied by a nonrefundable application fee set by the commissioner by regulation
3 under AS 18.65.450 [OF \$50 FOR A SECURITY GUARD AND \$200 FOR A SECURITY
4 GUARD AGENCY].

5 * Sec. 20. AS 18.65.450 is amended to read:

6 Sec. 18.65.450. REGULATIONS. The commissioner shall adopt regulations necessary
7 to implement AS 18.65.400 - 18.65.490, including provisions specifying the amount of bond or
8 insurance required and the types of uniforms, badges, and insignia that may be used, and
9 establishing the application fees for security guards and security guard agencies.

10 * Sec. 21. AS 18.72.030(a) is amended to read:

11 (a) A person who desires to sell fireworks at wholesale in the state shall first make
12 verified application for a license to the state fire marshal on forms provided by the state fire
13 marshal. The application shall be accompanied by an annual license fee by the state fire
14 marshal by regulation [OF \$50].

15 * Sec. 22. AS 23.15.390 is amended to read:

16 Sec. 23.15.390. FEES. The fee for filing an application for a permit shall be set by the
17 department by regulation adopted under AS 23.15.500 [IS \$10]. All fees shall be deposited
18 in the general fund. In addition to paying this fee, all persons conducting employment agencies
19 must comply with the provisions of AS 43.70 (Alaska Business License Act).

20 * Sec. 23. AS 24.45.041(g) is amended to read:

21 (g) An application for registration as a lobbyist under (a) of this section or for renewal
22 of a registration under (f) of this section is subject to a fee set by the commission by regulation
23 [OF \$100]. The commission may not accept an application for registration or renew a
24 registration until the fee is paid. This subsection does not apply to a volunteer lobbyist under
25 AS 24.45.161 or a representational lobbyist under regulations of the commission.

26 * Sec. 24. AS 37.10.050(a) is amended to read:

27 (a) A state agency may not charge for [THE PROVISION OF] state services, materials,
28 licenses, registrations, permits, application processing, the use of state facilities, or other
29 state activities unless the charge (1) is set or otherwise authorized by statute; and (2) where a
30 regulation is necessary, is set by or provided for in a regulation that meets the standards of
31 AS 44.62.020 and 44.62.030. A fee or other charge that is set by regulation may not exceed the

1 estimated actual costs of the state agency in administering the activity or providing the service
2 unless otherwise provided by the statute under which the regulation is adopted; this limitation
3 does not apply to sales of property by a state agency. Unless specifically exempted by statute,
4 a state agency authorized to collect or receive fees, licenses, taxes, or other money belonging to
5 the state shall account for and remit the receipts, less fees to which the collector is entitled by
6 statute or regulation, to the Department of Revenue at least once each month. The commissioner
7 of administration shall separately account under AS 37.05.142 for receipts deposited under this
8 subsection.

9 * Sec. 25. AS 37.10.050 is amended by adding new subsections to read:

10 (d) Each state agency shall annually review fees and charges collected by the agency.
11 If a fee that is set by an agency does not pay for the estimated actual costs of administering the
12 activity or providing the service or material, the agency shall adjust the fee to that level. If an
13 agency regulates an activity or provides a service or material and another agency is authorized
14 to set fees for the costs of regulating the activity or providing the service or material, the other
15 agency shall consider the recommendations of the agency regarding the setting of fee levels and
16 adjustment of fee levels so that they comply with this subsection. If the adjustment of a fee
17 results in a substantial increase, the agency may set a schedule to phase in the increase over a
18 period of time. By October 1, each state agency shall submit a report to the office of
19 management and budget regarding existing fee levels set by the agency or by statute, adjustments
20 made to fee levels during the previous fiscal year, and recommended increases in fees set by
21 statute. Each year by January 1, the office of management and budget shall submit a report to
22 the legislative auditor summarizing the reports and recommendations. By January 15, the
23 legislative auditor shall report to the legislature the status of fee regulations and make
24 recommendations for statutory changes.

25 (e) In this section, "agency" means a board, commission, or agency in the legislative,
26 judicial, or executive branch, but does not include the University of Alaska or a public
27 corporation.

28 * Sec. 26. AS 38.05.057(d) is amended to read:

29 (d) To apply for participation in a lottery under this section an applicant shall
30 (1) be qualified under the applicable provisions of this section and certify that fact
31 in the application; and

1 (2) pay a nonrefundable application fee [OF NOT MORE THAN \$25] for each
2 application; the fee shall be set by the commissioner by regulation.

3 * Sec. 27. AS 38.08.030(b) is amended to read:

4 (b) Fees for filing an application shall be set by the commissioner by regulation [MAY
5 NOT EXCEED \$10].

6 * Sec. 28. AS 42.05.661 is amended to read:

7 Sec. 42.05.661. APPLICATION FEES. With each application relating to a certificate
8 the applicant shall pay the commission a fee set by the commission by regulation that [OF \$50
9 WHICH] shall be deposited in the general fund of the state.

10 * Sec. 29. AS 44.19.024 is amended to read:

11 Sec. 44.19.024. FEES FOR ISSUING CERTIFICATE. For issuing each certificate with
12 the seal of the state affixed, the lieutenant governor shall collect a fee set by the lieutenant
13 governor by regulation [OF \$2 FOR THE FIRST THREE FOLIOS OR LESS AND 20 CENTS
14 PER FOLIO FOR EACH ADDITIONAL FOLIO]. The lieutenant governor shall account for the
15 fees received under this section and shall pay them into the general fund [STATE TREASURY].

16 * Sec. 30. AS 44.50.040 is amended to read:

17 Sec. 44.50.040. FEES. A fee set by the lieutenant governor by regulation [OF \$40]
18 shall be paid to the lieutenant governor for each commission issued to a person other than a state
19 employee.

20 * Sec. 31. AS 45.55.195(b) is amended to read:

21 (b) The administrator may by regulation [OR ORDER] adopt a schedule of charges for
22 annual examination fees of issuers, broker-dealers, agents, and investment advisers.

23 * Sec. 32. AS 46.03.385(a) is amended to read:

24 (a) At the time of registration under AS 46.03.380, and annually thereafter, the owner
25 or operator shall pay to the department a registration fee for each tank registered unless the
26 owner or operator has notified the department under AS 46.03.395 that the tank has been taken
27 out of service. The fee shall be set by the department by regulation. The fees may be
28 structured to take into account the fact that an [AN] underground storage tank [THAT] has
29 leak detection, spill and overflow protection, and corrosion protection that meet requirements of
30 the department and may also reflect [IS SUBJECT TO A \$50 ANNUAL REGISTRATION FEE,
31 REGARDLESS OF] tank capacity. [AN UNDERGROUND STORAGE TANK SYSTEM THAT

1 LACKS ANY OR ALL OF THESE FEATURES IS SUBJECT TO AN ANNUAL
2 REGISTRATION FEE OF

3 (1) \$150 IF THE UNDERGROUND STORAGE TANK CAPACITY IS LESS
4 THAN 1,000 GALLONS;

5 (2) \$300 IF THE UNDERGROUND STORAGE TANK CAPACITY IS 1,000 -
6 5,000 GALLONS;

7 (3) \$500 IF THE UNDERGROUND STORAGE TANK CAPACITY IS OVER
8 5,000 GALLONS.]

9 * Sec. 33. AS 05.10.120(b) is repealed.

10 * Sec. 34. TRANSITIONAL FEES. A fee set by a statute that is amended or repealed by this Act
11 remains in effect until a regulation setting a new fee to replace that fee takes effect.

AMENDMENTS IN SENATE FINANCE TO SB 474:

SPONSOR

SUBJECT

#5 DUNCAN	APOC
#4 POURCHOT	AEA
#3 LEG. FIN	LB&A <i>Dierdorff. 6</i>
#2 DPS	IDS, SNOWMACHINES, FIREWORKS <i>Dierdorff. 5</i>
#6 KERTTULA	DNR
#1 STURGULEWSKI	ELECTIONS

Adopted for Incorporation into AmCS for HB 572.

Elections
SFC-92
5-4-92

AMENDMENT #1

OFFERED IN THE SENATE

BY SENATOR STURGULEWSKI

TO: SB 474

Page 3, line 17 - page 4, line 21:

Delete all material.

Renumber the following bill sections accordingly.

Adopted for Incorporation into H.R.C.S. 48572

DAS

Sfc-92
5-4-92

7-LS2187J.5
Dierdorff
05/02/92

AMENDMENT

#2

OFFERED IN THE SENATE

TO: SB 474

Page 2, lines 3 - 7:

Delete all material.

Renumber the following bill sections accordingly.

Page 4, lines 22 - 26:

Delete all material.

Renumber the following bill sections accordingly.

Page 5, lines 10 - 14:

Delete all material.

Renumber the following bill sections accordingly.

LFD

SFC-92
5-4-92
7-LS2187J.6
Dierdorff
05/02/92

AMENDMENT #3

OFFERED IN THE SENATE

TO: SB 474

Page 6, line 22:

Delete "legislative auditor"

Insert "Legislative Budget and Audit Committee"

Page 6, lines 22 - 23:

Delete "By January 15, the legislative auditor"

Insert "Within 30 days after the convening of each regular session of the legislature, the committee"

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Finance



P.O. Box 113200
Juneau, AK 99811-3200
(907) 465-3795
FAX (907) 463-4885

MEMORANDUM

DATE: May 1, 1992

TO: Senator Jay Kerttula, Co-Chair
Senator Pat Pourchot, Co-Chair
Senate Finance Committee

FROM: Mike Greany,
Director

A handwritten signature in black ink, appearing to read "Mike Greany".

SUBJ: SB 474 - Fees charged by state agencies

SB 474 deletes several statutory references that set user fees and allows the departments to set those user fees in regulations. It also requires that the agencies review annually all fees and charges to determine if they are adequate to meet the administrative costs of the activity or of providing the service. If the revenues are not adequate, then the agency shall adjust the fees accordingly. A report is required from the Office of Management and Budget to the Legislature by January 1 of each year reporting all fees and adjustments to them, as well as recommendations for changes to statutory fee changes.

It appears that there are no sections in this bill that are necessary to implement actions taken to date by the Senate Finance Committee on the FY93 operating budget. There are two sections in this bill that change statutes that are also being amended in CS HB 574 (Fin)(am). Section 18 establishes regulatory authority for identification card fees that are being increased in section 7 of HB 574. Section 30 gives the lieutenant governor the authority to establish fees for notary commissions in regulations and is the same as section 29 in HB 574.

Because analysis of the report from the Office of Management and Budget may require expertise from both the audit and finance divisions, I would like to suggest the following language change to page 6, lines 21 through 24:

*New
Language* →

Each year by January 1, the office of management and budget shall submit a report to the Legislative Budget and Audit Committee summarizing the reports and recommendations. The committee shall report to the legislature the status of fee regulations and make recommendations for statutory changes, within 30 days after convening of each regular session.

AMENDMENT #4

OFFERED IN THE SENATE

BY SENATOR POURCHOT

TO: SB 474

Page 7, after line 19:

Insert a new bill section to read:

"* **Sec. 31.** AS 44.83.080 is amended by adding a new paragraph to read:

(17) to adopt regulations establishing fees under which the authority may be reimbursed for services or recover equity investments or capital costs for projects and activities described in (5), (6), and (8) of this section under agreements described in (7) - (10) of this section, or under other agreements that relate to the projects or covenants or representations made in bond documents that relate to the projects or loan programs."

Renumber the following bill sections accordingly.

AMENDMENT # 5

OFFERED IN THE SENATE

BY SENATOR DUNCAN

TO: SB 474

Page 3, after line 16:

Insert a new bill section to read:

"* Sec. 12. AS 15.13.030 is amended to read:

Sec. 15.13.030. DUTIES OF THE COMMISSION. The commission shall

(1) develop and provide all forms for the reports and statements required to be made under this chapter, AS 24.45, and AS 39.50;

(2) prepare and publish a manual setting out uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this chapter and otherwise assist candidates, groups, and individuals in complying with the requirements of this chapter;

(3) receive and hold open for public inspection reports and statements required to be made under this chapter and, upon request, furnish copies at cost to interested persons;

(4) compile and maintain a current list of all filed reports and statements;

(5) prepare a summary of each report filed under AS 15.13.110 and make copies of this summary available to interested persons at their actual cost;

(6) notify, by registered or certified mail, all persons who are delinquent in filing reports and statements required to be made under this chapter;

(7) report within 60 days after the election the names of all persons and groups who have failed to comply with any of the provisions of this chapter to the office of the attorney general;

(8) examine, investigate, and compare all reports, statements, and actions required by this chapter, AS 24.45, and AS 39.50 and report to the attorney general the names of all persons or groups that [WHICH] the commission has substantial reason to believe have violated this chapter, AS 24.45, or AS 39.50;

(9) prepare and publish a biennial report to the legislature concerning the activities

of the commission, the effectiveness of this chapter, its enforcement by the attorney general's office, and recommendations and proposals for change;

(10) adopt regulations necessary to implement and clarify the provisions of AS 24.45, AS 39.50, and this chapter, subject to the provisions of the Administrative Procedure Act (AS 44.62);

(11) establish by regulation a schedule of fees for reports, statements, and filings and for services performed by the commission.

Renumber the following bill sections accordingly.

Page 7, after line 15:

Insert a new bill section to read:

"* Sec. 31. AS 44.21.310(b) is amended to read:

(b) The department may

(1) coordinate its functions with local, regional, state, and federal officials, private groups and individuals, and with officials of other countries, provinces, and states;

(2) enter into contracts and subcontracts on behalf of the state to carry out the provisions of AS 44.21.305 - AS 44.21.330;

(3) act for the state in the initiation, investigation, and evaluation of, or participation in, programs related to the purposes of the department that [WHICH] involve more than one government or governmental unit;

(4) on behalf of the state, apply for, accept, and expend gifts or grants made to the state if the gifts or grants are for the purposes of furthering the objectives of the department; and

(5) hold public hearings to obtain information for the purpose of carrying out the provisions of AS 44.21.305 - 44.21.330; and

(6) provide telecommunication services to commercial entities for television broadcast and charge for those services.

Renumber the following bill sections accordingly.

#6

SENATOR KERTULA'S STATEMENT FOR AMENDMENT
TO SENATE BILL 474(HESS)

The only statutory changes necessary to implement the Senate *DNR* budget are a change to authorize fees in the state land exchange program and for Parks day use fees. There will also be some proposed legislative intent language for the operating budget bill.

Therefore, I have drafted an amendment to:

- 1) include the statutory change for state land exchange program;
and
- 2) include certain sections of CSHB574(FINANCE)am dealing with Parks fees should the Finance Committee wish to include these fees in CSHB572(FINANCE) am. Note that section 18 of this House bill permits Parks to accept ~~cash~~ and other donations. This section, while not necessary for the Senate DNR budget, could be beneficial to Parks

Adopted for incorporation into Rev CS for HB572.

AMENDMENT

OFFERED IN THE SENATE BY SENATOR KERTTULA
TO: SB 474 (HEALTH, EDUCATION AND SOCIAL SERVICES)

Insert a new bill section to read:

" Sec. AS 38.50 is amended by adding a new section to read:

** Sec. AS 38.50 is amended by adding a new section to read:

Sec. 38.50.025. COSTS OF EXCHANGE; FEES. (a) The director shall charge a party proposing an exchange of land under this chapter a nonrefundable application fee.

(b) In addition to the fee under (a) of this section, the costs of an exchange of land under this chapter, including survey, appraisal, advertising, and public hearing expenses that are incurred by the department, shall be charged to the party proposing the exchange as a processing fee.

(c) The commissioner shall adopt regulations to implement this section.

Renumber the following bill sections accordingly.

ALSO ATTACHED ARE SECTIONS 18, 19, 20, 30, AND 31 OF CSHB574(FINANCE)am CONCERNING PARKS FEES FOR THE COMMITTEE'S DECISION AS TO WHETHER THEY SHOULD BE INCLUDED IN SB474 AT THIS TIME. COMMITTEE SHOULD BE AWARE THAT IF SECTION 18 CONCERNING PARK DONATIONS IS ADOPTED, THE TITLE OF SB 474 WOULD HAVE TO BE CHANGED TO ADD " AND RECEIPTS BY STATE AGENCIES OF DONATIONS OF CASH AND OTHER PROPEORTY."