

ALASKA LEGISLATURE

2562

HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004

128

A. Parcel Size

This bill proposes the maximum size of **5.0** acres. Under the current program, applicants choose the size of their parcel. The average size chosen under the current program is approximately 13.6 acres. (The minimum size is 5 to 10 acres depending on the area. Minimum size is established to comply with local platting board or waste disposal requirements. Maximum parcel size is 20 acres). **5.0** acres is the size associated with this legislation.

B. Parcel Price

Remote land in Alaska is inexpensive. The selling price for Remote Recreation Cabin Parcels staked in FY01 and FY02, which was the first by lottery offer, averaged **\$620/acre**. Small parcels sell for less than larger parcels, though the per-acre price is higher. Currently, the average size Alaskans chose to stake is 13.6 acres. Department appraisers estimate, that all else being equal, the per-acre price ratio between a 13-acre parcel and a 5.0 acre parcel is **1.45**. The \$620/average price per acre is the lowest ever realized. Current sales have averaged \$1238 – 1432 per acre.

This fiscal note assumes that a 5.0 acre parcel will bring in \$900 per acre. (DNR's Ratio Conversion is: \$620/acre x 1.45 = 900). That is, each parcel brings in \$4,500 to the Department (= \$900/acre x 5.0 acres).

Total Potential Revenues: \$4500/parcel x 1000 applicants = **\$4,500,000**

This would assume 100% "cash buyers." With only 20% cash buyers, **\$900,000** would be generated by FY06. From "Financed" buyers, conservatively, **\$500,000** will be generated in revenue the first year that applications are received.

C. Purchase Rate

In the current program, only 43% of people issued staking authorizations go on to purchase their parcels. We assume there is higher demand for these parcels and the Department estimates **66%** will purchase. Willing applicants will result in 666 purchasers (66%). The remainder decide not to continue somewhere during the process. The Department is working to bring up the purchase rate. However, this rate is actually greater than similar historical programs. The Department's homestead/homesite programs allowed people to gain ownership through either purchase or prove-up.

Only 33% of the people who initially sought remote parcels followed through to ownership (two-thirds dropped out). It is possible that those who apply in the program proposed by this bill will have a higher purchase rate than past programs. However, individuals do not understand the major cost in time and money until they try to hire a surveyor and appraiser. This fiscal note assumes a 66% purchase rate or **666** parcels the first year. This is **below** historical trends.

D. Financing

The bill assumes current State practices for financing: Approximately 20% of applicants purchase outright and 80% finance their purchase over 10 years. The current interest rate is 7%. We assumed 5 years due to small loan amounts. DNR's terms would produce higher revenues than we project.

E. Schedule

The bill does modify DNR's existing survey and appraisal practice, but requires that reviews be completed within two years. Currently, the department contracts with private surveyors, on behalf of the individuals, and is able to complete the survey and appraisal process within two years. Individuals who are familiar with surveyors and appraisers take far less time. The Department believes that the minimum time for the process is two years: one summer for survey (survey instruction from DNR, survey by a private contractor, then review by DNR), and a second year for appraisal (instructions from DNR, appraisal by a private contractor, then review by fiscal year end). The schedule is as follows:

FY 05 to prepare regulations for this new program, information for the public, and begin receiving initial applications in the first half of FY05. DNR processing of applications (title search, best interest finding, public notice, etc.) would occur in FY05-06. Land surveys would occur primarily in FY06. DNR and Borough approval of surveys would occur in FY06. Half (50%) of the parcels may be purchased or will enter into sale contracts in FY06. Based on experience with past programs where applicants were required to get their own parcel surveyed and appraised, this is a very optimistic schedule.

This Department's timing is unreasonable as a "review" process is not as extensive through utilization of "qualified, state approved, surveyors and appraisers." Private Sector Contractors, based on market demand and financial ventures will provide faster results. The prime function of state appraisal and survey is not in the field, but to review work in the office, which reduces time and expense within the Department.

Since these parcels are chosen by private individuals, we anticipate a faster schedule (See **TIMELINE**).

HB 319

“TIME LINE”

- I. **Regulations/Forms/Program Guidelines (90 Days)**
 - a. July 1, 2004 – September 30, 2004

- II. **Applications/Selections/Title Search/Staking Packets (1000 Applications)**
 - a. October 1, 2004 – December 31, 2004
* **250** Applications Received
 - b. January 1 – April 30, 2005
* **100** Applications Received
 - c. May 1 – July 31, 2005
* **350** Applications Received
 - d. August 1 – October 31, 2005
* **300** Applications Received

- III. **Best Interest Finding Period (90 days)**
 - a. January 1 – March 31, 2005- Remote Cabin Best Interest determined - **250**
 - b. April 1 – June 30, 2005 – **100**
 - c. July 1 – September 30, 2005 – **350**
 - d. October 1 – December 31, 2005 – **300**

- IV. **Public Notice Period (60 days)**
 - a. April 1 – May 31, 2005- Publish “Draft” of Best Interest Finding.
 - b. June 1 – June 20, 2005 - (20 days) Appeal period - **250**
 - c. July 1 – August 31, 2005 – **100**
 - d. September 1 – September 20, 2005 – (20 days) Appeal period
 - e. October 1 - November 30, 2005 – **350**
 - f. December 1 – December 20, 2005 – (20 days) Appeal period
 - g. January 1, 2006 – February 28, 2006 – **300**
 - h. March 1 – March 20, 2006 – (20 days) Appeal period

- V. **Appraisals/Surveys (30 days)**
 - a. April 1 - July 31, 2005 - Applicant orders fee simple appraisal/surveys (**250**)
 - b. August 1 – October 31, 2005 – Applicant orders fee simple appraisal/surveys – (**100**)
 - c. November 1, 2005 – February 28, 2006 – Applicant s order fee simple appraisals/surveys – (**350**)
 - d. March 1, 2005 – May 31, 2006 - Applicants order fee simple appraisal/surveys – (**300**)

- VI. **DNR Review of Appraisal and Surveys (30 days)**
- a. May 1 – September 30, 2005 – DNR accepts Appraisals/Surveys (250)
 - b. September 1 – November 30, 2005 - DNR accepts Appraisals/Surveys (100)
 - c. December 1 – April 30, 2006 - DNR accepts Appraisals/Surveys (350)
 - d. May 1 – September 30, 2006 - DNR accepts Appraisals/Surveys (300)
- VII. **Document Preparation (30 days)**
- a. October 1, 2005- June 30, 2006- DNR performs title search and prepares (600) "contract for sale" documents or issues patent for cash purchasers
 - b. July 1, 2006 – April 30, 2007 – (400)
- VIII. **Closings (60 days)**
- FY06**
- a. October 1 – December 31, 2005 – DNR Closes the sale transaction of 250 Applications
 - b. December 1, 2005 – February 28, 2006 – Close (100) Applications
 - c. March 1, 2006 – June 30, 2006 – Close (200) Applications
- FY07**
- d. July 1, 2006 – September 30, 2006 – Close (150) Applications
 - e. October 1 – December 31, 2006 – Close (150) Applications
 - f. January 1 – April 30, 2007 – Close (150, Applications
 - g. May 1 – June 30, 2007 – Close (100) Applications

DNR collects revenue, with proceeds deposited to the Land Disposal Fund

FY05/FY06

- A. Prepare regulations and information to public **July 1, 2004 – Sept. 30, 2004**
- B. **September 30, 2004 –October 31, 2005** – First **1000** applicants with one year for DNR processing (title search, best interest finding, public notice, etc.)
- C. **November 1, 2005 – June 30, 2006** – **550** Cash buyers, in revenue by year end.
- D. **July 1, 2006 – June 30, 2007** – 550 closings to begin January 1, 2006 –April 30, 2007 (estimated revenues by year end FY07).

*Revenues begin in FY06 (18 months from the effective date).

Summary

The total amount of parcels (20%) sold for "cash" will be \$542,071 in FY06 and \$460,350 in FY07 (1100 parcels at \$4500/parcel). The total value "financed" will be 425 (parcels at \$4500/parcel) at 80%.

Income payments should generate \$80,530 in FY06 with another \$389,176 in payments in FY07 on financed parcels.

In total, by FY07 approximately \$1,423,792 revenues can be realized "conservatively" and can justify the \$476,000/year in expenses to administer the new program. Revenues will grow substantially after the word is out.

A. Technical Issues

This bill does not repeal the current program and provides that they continue indefinitely. Therefore, this fiscal analysis assumes the existing programs continue at their present level. The existing program is **not** a more cost-effective and revenue-efficient method to offer lands to Alaskans. The new program streamlines costs and passed this function on to private enterprise.

DNR feels it will take 5 years to realize revenue. This is inaccurate. Once the application is approved, a financially secure individual could have an appraisal and a survey within 30 days, 90 days maximum. A title company needs 10 days to close. It is not that complicated to sell land in Alaska.

This is a "**fast track**" purchase requiring only oversight by DNR. Participation is limited to selection and specifically NOT in surveying and appraising the selected lands other than to review contractor's work. That is the problem we have today. This bill changes that substantially to generate revenue and give everyone a chance to own "a Piece of Alaska."

Prepared by James F. Dieringer, III

Adopted
3.31.04

23-LS0477V
Bullock
3/30/04

CS FOR HOUSE BILL NO. 319()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION**

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES FATE, Wolf, Foster

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the disposal of state land by lottery; relating to the reservation of**
2 **rights by the state in land contracts and deeds; and relating to the disposal, including**
3 **sale or lease, of remote recreational cabin sites."**

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

5 *** Section 1.** AS 38.05.057(a) is amended to read:

6 (a) The commissioner may dispose of land, including land limited to use for
7 agricultural purposes, by lottery. The purchase price of land sold by lottery shall be
8 the fair market value of the land as determined by the commissioner. The
9 commissioner may sell land by lottery for less than the fair market value of the land on
10 a determination that scarcity of land for private use in the area of the land to be sold
11 has resulted in unrealistic land values. The lottery shall be conducted in public by the
12 commissioner. A purchaser selected by lot shall deposit an amount equal to 10 [FIVE]
13 percent of the purchase price within 30 days after receiving notification of the
14 selection.

1 * Sec. 2. AS 38.05.125(a) is amended to read:

2 (a) Each contract for the sale, lease, or grant of state land, and each deed to
3 state land, properties, or interest in state land, made under AS 38.05.045 - 38.05.120,
4 38.05.321, 38.05.600, 38.05.810 - 38.05.825, AS 38.08, or AS 38.50, except as
5 provided in AS 38.50.050, is subject to the following reservations: "The party of the
6 first part, Alaska, hereby expressly saves, excepts, and reserves out of the grant hereby
7 made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores,
8 minerals, fissionable materials, geothermal resources, and fossils of every name, kind,
9 or description, and which may be in or upon said land above described, or any part
10 thereof, and the right to explore the same for such oils, gases, coal, ores, minerals,
11 fissionable materials, geothermal resources, and fossils, and it also hereby expressly
12 saves and reserves out of the grant hereby made, unto itself, its lessees, successors,
13 and assigns forever, the right to enter by itself, its or their agents, attorneys, and
14 servants upon said land, or any part or parts thereof, at any and all times for the
15 purpose of opening, developing, drilling, and working mines or wells on these or other
16 land and taking out and removing therefrom all such oils, gases, coal, ores, minerals,
17 fissionable materials, geothermal resources, and fossils, and to that end it further
18 expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and
19 assigns forever, the right by its or their agents, servants, and attorneys at any and all
20 times to erect, construct, maintain, and use all such buildings, machinery, roads,
21 pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such
22 soil, and to remain on said land or any part thereof for the foregoing purposes and to
23 occupy as much of said land as may be necessary or convenient for such purposes
24 hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid,
25 generally all rights and power in, to, and over said land, whether herein expressed or
26 not, reasonably necessary or convenient to render beneficial and efficient the complete
27 enjoyment of the property and rights hereby expressly reserved. Filing of a claim for
28 relief by an owner against the state or a person entering, opening, developing,
29 drilling, and working mines or wells on these or other lands, not based on
30 physical damage to the owner's land, that hampers these reservations constitutes
31 a breach of this contract and will result in an immediate assessment against the

1 owner of a penalty that may equal the current appraised value of the land,
2 including the value of improvements. Failure to pay this assessment will result in
3 foreclosure proceedings by the state."

4 * Sec. 3. AS 38.05.125 is amended by adding a new subsection to read:

5 (d) The owner of land subject to the reservation under (a) of this section, who
6 brings suit against a person, including the state, for entering the land for the purpose of
7 opening, developing, drilling, and working mine, or wells on the land or adjacent
8 lands, is subject to a penalty for breach of contract. The commissioner shall determine
9 the amount of the penalty, which may not exceed the appraised value of the land and
10 improvements on the land. The penalty does not apply if the suit is based solely on
11 physical damage to the owner's land. The penalty is a lien in favor of the state upon
12 the property of the owner subject to the reservation under (a) of this section and arises
13 at the time suit is filed. The commissioner may commence a nonjudicial foreclosure
14 proceeding if the penalty is not paid within 60 days after the owner files suit. In this
15 subsection, "appraised value of the land" means the current appraised value, including
16 the value of improvements.

17 * Sec. 4. AS 38.05.600(a) is amended to read:

18 (a) The commissioner may provide for the sale or lease of state land for
19 remote recreational cabin sites. Sales under this section shall be at fair market value
20 determined as of the time of entry by the department or by an appraiser from the
21 list of appraisers approved by the department. Land to be sold under this section
22 shall be surveyed before sale by the department or by a surveyor registered
23 under AS 08.48. The appraisal and survey shall be completed within 24 months
24 of entry. The [, AND THE] purchaser shall pay for the appraisal and survey or
25 reimburse the state for the appraisal, survey, and platting costs for the recreational
26 cabin site. Sales under this section may be at public or private sale under (g) of
27 this section.

28 * Sec. 5. AS 38.05.600 is amended by adding new subsections to read:

29 (d) Each year, subject to appropriation from the state land disposal income
30 fund under AS 38.04.022, to implement this section, the commissioner shall

31 (1) prepare a schedule of land offerings under this section and identify

1 the parcels for disposal each year; the land offerings may not include mineral land
2 selected by the state or lands identified by the department as having a high mineral
3 potential; the department's identification of land having a high mineral potential shall
4 be based on standards adopted by the department in regulations and shall include
5 consideration of a geophysical survey or geological evaluation, if any, that was
6 conducted within 15 calendar years before the year for which the schedule is prepared;
7 and

8 (2) provide public notice of the proposed land offerings.

9 (e) The space between remote recreational cabin sites offered under this
10 section may not be less than 660 feet in any direction.

11 (f) The commissioner may solicit nominations each year from the public for
12 areas to be offered for disposal under this program. The commissioner may add areas
13 nominated by the public to the schedule prepared under (d) of this section if the land is
14 classified for disposal or the disposal is consistent with other requirements of
15 AS 38.04 and this chapter.

16 (g) A person may nominate a parcel for disposal under this section and request
17 a right of first refusal. If the commissioner accepts the nomination of a parcel for
18 disposal, the commissioner may also provide for disposal of additional parcels in the
19 surrounding area, subject to (d)(1) and (f) of this section.

20 (h) A parcel sold under this section may not exceed five acres. A parcel sold
21 under this section may include lake, river, or other navigable water frontage, subject to
22 the following limitations:

23 (1) the lake, river, or other navigable water frontage must be at least
24 300 feet and may not exceed 400 feet;

25 (2) only one parcel with frontage on a lake may be sold under this
26 section for each five acres of water of that lake unless, in the public interest, the
27 commissioner adopts a regulation indicating a different ratio of water to each parcel
28 with frontage;

29 (3) a parcel sold under this section with frontage on a river must be
30 located at least one-quarter of a meander mile from any other parcel with river
31 frontage sold under this section; and

1 (4) a parcel sold under this section is subject to 16 U.S.C. 3101(d) and
2 16 U.S.C. 3213 (Alaska National Interest Lands Conservation Act).

3 * Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 APPLICABILITY. Sections 2 and 3 of this Act apply to contracts entered into on or
6 after the effective date of this Act.

These changes were
incorporated into The CS version ✓

23-LS0477\U.2
Bullock
3/30/04

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 319(RES)

- 1 Page 3, line 1:
- 2 Delete "for"
- 3 Insert "of"
- 4 Following "penalty":
- 5 Insert "that may"
- 6 Delete "to 150 percent of"
- 7
- 8 Page 3, line 8:
- 9 Delete "equal to 150 percent of"
- 10 Insert ". The commissioner shall determine the amount of the penalty, which may not
- 11 exceed"
- 12
- 13 Page 3, line 9, following "land":
- 14 Insert "and improvements on the land"
- 15
- 16 Page 3, line 12:
- 17 Delete "bring a"
- 18 Insert "commence a nonjudicial"

2-13-04

Department of Natural Resources
Comparison of Existing Remote Recreation Cabin Program
to Program Under CSHB 319(Res) work draft version w

Issue	Existing Program	Program Under HB 319
Areas Available	Settlement lands 6 to 10 areas offered per year	Settlement lands All areas open for nominations at all times
How Staking Rights are Granted	Each staking area open to all Alaskans equally	Individuals can receive "right of first refusal", or a preference right, for sites they nominate
Decision Making Process (best interest finding)	1 to 10 best interest findings for all or multiple areas prepared and available to public at the same time	Each parcel requires individual best interest findings on a separate schedule
Public Notice	One notice per year covering all areas, widely distributed	Notices for each individual parcel, limited distribution due to cost
Title Review	1 title report prepared for each staking area	Individual title reports for each parcel
Staking/Location Rules	Set by DNR for each staking area Can stake adjacent to other parcels Can concentrate along developable lakefront and rivers	Must be ¼ meander mile or one parcel per 5 acres of lake
Site	5 to 20 acres Varies by staking area and municipal requirements	5 acres maximum Ignores municipal requirements
Survey	Applicants pay through DNR DNR coordinates survey for entire staking area Municipalities review/approve entire staking area	Applicants pay direct to surveyor Applicant coordinates survey of each parcel DNR reviews/approves each parcel Municipalities review/approve each parcel
Appraisal	Applicants pay through DNR DNR coordinates base appraisal for each area, then final appraisal for each parcel	Applicants pay direct to appraiser Each applicant coordinates appraisal for each parcel

Date prepared: April 14, 2004

Alaska State Legislature

Representative
HUGH "BUD" FATE
Finance Committee
Energy Council-Executive Committee
119 N. Cushman St. Suite 213
Fairbanks, Alaska 99701
(907) 452-6084
Fax: (907) 452-6096



While in Session
State Capitol, Room 128
Juneau, Alaska 99801-1182
(907) 465-4976
Fax: 465-3883
Toll Free: 1 866-465-4976
e-mail:
Rep_Hugh_Fate@legis.state.ak.us
House District 7

House of Representatives

Memorandum

To: House Finance Committee Members
Fm: Representative Fate *H. Fate*
Cc:
Date: April 5, 2004
Re: Changes between U and W Versions of CSHB 319

There are three primary changes to the W version from the U version.

1. All reference to a penalty for suing has been deleted.
2. Additional language on Page 3, line 19, requires a disclosure of potential mineral lands.
3. The 660-foot buffer between parcels has been eliminated.

**Department of Natural Resources
Comparison of Existing Remote Recreation Cabin Program
to Program Under CSHB 319(Res) work draft version V**

Issue	Existing Program	Program Under HB 319
Areas Available	Settlement lands 6 to 10 areas offered per year	Settlement lands All areas open for nominations at all times
How Staking Rights are Granted	Each staking area open to all Alaskans equally	Individuals can receive "right of first refusal", or a preference right, for sites they nominate
Decision Making Process (best interest finding)	1 to 10 best interest findings for all or multiple areas prepared and available to public at the same time	Each parcel requires individual best interest findings on a separate schedule
Public Notice	One notice per year covering all areas, widely distributed	Notices for each individual parcel, limited distribution due to cost
Title Review	1 title report prepared for each staking area	Individual title reports for each parcel
Staking/Location Rules	Set by DNR for each staking area Can stake adjacent to other parcels Can concentrate along developable lakefront and rivers	Must be 660 feet from other parcels Must be ¼ meander mile or one parcel per 5 acres of lake
Site	5 to 20 acres Varies by staking area and municipal requirements	5 acres maximum Ignores municipal requirements
Survey	Applicants pay through DNR DNR coordinates survey for entire staking area Municipalities review/approve entire staking area	Applicants pay direct to surveyor Applicant coordinates survey of each parcel DNR reviews/approves each parcel Municipalities review/approve each parcel
Appraisal	Applicants pay through DNR DNR coordinates base appraisal for each area, then final appraisal for each parcel	Applicants pay direct to appraiser Each applicant coordinates appraisal for each parcel

Date prepared: April 12, 2004

Representative
HUGH "BUD" FATE
Finance Committee

Energy Council- Executive Committee
119 N. Cushman St. Suite 213
Fairbanks, Alaska 99701
(907) 452-6084
Fax: (907) 452-6096

Alaska State Legislature



While in Session
State Capitol, Room 501
Juneau, Alaska 99801-1182
(907) 465-4976
Fax: 465-3883
Toll Free: 1 866-465-4976
House District 7

House of Representatives Sponsor Statement

CS for HB 319 (RES)

"An Act relating to the disposal of state land by lottery; and relating to the disposal, including sale or lease, of remote recreational cabin sites."

CS HB 319 is legislation to help move Alaska State land into the hands of private individuals. Presently, Alaska holds millions of acres of remote area land that is generating no revenue for the state, or local nearby governments.

By leasing or selling remote cabin sites, individuals will hold the surface rights to those lands. The initial cost will be minimal to residents through public or special private sales. They will incur the costs of a survey and appraisal, and must meet the requirements of statute regarding improvements.

Since the majority of the sites are remote, the means of access could result in the purchase of off road vehicles, and in some cases boats and motors. Once improvements begin, the new landowner will be purchasing building materials, fuel, and other necessities to make the cabin as comfortable as possible. The economic trickle down effect could be huge, as it will also be felt in the real estate market.

CS HB 319 makes good economic sense for state government, local government, Alaska businesses and Alaskans. It will generate a source of revenue, and fulfill a promise to those Alaskans who want that remote cabin, a place to escape, to hunt and fish, or simply enjoy a mini-vacation. Passage will expand the opportunity to satisfy the dream of Alaskans by allowing them to secure in fee simple, a favored piece of property in a setting that epitomizes the reason we live in Alaska; to enjoy its wildlife, its beauty and its solitude

LEGAL SERVICES

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

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

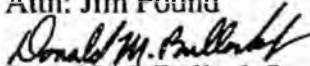
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 30, 2004

SUBJECT: Sectional analysis for CSHB 319(RES)
(Work Order No. 23-LS0477\U)

TO: Representative Hugh Fate
Attn: Jim Pound

FROM: 
Donald M. Bullock Jr.
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Amends AS 38.05.057(a) by increasing the amount of the purchase price a purchaser must deposit from five to ten percent after receiving notification of the selection.

Section 2. Amends AS 38.05.125(a) by making the subsection applicable to remote recreational cabin sites and by adding two sentences to the notice of reservations to the state in land contracts and deeds. The added language gives notice of the consequences of bringing an action against the state or a person developing an interest reserved by the state, except where the action is for physical damage to the owner's land.

Section 3. Adds a new subsection to AS 38.05.125 that subjects the owner of land to a penalty for breach of contract if the owner brings suit against a person, including the state, for developing an interest reserved by the state, except where the action is for physical damage to the owner's land. The penalty is a lien in favor of the state and a foreclosure proceeding may be commenced if the penalty is not paid within 60 days after the owner files a suit that breaches the contract.

Section 4. Amends AS 38.05.600(a) by adding new language describing the appraisal and survey of land sold or leased for a recreational cabin site. The purchaser pays for the appraisal and survey or reimburses the state for the cost. A new sentence is added stating that sites may be sold by auction or private sale.

Section 5. Amends AS 38.05.600 by adding five new subsections, (d) through (h).

Subsection (d) directs the commissioner of natural resources to schedule land offerings; prohibits mineral lands and lands with a high mineral potential from being included in an offering; and requires public notice of the offering.

Subsection (e) sets a minimum space between recreational cabin sites.

Subsection (f) allows the commissioner to solicit nominations for areas to be offered for disposal as recreational cabin sites.

Subsection (g) allows a person to nominate a parcel and request a right of first refusal and allows the commissioner to dispose of other parcels in the surrounding area.

Subsection (h) sets the maximum size of a parcel as five acres and sets limitations that apply when a parcel is on a lake, river, or other navigable water.

Section 6. Makes the Act applicable to contracts entered into on or after the effective date of the Act.

DMB:mdr
04-126.mdr

Withdrawn

23-LS0477U.1

Bullock

3/15/04

AMENDMENT \

OFFERED IN THE HOUSE

BY REPRESENTATIVE FATE

TO: CSHB 319(RES)

- 1 Page 1, lines 1 - 2:
- 2 Delete "relating to the reservation of rights by the state in land contracts and
- 3 deeds;"
- 4
- 5 Page 2, line 1, through page 3, line 15:
- 6 Delete all material.
- 7
- 8 Renumber the following bill sections accordingly.
- 9
- 10 Page 5, lines 2 - 5:
- 11 Delete all material.

Representative
HUGH "BUD" FATE
Finance Committee
Energy Council-Executive Committee
119 N. Cushman St. Suite 213
Fairbanks, Alaska 99701
(907) 452-6084
Fax: (907) 452-6096

Alaska State Legislature



While in Session
State Capitol, Room 128
Juneau, Alaska 99801-1182
(907) 465-4976
Fax: 465-3883
Toll Free: 1 866-465-4976
e-mail:
Rep_Hugh_Fate@legis.state.ak.us
House District 7

House of Representatives

Memorandum

To: House Finance Committee
Fm: Representative Hugh Fate *for JP*
Cc:
Date: March 31, 2004
Re: Questions and answers

This is a response to the questions asked on HB 319 in the opinion of the drafting attorney.

"Filing of a claim" is a cause of action (lawsuit) with jurisdiction based on the size of the claim.

Water Rights- If the project destroyed/polluted sub surface water it could be considered as physical damage.



HB 319 House Finance

810 N St, Ste 203, Anchorage Alaska 99501 / Ph. 907.258.6171 / Fax 907.258.6177
PO Box 22151, Juneau Alaska 99802 / Ph. 907.463.3366 / Fax 907.463.3312 / www.acvoters.org

To: Members of the House Resources Committee
From: Matt Davidson, Legislative Director for the Alaska Conservation Voters
Date: March 26, 2004
Subject: CS HB 319 (RES)

HB 319 establishes a new private, non-competitive land sale program within the Department of Natural Resources (DNR). Recent changes to the state land disposal sales program have significantly improved its efficiency and begin to address the shortcomings of the previous programs. An economic review of Alaska's land disposal programs is available at www.akvoice.org/current/econreports/Econ.htm.

The land sale program established in HB 319 is inequitable, inefficient, and unnecessary.
HB 319 should not move from the House Finance Committee.

HB 319 Gives Exclusive Purchase Rights

The proposed program strays from all existing land sale programs by giving individuals the exclusive right to purchase state resources. The vast majority of existing state land sales give all Alaskans an equal chance to purchase the property through either auction and/or lottery systems.

HB 319 Establishes an Inefficient Land Disposal Program

The land disposal program outlined in HB 319 will result in individuals applying for isolated and scattered parcels, requiring an individual Best Interest Finding, public notice, title check, and survey for each parcel. In fact, DNR will be forced to do a Best Interest Finding to determine if it even accepts the public nomination of an individual parcel for disposal. These and other inefficiencies will cost thousands of dollars for each parcel nominated.

HB 319 Is Unnecessary

DNR's land disposal program has been dramatically improved in recent years to broaden the scope and improve the efficiency of the program. In fact, DNR developed the Remote Cabin Sites program in response to a law passed in 1997. Under the Remote Cabin program, individuals are allowed to stake their own property within designated lands. This program is a popular and efficient means of distributing recreational lands. The Legislature should allow the current remote cabin program to continue.

HB 319 Invites Conflict between Potential Owners, Users

HB 319 doesn't contain a mechanism to deal with conflicts between potential owners and other users of individual recreational lands. Under the bill, DNR will give a preference to the first applicant who registers their interest in a particular piece of land, without regard for other users or potential interested parties in the land. Furthermore, the purchaser of state lands under this program would be assessed an outrageous penalty for filing a relief claim that hampers development, if it should occur on or near their property.

Alaskans building a better future.

2004
COMPARABLE SALES
(Average price/acre: Remote Parcels)

I. VERY REMOTE PARCELS (fly in only)

a. Twin Lakes (Brooks Range)		
40 acres @ \$40,000	=	\$ 1,000/acre
b. Novy River "swampy" (Nuwitna)		
80 acres @ \$75,000	=	\$ 937/acre
c. Sand Lake "swampy" (Tok)		
50 acres @ 65,000	=	\$ 1,300/acre

II. REMOTE PARCELS (limited access)

a. Clear, Ak		
70 acres @ \$45,000	=	\$ 642/acre
b. East Twin/West Twin Lakes (Woodriver)		
5 acres @ \$20,000	=	\$ 4,000/acre
c. Kendamina (Manley Flats)		
3 acres @ \$12,000	=	\$ 3,000/acre

III. DESIRABLE PARCELS (Waterfront lots, No road access)

a. Delta Clearwater		
7 acres @ \$20,000	=	\$2,857/acre
5 acres @ \$25,000	=	\$5,000/acre
b. Good Pasteur River		
4.19 acres @ \$30,000	=	\$7,159/acre
c. Chena Angler Subdivision		
5 acres @ \$50,000	=	\$10,000/acre

IV. HIGHLY DESIRABLE PARCELS (Lakefront, Road access)

a. Paxson Lake		
5 acres @ \$80,000	=	\$16,000/acre
5 acres @ \$50,000 (* 2 nd Tier lots)	=	\$10,000/acre
b. Fielding Lake		
5 acres @ \$35,000	=	\$ 7,000/acre

V. NATIVE ALLOTMENTS (VERY REMOTE)

a. Salmon Trout (Porcupine River) "Steep embankments" very remote 160 acres @ \$75,000	=	\$ 468/acre
b. (Nuwitna area) 80 acres @ \$75,000	=	\$ 937/acre
c. George Lake (Tok area) 40 acres @ \$60,000 (BIA appraised)	=	\$1,500/acre
10 acres @ \$30,000 (Waterfront lots)	=	\$3,000/acre

- The average price per acre on Native Allotments is \$500/acre. These parcels are large in size and very rural. They also have very limited access. These parcels take considerable time to sell and are equivalent to parcels offered in the past by DNR. These parcel are not as desirable to the average buyer, thus a per acre price of \$500 – 1000/ acre is reflected
- The average price per acre of \$1,000 for non-native allotment parcels is low and considered to be a conservative estimate of the value per acre for the types of parcels that would be selected. Most parcels selected will appraise and sell in excess of \$2,500/acre.

Data was provided by AK-Land (Robert A. Fox)

Discussion with Dick Mylius, Deputy Director of Mining, Land and Water
Re: HB 319 (Remote Recreational Cabin Sites)
January 26 – 27, 2004

Remote Recreational Cabin Site Lotteries (2001-2003)

Characteristics

1. Geographic Areas (6-10)
 - Mostly Southcentral AK
 - Copper Basin
 - Tanana Valley Basin

*NO Southeast AK offerings (Parcels are too expensive. There not enough remote parcels available for selection. There have been no lotteries in Southeast AK since funding of the program in 2001.

2. Number of Parcels? (295/255/266)/year

3. Number of Applicants (687/776/?)/year

4. Number of Parcels Awarded (270/230/?) “applicants receiving staking packages”

5. Number of Parcels Purchased (115/110?)/year

6. Average price/acre (805/479/acre) 2 Year Average = \$621/acre

7. General Comments:

- Most state lottery programs are unprofitable.
- Participation is low. Approximately (40%) of the parcels are purchased
- The cost to appraise, survey and documentation of the parcels exceed revenues from sale of the 110 parcels.
- The best lotteries programs “break even” and almost never produce a positive cash flow.
- In general, Recreational Remote Cabin Site lotteries are not a net source of revenue, but are an expenditure to the state. These projects are not worthy projects as far as net revenue production is concerned.

8. Additional Information:

- i. Recreational cabin site legislation was passed into statute in 1998. The program was not funded until 2001, therefore lotteries began in 2001. There is only two years of historical data is available. 2003 data is still being compiled and will be available 2/15/04.

**LOTTERY STATISTICS
2001-2003**

A. 2001 Statistics Parcels	<u># Offered</u>	<u># Applications Received</u>	<u># Issued</u>	<u># Staked</u>	<u># Active Leases</u>	<u>Percentages/Ratios</u>
	295	587				1.98 x 1
	295		270			91%
	295			115		38%
				115	107	93%
Avg acres/parcel						11.4 acres/parcel
Avg lottery selection size						150 acres
B. 2002 Statistics Parcels	<u># Offered</u>	<u># Applications Received</u>	<u># Issued</u>	<u># Staked</u>	<u># Active Leases</u>	<u>Percentages/Ratios</u>
	255	776				3.04 x 1
	255		231			90%
	255		110			43%
			110	107		97%
Avg acres/parcel						15.8 acres/parcel
Avg lottery selection size						174 acres
C. 2003 Statistics Parcels	<u># Offered</u>	<u># Applications Received</u>	<u># Issued</u>	<u># Staked</u>	<u># Active Leases</u>	<u>Percentages/Ratios</u>
	266					unknown
	266		160			60.10%
	266			32		12.00%
Avg acres/parcel						unknown
Avg lottery selection size						unknown

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

Division of Mining, Land and Water

Director's Office Phone: (907) 269-8600

FAX: (907) 269-8904

Fax Transmittal Memo

Date: 1/26/04

To: Jim D. - Repfaks office Fax #: 465-3883

From: Dick Mylius

No. of Pages Including Cover Sheet: 6 3
(Please call 269-8600 if you have a problem receiving any part of this fax.)

Comments: Remote Rec statistics for
2001 and 2002. Totals are at bottom.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

Statistics: Remote Recreation Cabin Program 2001 and 2002

2001 Remote Recreation Offering

AREA NAME	STAKING AUTH. OFFERED	STAKING APLNS RECEIVED	STAKING AUTH. ISSUED	PARCELS STAKED	STAKED ACREAGE	AVERAGE ACRES/PARCEL	ACTIVE LEASES	TOTAL PARCELS SURVEYED	ACRES SURVEYED	TOTAL SURVEY COST	AVERAGE SURVEY COST PER PARCEL	ESTIMATED APPRAISED VALUE	PURCHASE PRICE	AVERAGE REVENUE PER ACRE
SOUTHCENTRAL REGION														
Big River *	40	72	40	11	99.25	9.02	9	11	101.77	\$57,186.80	\$5,198.80	\$188,000.00	\$128,813.20	\$1,267
Kehiltna	35	60	35	13	212.59	16.35	13	13	212.6	\$56,250.00	\$4,326.92	\$158,654.00	\$100,404.00	\$472
Lake Louise East **	35	73	35	16	164.09	10.26	16	17	171.06	\$49,657.00	\$2,921.00	\$276,705.00	\$227,048.00	\$1,327.30
Hewitt-Whiskey Lakes	35	12	10	0	0.00		0	0		\$0.00		\$0.00	\$0.00	
Upak Bay	20	131	20	5	87.80	9.76	9	9	87.8	\$42,800.00	\$4,755.56	\$66,365.00	\$23,565.00	\$268.38
NORTHERN REGION														
Healy	30	53	30	8	106.26	13.28	8	9	111.26	\$28,200.00	\$3,133.33	\$89,262.00	\$61,062.00	\$548.82
Teklanika ***	20	83	20	14	70.00	5.00	14	17	84.68	\$39,000.00	\$2,294.12	\$286,121.00	\$247,121.00	\$2,918.29
West Fork ****	35	90	35	19	183.14	9.64	15	19	183.1	\$58,270.00	\$3,066.84	\$201,855.00	\$143,585.00	\$784.18
White Mountain *****	25	69	25	12	148.28	12.36	11	14	158.4	\$45,060.00	\$3,218.57	\$143,967.00	\$98,997.00	\$624.41
Windy Creek	20	44	20	13	241.40	18.57	12	13	243.9	\$56,926.00	\$4,378.92	\$118,300.00	\$61,374.00	\$251.64
TOTAL	295	687	270	115	1,312.81	11.42	107	122	1,354.57	\$433,349.80	\$3,552.05	\$1,524,229.00	\$1,091,879.20	\$808.07

2002 Remote Recreation Offering

AREA NAME	STAKING AUTH. OFFERED	STAKING APLNS RECEIVED	STAKING AUTH. ISSUED	PARCELS STAKED	STAKED ACREAGE	AVERAGE ACRES/PARCEL	ACTIVE LEASES	TOTAL PARCELS SURVEYED	SURVEYED ACREAGE	TOTAL SURVEY COST	AVERAGE COST PER PARCEL	ESTIMATED APPRAISED VALUE	PURCHASE PRICE	AVERAGE REVENUE PER ACRE
SOUTHCENTRAL REGION														
Friday Creek+	20	40	20	10	162.61	16.26	10	11		\$49,780.00	\$4,525.46	\$75,441.50	\$25,661.50	\$145.30
Johnson Creek++	45	53	45	16	300.80	18.80	13	16		\$74,780.00	\$4,673.75	\$159,900.00	\$85,120.00	\$357.20
Loon Lake+++	15	88	15	3	22.22	7.41	3	7		\$20,363.00	\$2,909.00	\$106,373.00	\$86,010.00	\$1,885.46
Weary River	15	29	15	4	78.18	19.55	4	4	8.18	\$23,000.00	\$5,750.00	\$31,234.00	\$8,234.00	\$105.7
Yentna	45	218	45	27	453.85	16.81	27	27	453.85	\$90,000.00	\$3,333.33	\$478,704.00	\$388,704.00	\$856.
NORTHERN REGION														
Albert Creek+++	45	26	21	8	93.70	11.71	8	11	116.70	\$34,400.00	\$3,127.27	\$77,634.00	\$43,234.00	\$370.47
Caribou Creek	20	34	20	8	81.30	10.16	8	8	81.30	\$35,000.00	\$4,375.00	\$63,224.00	\$28,224.00	\$47.16
Fireweed+++	20	102	20	16	261.47	16.34	16	18	301.47	\$65,075.00	\$3,615.28	\$127,701.00	\$62,626.00	\$207.74
Ridge Rock	15	39	15	6	96.70	16.12	6	6	96.70	\$27,610.00	\$4,602.50	\$65,180.00	\$37,665.00	\$388.47
Wood River	15	142	15	12	191.10	15.93	12	12	191.10	\$63,220.00	\$5,268.33	\$150,624.00	\$87,404.00	\$457.37
TOTAL	253	776	231	110	1,741.93	15.84	107	120	1,777.83	\$483,233.00	\$4,026.94	\$1,334,015.50	\$452,782.50	\$479.78

Updated 1/26/2004

Summary Statistics and Notes

Average Revenue per (surveyed) Parcel 2001 & 2002 =	\$ 8,036
Average Parcel Size Staked 2001 & 2002 =	13.6 Acres
Average estimated per-acre revenue 2001 & 2002 =	\$ 621 per acre

NOTES TO 2001 Parcels

- * Estimated appraised value includes 2 relinquished parcels to be sold at auction
- ** Estimated appraised value includes 1 new parcel to be sold at auction
- *** Estimated appraised value includes 3 new parcels to be sold at auction
- **** Estimated appraised value includes 4 relinquished parcels to be sold at auction
- ***** Estimated appraised value includes 2 new parcels to be sold at auction

Note: Healy survey contract is for 9 parcels; contract may be reduced to 8 parcels.

Note: Hewitt-Whiskey Lakes received only 10 staking authorizations because 2 applicants received authorizations for another staking area. None of the 10 authorized stakers chose to stake a parcel.

Note: Appraised values are estimates only, based on the base appraisal values in the brochure. Final appraisal values may change after survey.

Note: Survey costs include contract costs only

NOTES TO 2002 Parcels

- * Estimated appraised value includes 1 new parcel to be sold at auction
- ** Estimated Appraised value includes 3 relinquished parcels to be sold at auction
- *** Estimated Appraised value includes 4 new parcels to be sold at auction
- **** Estimated Appraised value includes 3 new parcels to be sold at auction
- ***** Estimated Appraised value includes 2 new parcels to be sold at auction

NOTE: These are estimated figures only. The final purchase price will be determined after completion of final survey and appraisal in FY 2005 or sooner.

Updated 1/26/2004

**SUBDIVISION/OVER-THE-COUNTER
2002-2003 STATISTICS**

A. 416 Sale

<u>Offered Area</u>	<u># of Parcels</u>	<u>Average \$/Acre</u>	<u>Average Acreage</u>
North	301	\$503	10.9
Southeast	41	\$6,163	2.6
South-central	<u>552</u>	<u>\$922</u>	9.2
Totals	894	<u>\$1082/ACRE</u>	

* \$7,035,000 Anticipated Revenue

<u># Parcels Sold</u>	<u>% Parcels Sold</u>	<u>Average \$/Acre</u>	<u>Average Acreage</u>
55	6.10%	\$1,216	10.0

B. 422 Sale

<u>Offered Area</u>	<u># of Parcels</u>	<u>Average \$/Acre</u>	<u>Average Acreage</u>
North	695	\$1,273	5.8
Southeast	23	\$1,184	2.6
South-central	<u>1001</u>	<u>\$1,088</u>	7.0
Totals	1719	\$1211/ACRE	

* \$13,483,000 Anticipated Revenue

<u># Parcels Sold</u>	<u>% Parcels Sold</u>	<u>Average \$/Acre</u>	<u>Average Acreage</u>
88	5.10%	\$2,907	5.7

**SUBDIVISION/OVER-THE-COUNTER
2002-2003 STATISTICS**

C. 425 Sale

<u>Offered Area</u>	<u># of Parcels</u>	<u>Average \$/Acre</u>	<u>Average Acreage</u>
North	633	\$925	7.1
Southeast	15	\$7,298	1.4
South-central	<u>1280</u>	<u>\$924</u>	8.0
Total	1928	\$934/ACRE	

<u># Parcels Sold</u>	<u>% Parcels Sold</u>	<u>Average \$/Acre</u>	<u>Average Acreage</u>
162	8.40%	\$1,667	8.3

D. SUMMARY Subdivison Lottery Sales (Sealed Bid)

<u>Offered Parcels</u>	<u>Average \$/Acre</u>	<u>Average Acreage</u>
4541	\$997	7.5 ACRES

<u>Sold Parcels</u>	<u>% Parcels Sold</u>	<u>Average \$/Acre</u>	<u>Average Acreage</u>
305	6.70%	\$1,824	7.8

Over-the-Counter Sales Summary

	<u># Parcels Sold</u>	<u>Average \$/Acre</u>	<u>Average Acreage</u>
FY02	341	\$1,266	7.4
FY03	<u>279</u>	<u>\$1,209</u>	8.3
Total	620	\$1,238	

* \$6,030,375 Anticipated Revenue

**SUBDIVISION/OVER-THE-COUNTER
2002-2003 STATISTICS**

<u>E. Conclusion</u> / <u>Comparison</u>	<u># of Parcels</u>	<u>Average \$/Acre</u>	<u>Average Acreage</u>
	SOLD		
Sealed Bid	305	\$1,824	7.8
OTC	<u>620</u>	<u>\$1,238</u>	7.8
Total	925	\$1,432	7.8

\$10,411,321 in Actual Revenue

SUBDIVISION SALES- With a "Sealed Bid", tend to realize a higher per acre price. These sales prices often exceed appraisal values due to the strong demand for more desirable parcels

Over-the-Counter Sales- With an "Open Bid" tend to sell slower, yet still realize a per acre price exceeding \$1,000/acre. These tend to be "left over" parcels and are considered to be less desirable to the public.

Both programs realize in excess of \$1,000/acre with \$1,432/acre being the average

James F. Dieringer III

An Economic Review and Analysis of the Alaska State Land Disposal Program

**For the Alaska Conservation Alliance
with funds provided by the Alaska Conservation Foundation
April 2003**

**By Ginny Fay,
*Eco-Systems: Economic and Ecological Research***

**Ginny Fay
Eco-Systems
1101 Potlatch Circle
Anchorage, Alaska 99503
907/ 333-3568
fax 907/ 333-3586
email: ginnyfay@earthlink.net**

Alaska Land Disposals

This analysis considers the costs and benefits associated with land disposal sales. To the extent possible, an attempt is also made to quantify the costs of opening new areas of Alaska to development through State land disposals. To address this question, a brief history of the Alaska state land disposal program is provided. This is followed by information on recent changes to the program. The final section provides quantitative information on recent land disposals and factors affecting potential long-term costs.

History

The State of Alaska land disposal sales program is administered by the Alaska Department of Natural Resources (DNR), Division of Mining, Land and Water.¹ The Alaska Constitution, State laws, and the Alaska Legislature all direct the Department of Natural Resources (DNR) to sell state land for settlement and private ownership. Article VIII of the Alaska Constitution states, "It is the policy of the State to encourage the settlement of its land and development of its resources by making them available for maximum use consistent with the public interest."²

Under terms of the Statehood Act and the Alaska Constitution, the State of Alaska may not dispose of its mineral interest in land. Mineral deposits are developed under lease agreements and are not part of the deal in any land sale. In addition to the State of Alaska, the University of Alaska, the Alaska Mental Health Trust Authority, municipalities and Native corporations all own and offer land for sale. However, little land is offered for sale by Native corporations.

Acreage Sold. Since statehood, the State of Alaska has conveyed over 400,000 acres to individuals. Of these, approximately 110,000 were sold between 1960 and 1977. Following the initiation of modern land sales programs in 1980, Alaska sold approximately 200,000 acres in direct land sales, over 25,000 acres in home sites or homesteads, and additional acreage in large agricultural sales.³

Land Sale and Interest Revenue. Since 1980, the total value of non-agricultural parcel sales is \$101 million. Including interest, the State of Alaska has received \$122 million, averaging over \$6 million annually. The average parcel value or sales price was \$11,072 or \$554 per acre. In 2000, there was approximately \$8.5 million in principal outstanding on 1,005 parcels.

Home Sites and Homesteads. While the home site and homestead program was popular with Alaskans, most people either never followed through on the prove-up requirements

¹ The Division of Mining, Land and Water was previously three divisions—Mining, Land, and Water. The Division of Land, that had initial responsibilities for land disposals, was merged to form the Division of Mining, Land and Water in 1999.

² <http://www.dnr.state.ak.us/mlw/landsale/>

³ Unless otherwise cited, information presented in the history section is from: Alaska Department of Natural Resources, Division of Mining, Land and Water, *Report on Alaska's Land Sale Program* (draft), February 7, 2000.

(work and sight improvement settlement requirements to receive the land at low or no cost) or chose the purchase options. Since 1980, DNR awarded 4,427 parcels for home sites, homesteads, or agricultural homesteads. The majority of these were relinquished by the applicant or terminated by DNR for non-performance:

- 68% of home sites,
- 54% of homesteads, and
- 62% of agricultural homesteads.

It is estimated that only 10% of people acquired their parcels by successfully proving up.

Amount and Quality of Land Classified for Settlement. The State of Alaska is fifth in line for conveyance of federal lands after municipal, university, Mental Health Trust, and Native selections. As a result, these other groups have already selected land that is most suitable for development and DNR has relatively little high quality land to offer for sale. Almost no potential settlement State land is located near the road system or communities; it is almost all remote. Almost none of these lands identified for settlement can be expected to promote economic development in terms of creating basic sector jobs that contribute to the economy.⁴

Lands for settlement and land sales are classified through DNR land use plans, which have classified over 3 million acres for settlement (67% of state lands are within a state land use plan).⁵ The majority of settlement lands are within the Susitna (Mantanuskas-Susitna Borough), Tanana Basin, Copper River Basin and Kuskokwim Area Plans. Some boroughs have selected all the DNR identified settlement lands within their boundaries; these include the Aleutians-East, Kenai, Lake and Peninsula, Northwest Arctic, and Yakutat Boroughs. However, approximately 50% of all lands selected by municipalities have yet to be conveyed.

In the late 1970s and early 1980s, DNR readily 100,000 acres a year for sale. The first year DNR offered 100,000 acres was 1978, and the last year was 1982. In 1980 and 1981 this 100,000 acre annual minimum was mandated by the Alaska legislature. To facilitate this massive disposal, State subdivisions were exempted from local planning and zoning ordinances.⁶ DNR had neither the policy directive nor the resources to adequately plan or to develop the lands prior to disposal. The burden on developing public services for the newly settled land was left to local governments, if they existed. The problems that resulted from poorly planned land disposals spurred a DNR staff report⁷ and an overhaul of the land disposal statutes (Ch. 152 SLA 1984).

⁴ Alaska Department of Revenue, p. 17.

⁵ For extensive information on the planning process see, Alaska Department of Natural Resources, Division of Mining, Land and Water website on *ALASKA STATE LAND PLANNING*:
<http://www.dnr.state.ak.us/mlw/planning/index.htm>

⁶ Haley, Sharman, *Public Services Provision for Land Disposals in Remote Areas*, Alaska State Legislature Research Agency, Research Request 85.043, December 10, 1984, p. 1.

⁷ Alaska Department of Natural Resources, *Land for Alaskans: Proposed Policies to Guide State Land Offerings and Disposals*, 1984.

In spite of this supply, only 21,902 acres were sold in 1982. The highest year for land sales was 1983 when 25,985 acres were sold. While the amount has varied considerably from year to year, sales have averaged about 9,000 acres annually from 1980 to 1999. This average, however, is raised by sales in the 1980s. Recent sales have been considerable lower—in FY99, 844 acres were sold; in FY00, 1,500 acres; FY01, 2,100 acres; and in FY02, 4,723 acres were sold.⁸ This suggests that the number of acres sold is less than 10% of the supply available from DNR, substantiating the notion that these lands are not of high quality most likely due to their remoteness. The majority of the lands sold in the 1990s were staked in the 1980s but the ten-year purchase following staking requirement resulted in them being sold in the 1990s. During the 1990s, DNR budget reductions eliminated funding to make new land available for sale.

Any land returned to the State or not sold at auction is available for over the counter and internet purchases. At this time, 3,558 parcels or 27,855 acres are available for sale from DNR over the counter or internet.⁹ Over 1,000 of these are parcels are home sites that never met work requirements or were not purchased.

Requirements before Sale Disposal. Before land that has been classified for settlement through a land planning process can be offered for sale, DNR must complete a title search, survey, appraisal, and a State interest review. These constitute the major presale direct costs for DNR. Appraisals must be completed because with the exception of home site or sweat-equity programs, all lands must be sold for fair market value. However, fair market value may be considerably below or above the direct and indirect costs of land settlement and public service and infrastructure costs. In general, they are inversely related—the higher the potential development costs, the lower the fair market value.

Recent Land Disposal Program Changes

In keeping with DNR's mission to make land available to the public, DNR has several types of land sale programs but is currently making land available through two types of programs. The first is a **sealed-bid auction** program for the sale of subdivision and other surveyed parcels. Land sold at auction must receive a bid equal to or higher than the appraised value. Parcels are awarded to the highest bidder. Land not sold at auction is available "over-the-counter" at the appraised value through the DNR Public Information offices or these lands can be purchased over the internet. Most of the parcels currently being offered are within existing subdivisions that were prepared for previous State land disposals. DNR will be considering areas for new subdivision sales starting in 2003.¹⁰

The second program is the **Remote Recreational Cabin Sites**. This program is similar to the previous remote parcel and homestead offerings. An applicant is allowed to stake a

⁸ Alaska Department of Natural Resources, Division of Mining, Land and Water, budget documents, March 2003.

⁹ Alaska Department of Natural Resources, Division of Mining, Land and Water, budget documents, March 2003.

¹⁰ For a complete listing of lands for sale, see DNR's website: <http://www.dnr.state.ak.us/mlw/landsale/> This website does an excellent job of conveying information on Alaska state land sales.

parcel of land in a designated remote staking area for recreational use. The parcels are leased for up to three years and purchased at fair market value after the completion of a survey and appraisal. There are no building or "prove-up" requirements with this program.

The Remote Recreation Cabin Sites program was developed in response to a law passed in 1997 and is similar to the stake-it-yourself programs of the 1980s. In FY99 the legislature appropriated \$50,000 in capital funds to fund the program along with agency operating funds. At this time, the State of Alaska does not have a homestead or home site program.

In 2000, the legislature passed SB 283, which altered DNR's land disposal program and established the **Land Disposal Income Fund**. This fund was proposed by DNR under AS 38.04.022 to provide funding for the land disposal program. The program, through funding made available through the Land Disposal Income Fund, enables the Department to establish, operate and maintain a land sale program:

- that provides residential, agricultural, recreational and commercial lands,
- that potentially does not create unnecessary or unrealistic administrative or fiscal burdens for the State, cities or boroughs, or the Alaska user,
- that over the long term, and possibly the short term, may generate a return to the State on its investment.

In addition, the Department would like to establish an on-going five-year schedule of sales similar to five-year timber and oil and gas sales. Revenues to the Land Disposal Income Fund from land disposals can be used to:

- Survey, appraise and dispose of State land to be offered;
- Conduct preliminary feasibility studies, engineering design work, rights-of-way acquisition and construction of access roads and capital improvements required by municipal subdivision ordinance or regulations of the platting authority;
- Complete site specific Land Use Plans necessary where no Area Plan is in place;
- Identify land for future sales;
- Conduct administrative duties necessary to offer the land and issue title.

In addition, changes in the law allowed DNR to significantly reduce the administrative cost of financing and collecting payment on parcels by methods such as shortening the term on loans and collecting immediately on low cost purchases rather than up to 20-year financing on loans with minimal annual payments.

Cost and Benefits to Alaska State Land Disposals

The recent changes to the Alaska State Land Disposal program were intended to make the program self sustaining over the long run by selling land at prices that pay for all of the programs costs including developing future land sales and direct costs of improvements such as road access for subdivisions and other municipal requirements. No new subdivision lands will be offered without first conducting an economic feasibility analysis that considers the full direct costs of land sales. To date, however, no formal economic analyses have been conducted on the new subdivisions that are under preparation for sale. Only preliminary analyses have been done but these will be formalized prior to sales. The current subdivisions under preparation include roads in their design and economic analyses. One 100 parcel subdivision currently being planned in the Matanuska-Susitna Borough includes dirt roads. Only the first 25 parcels will be offered to determine if the sale price will support road development and access costs.

The assumption for the Remote Recreation Cabin Sites is that there will be no road access or improvements offered or developed for these lands when they are sold or in the future. These are the conditions upon which these lands are offered for sale and purchased. Unlike the land disposal program of the 1980s, the current program is structured to better address these potential direct costs to the State of Alaska.

In 2000, DNR estimated the following costs to prepare and offer land based on recent borough and DNR subdivision land disposals. Costs are adjusted for inflation to 2002 dollars.

Table 1.

Recent Borough and DNR Subdivision Land Sales Costs		
(adjusted to 2002 \$\$)	Average Cost/Parcel	Average Cost/Acre
Road Accessible Subdivision Lots-no road building costs	\$3,945	\$789
Land Disposals Costs for Internal Roads	\$16,543	\$3,309
Cost per Mile for Access Roads	\$359,513	

Sources:
 Alaska Department of Natural Resources, Division of Mining, Land and Water, *Report on Alaska's Land Sale Program* (draft), February 7, 2000. Alaska Department of Revenue, Tax Division, *Spring 2002 Revenue Sources Book*, pp. 13-17.
 Alaska Department of Labor and Workforce Development, Consumer Price Index, March 2003.

This table provides only direct costs associated with the land sale. They do not include the long-term costs for sale contract maintenance or the long-term costs to state or local

governments that result from land sales such as public safety, education and road maintenance.¹¹

DNR estimates that:

- about half of new subdivision land sales offered require three miles of new roads for approximately \$1 million per subdivision,
- the stake-it-yourself remote recreation cabin program costs \$350 per acre or \$3,500 per ten acre parcel for DNR to sell, and
- the over the counter reoffering of 5,000 surveyed parcels costs DNR approximately \$50 per acre.

Re-offer parcels made available and sold in FY02 and FY03 are shown in the table below.

Table 2.

Comprehensive Re-Offering (Pre-surveyed Parcels)			
	FY 02	FY 03	Total
Performance Measure (parcels)	2,500	2,500	2,500
Division Performance			
"New" Parcels Offered	2,418	1,900	3,318
Parcels Purchased	486	357*	843*
Total Parcels Available "Over-the-counter"	1,932	3,643*	3,643*
Remote Recreation Cabin Program			
	FY 02	FY 03	Total
Performance Measures (parcels for staking)	250	250	500
Division Performance			
Stakings Offered	295	255	550
Stakings Taken	270	231	501
Parcels to Lease	109	111	220

* Figures as of February 12 2003. The over-the-counter period began February 4th, and DNR expects that significantly more parcels will be purchased this fiscal year.

Since the development of the Land Disposal Income Fund and changes to the land disposal program, the Division of Mining, Land and Water has collected annually approximately \$1 million more in revenues than it costs to administer the land sale program and the municipal entitlement program. These funds have also enabled the Division of Mining, Land and Water to use the planning process to classify new lands for settlement. A portion of revenues are from the reoffering of unsold or returned parcels. The costs for preparing these lands for sale are basically "sunk costs" from prior years. Since there are no current year land sale preparation costs, selling this backlog at fair market value contributes significantly to the current short run positive net revenues. As

¹¹ Alaska Department of Natural Resources, Division of Mining, Land and Water, *Report on Alaska's Land Sale Program* (draft), February 7, 2000, p. 10.

these parcels are sold, it becomes even more imperative that the price of new offerings cover their full cost.

Revenues are to collect in the Fund until a balance of \$5 million is reached at which time revenues in excess of \$5 million spill over into the General Fund. This is projected to occur in FY05. It is likely, however, that the legislature will appropriate from the fund balance in FY03 to address budget shortfalls. Projection of revenues and expenditures from the Land Disposal Income Fund are shown in the following table. The values in the table reflect the assumption that the Fund is allowed to grow to \$5 million as originally anticipated.

**Table 3.
Land Disposal Income Fund Projection**

	Actual		Budget	Projections				
	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006	2007	
COSTS								
Mining Land & Water	\$1,774	\$1,922	\$2,759	\$2,950	\$3,000	\$3,000	\$3,000	
Division of Agriculture	\$117	\$162	\$363	\$364	\$364	\$364	\$364	
CIP Appropriations	\$200	\$101	\$200					
Total Cost	\$2,091	\$2,185	\$3,322	\$3,314	\$3,364	\$3,364	\$3,364	
REVENUES								
Mining Land & Water	\$1,977	\$3,062	\$3,800	\$3,500	\$3,400	\$3,400	\$3,400	
Division of Agriculture	\$801	\$672	\$815	\$830	\$823	\$790	\$798	
Total Revenues	\$2,778	\$3,734	\$4,615	\$4,330	\$4,223	\$4,190	\$4,198	
FUND BALANCE								
Annual Net Revenue	\$687	\$1,549	\$1,293	\$895	\$1,148	\$1,258	\$1,363	
Cumulative Balance	\$687	\$2,236	\$3,529	\$4,424	\$5,572	\$5,000	\$5,000	
Contribution to General Fund							\$1,830	\$1,363

Potential Long-Term Costs of State Land Disposals

The Alaska Department of Natural Resources has done a commendable job in attempting to internalize the direct cost to the State of Alaska of state land disposals. However, state land disposals can not be expected to collect sufficient revenue to have any effect on closing the overall Alaska budget gap, to pay for indirect costs of disposals, or to pay for the longer-term public costs of disposals such as public safety, education and transportation.¹² These are discussed briefly in the next sections and include estimates of annual costs to provide some of these public services.

¹² Alaska Department of Revenue, p. 15.

Public Safety Issues

There is nothing in state statute or policy that sets a threshold number for community population size or community characteristics that require public safety services to be provided by troopers, village public safety officers (VPSOs), or fish and wildlife enforcement officers.¹³ There are also no directives regarding where officers are located. The Alaska Department of Public Safety, Commissioner's Office makes decisions regarding where troopers are located and what posts are opened or closed based on an understanding of population and needs. The number of officers hired is dependent upon appropriations from the legislature; most of the statutes are predicated on appropriation levels. Since 1987, there is no correlation between population growth and the number of officers. As population grows with a flat budget, in general, all areas suffer shortages equally. For years the Alaska Department of Public Safety (DPS) has not requested increments for additional officers.

Many places in Alaska are without assigned troopers. State troopers operate statewide and not necessarily areas with roads. In larger communities with police departments, troopers do not generally operate. However, there are a number of places within boroughs that still use state troopers rather than providing their own comprehensive police services, e.g. the Matanuska-Susitna Borough and, until recently, the Anchorage hillside. State troopers respond to crimes throughout Alaska where no local police force is located. Trooper response time varies depending on the location.

At a recent legislative hearing the DPS commissioner was asked if there were no budget constraints, how many more state troopers and fish and wildlife protection officers would be requested. The response was couched in terms of there having to be similar increases in court system and correction facility capacity to accommodate the increase in law enforcement, but if those were also not constraints, the commissioner would request an additional 50 officers. There are currently 252 troopers authorized in the Alaska state budget which implies there is an approximately 20 percent shortage of troopers. This shortage estimate did not include VPSOs; there are 84.5 VPSO positions funded.

The VPSO program is operated through managed grants from the DPS to regional Native non-profits. Where VPSOs are located is largely a cooperative decision among the affected communities, the regional non-profit and DPS. Funding for the VPSO program is in three budget components: grants, administration and support. In addition to providing grants for the operation of the VPSO program, DPS also recruits, trains, uniforms, and provides state trooper support and oversight to the VPSOs in the field.

VPSOs have limited law enforcement responsibilities. They generally do not have responsibilities outside the community where they live and do not carry firearms. Their training is limited and many of their support costs are provided by the non-profit that

¹³ Karen Morgan, director, Division of Administrative Services, Alaska Department of Public Safety; Lisa Emerson, administrative manager; State Troopers, Lt. Matthew Leveque, State Troopers, personal communication/teleconference, April 4, 2003.

hires them and are funded through direct capital appropriations from the state and federal governments.

The average Personal Services cost of a trooper is approximately \$101.2 thousand annually; the average Personal Services cost of a VPSO is \$75.5 thousand annually. These numbers were developed by taking the total costs for Personal Services for troopers and dividing it by the total authorized number of troopers. The VPSO cost is the total cost of the grants, including liability insurance divided by the number of authorized positions.¹⁴

The DPS role in fire management is largely inspections and code enforcement in locations without fire protection powers. They do not do any fire fighting. In remote areas, that is the responsibility of the Alaska Department of Natural Resources.

Given the current shortage of state trooper, fish and wildlife enforcement officers and village public safety officers, new land settlements within the unorganized borough or portions of boroughs and incorporated communities served by DPS officers are likely to receive minimal or no public safety services. It is likely that there will be increasing pressure for boroughs and cities to take over fully police services so State of Alaska resources can be provided to areas without local public safety services. According to the officials at the DPS, the Department operates in a reactive mode, reacting to calls because they are too understaffed to operate proactively. Most likely this would be the situation in new settlement areas.

Education Issues

There are 53 school districts that cover the state of Alaska. School districts have the legal obligation to offer educational services to students that reside within their boundaries. This can be accomplished through correspondence programs as well as physical schools. There are no laws that establish the minimum population of a community for which a school building must be provided. The foundation program has a minimum number of 10 students during the count period to be counted as a separate site. If a site has less than 10 students they are counted with the next smallest site.¹⁵

Education revenues and school district costs per student range from \$28,230 for a school district of 19 students in Southeast Alaska to \$4,303 for a school district of 1,754 students in Interior Alaska (see Table 5, page 16). This 19 student district is comparatively small with the next smallest districts at 55 and 64 students, respectively. Most of the school districts have over 100 students even though in some more remote areas these students may be in multiple sites and villages. The average Alaska per student revenue/expenditure is \$9,238 with the more populous districts generally bringing down the average and the smaller districts bringing up the average. It is clear from this

¹⁴Morgan, Karen, director, Division of Administrative Services, Alaska Department of Public Safety, personal communication, April 28, 2003.

¹⁵Jeans, Eddy, School Finance Manager, School Finance Section, Alaska Department of Education and Early Development, personal communication, April 8, 2003.

information, however, that if land disposals result in more small school districts and/or more small sites within school districts, the cost of education per pupil for these areas will be high and increase an already strained education budget.

Transportation Issues

As discussed previously, the Alaska Department of Natural Resources, Division of Mining, Lands and Water has attempted to incorporate the cost of new roads to new subdivisions in recent changes to the program. The summary of costs for construction of new subdivision roads are as follows:

Table 4.

Recent Borough and DNR Subdivision Land Sales Costs		
(adjusted to 2002 \$\$)	Average Cost/Parcel	Average Cost/Acre
Land Disposals Costs for Internal Roads	\$16,543	\$3,309
Cost per Mile for Access Roads	\$359,513	

The platting boards for boroughs require that DNR build access roads if a subdivision is close to a road system. If the subdivision is sufficiently remote, the platting board can require that access roads never be built or that the subdivision not be offered. Outside of boroughs in the unorganized borough, it makes little sense for the State of Alaska to saddle itself with these road costs and responsibilities but there are no mechanisms in statute to stop a poorly conceived subdivision from being offered for sale. While no poorly conceived subdivisions have been offered in many years, this could be attributed to the fact that no new subdivisions have been offered. Current practices suggest that these will not occur but it is largely dependent on management at DNR and legislative action.

In addition to road construction costs, there are annual road maintenance costs. The Alaska Department of Transportation estimates annual maintenance costs per lane mile as follows:

- Central Region--\$5,000
- Northern Region--\$3,500
- Southeast Region--\$4,400

However, these figures can vary dramatically depending on conditions. Juneau Access annual maintenance estimates developed in 1998 were \$23,000 per mile because of avalanche conditions.¹⁶ The Gravina Bridge project providing access to the Ketchikan Airport could be as high as \$120,000 per mile because of the high cost of bridge maintenance.¹⁷

¹⁶ Downing, Mike, director, Statewide Engineering Design and Construction, Alaska Department of Transportation and Public Facilities, personal communication, April 28, 2003.

¹⁷ HDR Alaska, Inc. *Gravina Access Project: Preliminary Quantities and Cost Estimate Technical Memorandum Draft*, December 2001.

Annual road maintenance costs for state maintained roads are funded through the state operating budget. In FY03, the legislature reduced the DOT budget by \$12,532,700 or 8.3%. Reviewing the DOT impact statement submitted to the Alaska Office of Management and Budget indicates that the vast majority of these cuts were allocated to remote roads. This resulted in a number of roads no longer being kept open during the winter and significantly reduced maintenance year round. A portion of these budget reductions was restored but resulted in funds being shifted from other portions of the state budget.

While it can be expected that roads in the unorganized borough and state highways would be most impacted by these general fund budget reductions, there are numerous roads within cities and boroughs that are still state maintained by the Alaska Department of Transportation. For example, in Anchorage DOT maintains Dimond Boulevard, Muldoon/Tudor Road, Northern Lights, Benson Boulevard, Fireweed Lane, Gambell/Ingra, and the A Street and C Street couplet among others. As a result of the FY03 budget cuts, DOT reduced snow hauling on these roads and sidewalks, but few maintenance budget cuts were allocated to Anchorage.¹⁸ If additional remote roads are developed for remote land sales and subdivisions in the unorganized borough, there will be more pressure for the largest and most affluent communities in Alaska, such as Anchorage and Fairbanks, to pay for more of their annual road maintenance costs. Any new remote roads are likely to only receive inadequate seasonal maintenance and no winter snow removal.

Summary and Recommendations

The potential long-term costs of large-scale state land disposals in remote areas, where land is available, could be significant. Long-term costs include providing basic services such as transportation, education, and public safety. Regardless of whether the costs are borne by local or state government, state land disposals for subdivisions isolated from existing community infrastructure can be expected to exacerbate significantly State and local government annual budget shortfalls.

DNR has yet to do any economic analyses for new subdivisions because none have been offered as a result of previous subdivision land currently available. To most reliably estimate the costs of new settlements, it is important to analyze each on a case by case basis because conditions vary significantly for each subdivision or land sale. To be accurate, it is critical that these analyses include both short-term and long-term, as well as direct and indirect, costs. These are likely to show fairly high costs for offering settlement lands through land disposals. These cost analyses should be done for both land within boroughs and the unorganized borough because the costs of the land settlements should be reflected in the price of that land regardless of whether it is state or local government who ends up paying for the additional costs of public services and infrastructure.

A reoccurring legislative fallacy in Alaska natural resource management is that supply creates demand. For state land sales, the premise is that the availability of land is what is

¹⁸ It appears that approximately 2% of the budget cuts were allocated to Anchorage road maintenance.

curtailing the sale of state land. It appears, however, that the supply of land far exceeds demand, especially the supply of remote land that the State of Alaska has to offer. The only way that the surplus of land may be sold more readily is to significantly lower the price. However, this would exacerbate the problems of indirect and long-term costs of land sales exceeding the revenues from the sale of land.

Alternatively, higher quality land or less remote lands closer to roads and communities to could be offered for settlement. It appears, however, that there are few state land parcels available that meet these criteria. In the cases where land has been identified as settlement land within boroughs, most of these lands were selected for conveyance to communities.

Any state land disposal program should be operated in the context of the DNR land inventory, classification and planning process to ensure a rational and balanced selection of settlement lands for state land disposal sales. It is critical that the DNR land planning process and statutes be maintained.

Recent changes to the state land disposal sales program have significantly improved its efficiency and attempt to address many of the shortcomings of the previous program. These shortcomings include sale of lands at prices below the cost of offering the program and the short-term indirect costs as well as all long-term costs such as road maintenance, public safety, education and other public service and infrastructure costs. If the program is to continue, it is imperative that these recent changes have an opportunity to be fully implemented and tested.

There is nothing in state statute that requires land disposal sales to address short- or long-term or direct and indirect costs. An improvement to the program would be a statutory requirement that land prices cover at least the short-term direct and indirect costs and consider long-term costs. All costs should be disclosed as part of the sale preparation procedure.

Longer term land disposal sales costs are problematic largely because Alaska fiscal policy encourages population and economic growth with no mechanism to pay for the additional public service and infrastructure costs of this growth. A portion of these costs are addressed in boroughs or incorporated communities that collect property and other taxes. In the unorganized borough, the State of Alaska potentially increases significantly its costs with remote, scattered settlements with high public service costs with no annual revenue mechanism to fund them. As a result, only the remote recreation cabin staking program should occur in remote areas of the unorganized borough with explicit statements that no public services or infrastructure will be developed for these lands.

An analysis of the environmental and habitat impacts of remote cabin staking should be made. If there is an effort to increase the amount of land available to this program, scattered development could impact fish and, especially, wildlife directly and indirectly through habitat impacts. No analyses of the impacts of previous land sales appear to have

been done, especially on the condition of lands with settlement "prove up" requirements that were returned to the State of Alaska.

The Land Disposal Sales Fund provides a mechanism to fund the land disposal sales program and the municipal lands program within the context of the DNR planning process. Without the funds available to conduct comprehensive analyses on costs and effectively prepare land for sales, recent improvements would not be possible. Every effort should be made to maintain this funding mechanism.

It is unlikely that any attempt to increase the supply of land available for purchase will significantly impact the amount of land sold each year unless changes are made to the land inventory and classification process to radically change the quality of land identified and available for settlement and sale. Statutory and management changes to the process should be monitored.

A potential mechanism for improving the subdivision sale program is to convey these potential lands to boroughs or incorporated cities (if they want the land and believe it is desirable for settlement) and allow them to offer the land for private sales. One of the problems with previous community land sales has been concerns by local landowners that the rapid increase of land on the private land sales market depresses land prices, at least in the short term. If sales are handled by local governments, they have greater incentive and pressure to cover all development costs and address local issues such as impact on local land prices; local government has a greater imperative to ensure that land sales are cost effective in both the short- and long-term. However, because the State of Alaska continues to pay for a number of services within boroughs, this change would not ensure all costs are addressed.

Almost none of these state lands identified for settlement can be expected to promote economic development in terms of creating basic sector jobs that contribute to the economy. Recent changes to the state land sale disposal program can at best be expected to cover short-term direct and access costs. In the long term, land sales will exacerbate State of Alaska budget short falls. The program should not be expanded with the expectation that it can be used to address the Alaska "budget gap".

Sources

Alaska Department of Labor and Workforce Development, Consumer Price Index, March 2003.

Alaska Department of Natural Resources, Division of Mining, Land and Water website on *ALASKA STATE LAND OFFERINGS* contains extensive information:
<http://www.dnr.state.ak.us/mlw/landsale/>

Alaska Department of Natural Resources, Division of Mining, Land and Water website on *ALASKA STATE LAND PLANNING* contains extensive information (also contained in Appendix B):
<http://www.dnr.state.ak.us/mlw/planning/index.htm>

Alaska Department of Natural Resources, Division of Mining, Land and Water, *Fact Sheet: Land for Alaskans*. August 2002.

Alaska Department of Natural Resources, Division of Mining, Land and Water, *FY 2004 Interim Budget Overview*, February 12, 2003.

Alaska Department of Natural Resources, Division of Mining, Land and Water, *Mission and Measures Appendix, FY 2004 Interim Budget Overview*, February 12, 2003.

Alaska Department of Natural Resources, Division of Mining, Land and Water, *Report on Alaska's Land Sale Program* (draft), February 7, 2000.

Alaska Department of Natural Resources, *Land for Alaskans: Proposed Policies to Guide State Land Offerings and Disposals*, 1984.

Alaska Department of Revenue, Tax Division, *Spring 2002 Revenue Sources Book*, pp. 13-17.

Alaska Department Transportation and Public Facilities, *Impact Statements in Response to Senate Budget Submittal to Office of Management and Budget*, April 29, 2002.

Haley, Sharman, *Public Services Provision for Land Disposals in Remote Areas*, Alaska State Legislature Research Agency, Research Request 85.043, December 10, 1984.

Hull, Teresa and Linda Leask. *Dividing Alaska, 1867-2000: Changing Land Ownership and Management*, University of Alaska Anchorage, Institute of Social and Economic Research, Volume XXXII, No. 1, November 2000.

University of Alaska Anchorage, Institute of Social and Economic Research, *The Alaska Citizen's Guide to the Budget, The Alaska Disconnect*, December 8, 2002.
<http://citizensguide.uaa.alaska.edu/>



HB 319 House State Affairs

810 N St, Ste 203, Anchorage Alaska 99501 / Ph. 907.258.6171 / Fax 907.258.6177
PO Box 22151, Juneau Alaska 99802 / Ph. 907.463.3366 / Fax 907.463.3312 / www.acvoters.org

To: Members of the House State Affairs Committee
From: Matt Davidson, Legislative Director for the Alaska Conservation Voters
Date: February 2, 2004
Subject: HB 319

HB 319 establishes a new land disposal program within the Department of Natural Resources (DNR) that allows state residents the exclusive right to purchase state lands which they have three consecutive years of prior recreational use. HB 319 is very similar to HB 233, considered in the 22nd Legislature. During testimony on HB 233 (22nd), the Department of Natural Resources enumerated many concerns with the legislation. Given these and other problems with HB 319, this bill should not move from the House State Affairs Committee.

HB 319 Gives Exclusive Purchase Rights

The proposed program strays from all existing land sale programs by giving individuals the exclusive right to purchase state resources. The vast majority of existing state land sales are currently made through either an auction and/or lottery systems. (Sect 3. (a))

HB 319 Encourages Trespass

The program would encourage people to build illegal cabins and other structures to help demonstrate their use of the land, thereby qualifying for the program. (Sect 4. (g))

HB 319 Allows Misuse of Mining Claims

The existing mining law has a well established criterion for the legitimate granting of title to holders of mining claims. The program described in HB 319 (Sect 4. (g)) undercuts the current program and could make mining claims a backdoor to gain land not available to all Alaskans.

HB 319 Invites Conflict between Potential Owners, Users

HB 319 doesn't contain a mechanism to deal with conflicts between potential owners and other uses of individual recreational lands. Under the bill, DNR will give a preference to the first applicant who establishes recreational use. It is not difficult to imagine a scenario where one user with three annual trips to a prime recreational location would beat out another potential owner with 30 years of use of the same parcel or a business who has a state permit to use the parcel. HB 319 contains no direction of how to settle conflict between potential owners, users.

HB 319 Is Costly/Cumbersome to the State of Alaska

The self selection provision outlined in HB 319 will result in individuals applying for isolated and scattered parcels. Under the current state land sale program, DNR groups parcels and offers them as well planned clusters. The program requires one title check, one best-interest finding and so on, proving to be more efficient than the proposed exclusive-right program.

Alaskans building a better future.

HB 319 Adversely Effects Wildlife

Fish and game resources are easily over harvested following the settlement of formerly wild lands and waters. Wildlife which attracts private development will soon be depleted with more continuous pressure to the detriment of occasional campers and private landowners alike.

HB 319 Fails to Recognize Expense and Threat of Forest Fires

HB 319 furthers the issue of increased and continuing costs of protecting scattered private cabins from forest fires. The bill adds to the burden of firefighting costs where fires are now simply monitored, but not fought.

HB 319 Conflicts with Municipality Acreage Requirements

As stated by DNR, 10 acres is what is generally considered the minimum size for onsite sewage disposal. The proposed program violates municipal platting rules in the Fairbanks North Star Borough and Kodiak Borough.

HB 319 Consents to Selling Land for Less than Market Value

The proposal program does not guarantee the state a good return on the sale of prime state land. In fact, Line 7 of Sec.1 states the commissioner may sell land by lottery for less than fair market value of the land on a determination that scarcity of land available in the area makes the market value unrealistic.

Alaskans building a better future.

Representative
HUGH "BUD" FATE
Finance Committee
Energy Council-Executive Committee
119 N. Cushman St. Suite 213
Fairbanks, Alaska 99701
(907) 452-6084
Fax: (907) 452-6096

Alaska State Legislature



While in Session
State Capitol, Room 128
Juneau, Alaska 99801-1182
(907) 465-4976
Fax: 465-3883
Toll Free: 1 866-465-4976
e-mail:
Rep_Hugh_Fate@legis.state.ak.us
House District 7

House of Representatives

Memorandum

To: House State Affairs Committee
Fm: Representative Hugh Fate
Cc: Alaska Conservation Voters (via fax)
Date: February 3, 2004
Re: Alaska Conservation Voters Memo on HB 319 & Proven High Mineral

As requested by the Committee I would like to take this opportunity to response to Alaska Conservation Voters Memo on HB 319, submitted by Matt Davidson, Legislative Director on February 2, 2004.

The H version of HB 319 is language that existed in CS for HB 232 (RES) and served as a starting point based on discussions and amendments from the 22nd Alaska Legislature. I felt that this offered a better starting point for this legislature as some of the concerns had already been answered and resolved.

As the Memo was written prior to the amendments adopted as the CS for State Affairs I believe that the issues of, or at least a definition of, Exclusive Purchase Rights, Trespass, and Misuse of Mining Claims have been addressed.

Under the reference and scenario Invites Conflict: to a certain extent that concern has also been addressed in the amendment "...and request a right of first refusal." Since it is only a request, should the scenario conflict arise, the decision will be up to the Commissioner of DNR for resolution. Business issues are already addressed in statute:

AS 38.05.035 Powers and duties of the director states:

(f) The director shall grant a preference right to the purchase or lease without competitive bid of up to five acres of state land to an individual who has erected a building on the land and used the land for bona fide business purposes for five or more years under a federal permit or without the need for a permit and, after selection by the state, under a state use permit or lease, if the business

produced no less than 25 percent of the total income of the applicant for the five years preceding the application to purchase or lease the land. The director shall sell or lease the land at a price determined by the director to represent the current fair market value of the unimproved land but in no event less than the cost of administration including survey if required. If the director determines in a written finding that the purchase or lease of the land would interfere with public use by residents of the area, the director may condition the purchase or lease to mitigate the adverse effects on the public use or may reject the application for the preference right. A lease granted under this subsection may not be for a period in excess of 50 years. In this subsection, "business purposes" means a purpose permitted under the classification of the land at the time the land was entered. (emphasis added)

Costly and Cumbersome to the State of Alaska

As the Fiscal note indicates, an annual cost of \$433,000. I concur that those numbers are very close to reality. What the fiscal note does not address, in part because it was generated prior to the proposed amendments, are the advantages to, and therefore the increase in interest of these remote cabin sites. Presently, the Department offers land through the lottery, auction or over the counter sale. Much of the land currently being offered is either extremely remote with very limited access, or has inherent problems to topography to include wetlands. HB 319 will change that by allowing the public to identify sites that are preferred, and are of a more practical and economical size. This preference process will assist the Department by letting them know what people want. As indicated in the fiscal note, the price per acre will increase because of a simple supply and demand scenario meaning the land will have a higher value, conservatively between \$1,000 and \$1,500 per acre or \$5,000 to \$7,500 per site. I believe that once this program is in place the annual statewide demand could exceed 1,000 sites with a higher percentage of sites actually staked. Also because of a better quality of land, there will be a decrease in defaults. Essentially, the income for the state will far exceed the costs. I have attached some scenarios for your consideration.

Adversely Effects Wildlife

The wildlife impact is negligible as the five-acre site, combined with buffer zones both in existing statutes and this bill will eliminate an urban type private development situation. Under private ownership, people traditionally treat the wildlife on their property with more, not less respect. In many cases occasional campers are not necessarily the best stewards of the land they use, leaving signs of their visit behind or are there for the specific reason of hunting and fishing.

Expense and Threat of Forest Fires

The current policy of protecting remote cabins from forest fires is to say the least a nice gesture on behalf of firefighters, when in fact there is no requirement to do so.

AS 38.04.010 Public interest in making land available for private use.

(b) State land that is located beyond the range of existing schools and other necessary public services, or that is located where development of sources of employment is improbable, may be made available for seasonal recreational purposes or for low density settlement. The seasonal recreation use or low-density settlement shall have sufficient separation between residences so that public services will not be necessary or expected. The availability of timber, firewood, and water resources shall be considered in determining separation between residences. By considering the availability of timber, firewood, and water under this subsection or in making any disposal decision, the state does not by virtue of that consideration imply any right of the person receiving the disposal to an exclusive or other right to the timber, firewood, or water, that the state will not make any other disposals in the area, or that any disposals made will be limited in type or any other manner.
(emphasis added)

Again I would suggest that occasional campers with open fires pose a more serious threat of wildfire, as they have no vested interest in the land nor do they have a permanent type structure to protect.

Conflicts with Municipality acreage

Rules and regulations restricting the size of borough land sites within a borough are applicable on borough owned land. The state presently owns millions of acres that are not within an organized borough. Eventual determination of borough issues should be left in the hands of the land experts on both sides. Should a borough chose to lose the potential property tax base, then that decision is and should be up to the local assembly.

Consents to Selling Land for less than market value

This is language already in existing language and is only referenced in this bill to increase the amount of deposit from five to 10 percent. I believe the increased deposit will serve to impede the default rate. I also reference the definition of Fair Market Value

AS 38.04.910. Definitions.

(3) "fair market value" means the price at which a willing seller and a willing buyer will trade;

Finally on what we are referencing as Amendment # 3- Page 3 line 9-12

We propose a simple solution that addresses two issues presented by the committee.

Line 10 on the H version Line 11 on the Amendment H.1 [~~delete bracketed language~~]

...for mineral values[, except for lands having a proven high mineral potential] based on geophysical survey....

Thank you for the opportunity to respond to this memo. I look forward to continuing discussion on HB 319 as I feel this is an important economic bill that will bring the Alaska dream to many of our residents who will become better stewards of the land they own than the state.

Attachments

HB 319 Revenue Assumptions

I. FINANCIAL ASSUMPTIONS

- 1) 2500 Ready Applicants
 - 2) 1000 Ready Willing Buyer
 - A) Three (3) Categories of Buyers:
 - o 20 % 100% Cash Purchase/ 0 Financed
 - o 20 % 25% Down/50% Financed
 - o 60 % 10% Down/90 % Financed
 - 3) Average Price: \$ 1,000/acre
 - 4) Investments
 - A) 5% Annual Yield
 - 5) Financing
 - A) 6% Annual Percentage Rate (Prime +2% on loans)
 - B) 10% Down Payment
 - C) 60 Month Term
-

II. PARCEL ASSUMPTIONS

1) Desirable Remote Parcels:

- a. River Frontage
- b. Ocean Frontage
- c. Lakeshore Frontage
- d. Highway Frontage
- e. View Properties

2) Land Characteristics

- a. Fee Simple Ownership
- b. 5.0 acres Parcels/Subdividable into (4) 1.25 acre lots
- c. Some Ground Trans Access (snowmobile, 4-wheeler, boat, vehicle)
- d. Contracts for Sale/Lease option to purchase
- e. No State of Alaska Fire Protection
- f. No State of Alaska "Trail construction or maintenance.

3) Purchasers bears ALL cost of acquiring Fee Simple Title

- o Appraisals
- o Surveys
- o Title Insurance
- o Recording Costs
- o Legal Expenses (documentation)

4) Purchaser will pay for all site improvements:

- a. Roads and trail access construction/maintenance
- b. Structures/Buildings
- c. Materials/Supplies
- d. Real Estate Improvements (wells, septic, power, etc.)

5) The land purchase has Value Added Benefits:

- a. Labor/Construction
- b. Materials purchases
- c. Fuel/energy consumption
- d. Future Real estate transactions(Resale/subdivision)

III. NARRATIVE DESCRIPTION

The applicant pays for ALL related expenses of the purchase transaction. They then survey, appraise and purchase the parcel. Because HB 319 opens such large areas, there will be considerable public interest regarding what land is available. There will be some conflicting claims to parcels, specifically where Native Allotments have priority. These parcels can be purchased on a 5 year "lease option" until 2009 when all selections are completed by Native corporations.

Access concerns will be borne by the purchaser. DNR will not be expected to develop or maintain access routes. This new program will place considerable demands on DNR to provide information, particularly through the DNR public information offices in Anchorage, Fairbanks, and Juneau.

DNR will need to provide the public with accurate land status information for millions of acres of state land so the public knows what land is available, including the location of existing third-party interests, mining locations, Mental Health Trust Land, Native allotment locations, and trail and access information.

Specific tasks include:

- 1) DNR develops regulations to implement this disposal of land, establish qualifications, methods for resolving conflicting claims, etc.
- 2) DNR identifies land available for entry under this program-from state and federal status plats based upon state ownership, land classifications, municipal entitlements, existing private lands, Native allotments, etc. They would need to make available existing maps of several million acres available for selection.
 - a. Produce additional maps from existing supply.
 - b. Print and distribute maps
- 3) Purchaser stakes parcel, orders and pays for: survey, appraisal, recordation and documentation.
- 4) DNR approves a list of qualified appraisors and surveyors acceptable to the State of Alaska. That list will be provided to the purchasers to choose these services. Since these individuals are already approved by DNR, a review of their work will not be necessary. Appraisals and surveys will not be accepted by the State of Alaska from any individual who has not be qualified and accepted by the State of Alaska.

FY04 and following years- staking period opens-assume staking and filing period starts summer 2004 and continues indefinitely. (1) Staff positions for Public Information Office and (1) staff position to keep land status maps current; Cartographer (Anchorage), (2) staff positions to review and process applications (Fairbanks), (1) staff position for Public Information Office in Juneau, (1) staff position to issue deeds and conduct related title searches.

- 1) DNR Public Information Office staff to field program inquires
- 2) DNR accepts applications, certifies they qualify.
- 3) DNR reviews and approves applications and land available for selection.
- 4) DNR issues title documents

The purchaser performs the remaining functions and pays for the cost of implementation and acquisition of fee simple title.

2004
COMPARABLE SALES
(Average price/acre: Remote Parcels)

I. VERY REMOTE PARCELS (fly in only)		
a. Twin Lakes (Brooks Range)		
40 acres @ \$40,000	=	\$ 1,000/acre
b. Novy River "swampy" (Nuwitna)		
80 acres @ \$75,000	=	\$ 937/acre
c. Sand Lake "swampy" (Tok)		
50 acres @ 65,000	=	\$ 1,300/acre
II. REMOTE PARCELS (limited access)		
a. Clear, Ak		
70 acres @ \$45,000	=	\$ 642/acre
b. East Twin/West Twin Lakes (Woodriver)		
5 acres @ \$20,000	=	\$ 4,000/acre
c. Kendamina (Manley Flats)		
3 acres @ \$12,000	=	\$ 3,000/acre
III. DESIRABLE PARCELS (Waterfront lots, No road access)		
a. Delta Clearwater		
7 acres @ \$20,000	=	\$2,857/acre
5 acres @ \$25,000	=	\$5,000/acre
b. Good Pasteur River		
4.19 acres @ \$30,000	=	\$7,159/acre
c. Chena Angler Subdivision		
5 acres @ \$50,000	=	\$10,000/acre
IV. HIGHLY DESIRABLE PARCELS (Lakefront, Road access)		
a. Paxson Lake		
5 acres @ \$80,000	=	\$16,000/acre
5 acres @ \$50,000 (* 2 nd Tier lots)	=	\$10,000/acre
b. Fielding Lake		
5 acres @ \$35,000	=	\$ 7,000/acre

V. NATIVE ALLOTMENTS (VERY REMOTE)

a. Salmon Trout (Porcupine River) "Steep embankments" very remote 160 acres @ \$75,000	=	\$ 468/acre
b. (Nuwitna area) 80 acres @ \$75,000	=	\$ 937/acre
c. George Lake (Tok area) 40 acres @ \$60,000 (BIA appraised)	=	\$1,500/acre
10 acres @ \$30,000 (Waterfront lots)	=	\$3,000/acre

- The average price per acre on Native Allotments is \$500/acre. These parcels are large in size and very rural. They also have very limited access. These parcels take considerable time to sell and are equivalent to parcels offered in the past by DNR. These parcels are not as desirable to the average buyer, thus a per acre price of \$500 – 1000/ acre is reflected
- The average price per acre of \$1,000 for non-native allotment parcels is low and considered to be a conservative estimate of the value per acre for the types of parcels that would be selected. Most parcels selected will appraise and sell in excess of \$2,500/acre.

Data was provided by AK-Land (Robert A. Fox)

REVENUE PROJECTION
FY 05

I.	SALES REVENUE (1/1/05 – 1/31/05)		
	A. CASH SALES		
	[200 Parcels x 5.0 acres/ parcel x \$1,000/acre] =		\$1,000,000
	B. 50% CASH SALES		
	[200 Parcels x 5.0 acres/parcel x \$1,000/acre] =		\$ 250,000
	C) 10% DOWN SALES		
	[600 Parcels x 5.0 acres/parcel x \$1,000/acre] =		\$ 300,000

	TOTAL FY05 SALES REVENUE		\$1,550,000
II.	INTEREST INCOME (5% return)		
	A. CASH SALES		
	[\$1,550,000; 12mo. @ 5% compound daily)		
	Interest Income FY05 =		\$ 79,300
III.	FINANCE REVENUES (1/1/05 – 12/31/05)		
	A. CASH SALES		
			\$ 0
	B. 25% CASH SALES/75% FINANCED		
	[200 Parcels; \$3,750 @ 6%, 60 mo.]		
	Finance Income FY05 =		\$ 41,380
	C. 10% DOWN SALES/90% FINANCED		
	[600 Parcels; \$4,500 @ 6%, 60mo		
	Finance Income FY05 =		\$ 149,016

	TOTAL FY05 FINANCE INCOME		\$ 190,396
	TOTAL PROJECTED REVENUE FY05 =		\$1,819,696

HB 319 RECREATIONAL CABIN SITES

FY05 REVENUE PROJECTIONS BACKUP

A.	CASH SALES	(1/1/05)	DEPOSIT	=	\$1,000,000
B.	25% CASH SALES	(1/1/05)	DEPOSIT	=	\$ 250,000
C.	10% DOWN SALES	(1/1/05)	DEPOSIT	=	\$ 300,000
	TOTAL DEPOSITS to PRINCIPAL			=	\$1,550,000
D.	INTEREST INCOME OF INVESTMENT (5%) 12 mo.			=	\$ 79,300
E.	FINANCE INCOME ON LOANS (6%)				
	Accrued Interest	(206.90/yr x 200, \$(3,750 loans)		=	\$ 41,380
	Accrued Interest	(206.16/yr x 600, \$4,500 loans)		=	\$ 149,016
	TOTAL FINANCE INCOME			=	\$ 190,396

TOTAL REVENUE PROJECTED FOR FY05 = \$1,819,696



Alaska State Legislature

Please enter into the record my testimony to the House Finance
committee name
 committee on 319, dated 3/29/04.
bill/subject

I WAS signed up to testify, but didn't get called on. I have questions with the first come, first served part of this Bill if lots are not competitive, then land speculators could buy up the nicest land in all areas. This would benefit wealthy and well positioned folks over others. I am wondering what is wrong with the current system? I'm interested in remote land but have a huge problem with the CBM leases in the Mat Valley and have quit buying any leased land because of it. I suggest we leave well enough alone, and save the \$433,000. Fair priced land will always sell

Signed: MYRL Thompson
 Testifier
SELF
 Representing (Optional)
PO Box 877189 WASILLA
 Address
373-1686
 Phone No.

Just make sure its availability is fair for all.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

Division of Mining, Land and Water

Director's Office Phone: (907) 269-8600

FAX: (907) 269-8904

Fax Transmittal Memo

Date: 1-28-04

To: Jim Dieringer

Fax #: 4656824

From: Dick Mylius

3883

No. of Pages Including Cover Sheet: 3
(Please call 269-8600 if you have a problem receiving any part of this fax.)

Comments: Information on FY 02+03

subdivision sales. I'm having

problems printing out the FY 04

data. Will try to get it later.

Sale Summary

Over the Counter and Sealed Bid Sales

Over the Counter Sales				
	Parcels Sold	Acres Sold	Sales Price	Per Acre
FY 02	341	2547	\$3,224,225.00	\$1,286.00
YTD - Through 3-31-03				
FY 03	279	2322	\$2,800,150.00	\$1,209.00
Total OTC	620	4869	\$6,030,375.00	\$1,238.52
Total Sales/OTC and Sealed Bid				
	Parcels Sold	Acres Sold	Sales Price	Per Acre
Sealed Bid	305.11	2401.137	\$4,380,946.20	\$1,824.53
Total OTC	620	4869	\$6,030,375.00	\$1,238.52
Combined Total	925.11	7270.137	\$10,411,321.20	\$1,432.07

DNR has offered a total of 34,406.51 acres in FY 02 & FY 03. As of 3-31-03 we have sold 7,270.14 acres, or 21.13% of inventory. We currently have 27,904 acres available over-the-counter, representing 3,565 parcels.

2004 REPORT TO THE LEGISLATURE

Report on Identified R.S. 2477 Rights-of-Way

Notification of Annual Mining Report

Land Disposal Income Fund Report

**Notification of Annual Report on
Water Removals and Exports**

**Notification of Interim Land Classifications
(Closing Land to Mineral Entry)**

January 2004

Robert Loeffler
Director
Division of Mining, Land and Water

Frank Murkowski
Governor
State of Alaska

Tom Irwin
Commissioner
Department of Natural Resources

TABLE OF CONTENTS

Report on Identified R.S. 2477 Rights-of-Way	1
Notification of Annual Mining Report.....	7
Land Disposal Income Fund	8
Notification of Annual Report on Water Removals and Exports	10
Interim Classification Orders	11

REPORT ON IDENTIFIED R.S. 2477 RIGHTS-OF-WAY

INTRODUCTION

This report fulfills the requirement under AS 19.30.400(b) for DNR to report its identification, research, and adjudication of R.S. 2477 rights-of-way.

The Division of Mining, Land and Water receives \$40.0 annually for research, litigation support, public information services, and managing RS 2477 easements. The division continues to see a dramatic increase in requests to assert easements of all sorts, define exact locations for previously asserted easements, and to vacate those previously asserted. The staff time required to resolve these issues is large, ever increasing, and continues to be underfunded. The Division spends a few hundred thousand dollars on these easement tasks (which include but are not specific to RS 2477's). This report summarizes some of the RS 2477-related activities accomplished in the past year and highlights some of the challenges that the division faces.

RESEARCH UPDATE

In response to numerous public inquiries about historic routes, division staff spent substantial time and effort researching various historic routes as potential RS 2477 easements. Unfortunately, these routes evaluated in 2003 did not meet the criteria. However, the department has other methods for protecting these public access routes, such as rights-of-way under AS 38.05.850. In response to the specific requirements of AS 19.30.400(b), Attachment A of this year's report includes routes previously reported, but not listed in the statute. The total of qualifying R.S. 2477 rights-of-way now stands at 659 routes.

DNR has also extensively researched the McCarthy-Green Butte RS 2477 in Wrangell-St. Elias National Park in response to a controversy regarding the use of the trail. DNR and ADF&G conducted a public meeting on the issue and RS 2477's in general in McCarthy.

IMPLEMENTATION OF AS 19.30.400 – 19.30.420

Assertions of RS 2477's. DNR worked with the Attorney General's Office, the Governor's Office and the Department of Fish and Game to develop a draft of an MOU with the Department of the Interior to process applications for Recordable Disclaimers of Interest for 14 RS 2477's. The Governor submitted the Draft MOU to the Secretary of Interior in July, where it is under consideration.

Protecting Landowners and Access Developers against Liability. AS 19.30.420 protects the state and municipalities against liability for injuries or damage that might occur on an R.S. 2477 right-of-way. However, that statute does not protect other landowners (who may also not be covered by AS 09.65.200), nor does it shield an individual or company that voluntarily improves or maintains a trail or road on an R.S. 2477 right-of-way. Both could be exposed to lawsuits by injured users and the perceived risk of litigation is a key reason why many landowners oppose public access. DNR had hoped that its easement regulations adopted in

2001 could eliminate that risk, so long as the landowner or trail developer had not committed gross negligence or reckless or intentional misconduct. However, during its review of the regulations, the Department of Law ruled that only a statute could provide this shield.

Right-of-way Realignments to Resolve Development and Access Problems. Historic trails on R.S. 2477 rights-of-way met the needs of their era, but their alignment may not be ideal for modern times. In 2001, DNR developed a decision process for determining whether alternative routes met the requirements of AS 19.30.400. The division receives approximately 15 applications a year for easement vacations in favor of existing routes or for proposed alternative routes. Some of the more notable RST's (Revised Statute Trail) that are under review are RST 447 Wolverine Lake and RST 434 Tolsona Lake (in conjunction with an easement obtained by ADF&G).

Public Access to Easement Records. Access to DNR's computerized land records, including case files on R.S. 2477 rights-of-way, is available to the public via the department's website: www.dnr.state.ak.us/landrecords. This site is continually being updated.

In addition, DNR's new Online Map Library provides access to regional and statewide R.S. 2477 maps, including a statewide version updated March 2001 that shows routes recently reported to the legislature as well as those listed in AS 19.30.400. This Online Library is reached from the website noted above by choosing the "Maps, Plats & Data" link at the bottom, then "Public Maps," and finally selecting the topic "Roads and Trails."

LITIGATION UPDATE

Reindl v. Green Butte Copper Co. (Anchorage Superior Court No. 3AN-038472); Plaintiff seeks to quiet title by adverse possession to a mining claim in which the state holds an RS 2477 right-of-way. The state has filed a motion to dismiss the state as a defendant on the ground that a claim of adverse possession is not a cognizable claim against the state.

Robert Hale et al. v. Gale Norton et. al. The state is monitoring this lawsuit involving the Hale family and the U.S. National Park Service. At issue is access to private inholdings in a trail across National Park lands. The plaintiffs (Hales) argue that they do not need NPS approval to improve the access route because the route is an RS 2477. The Hales used a bulldozer to travel the 14 mile route in the spring of 2003. The extent to which they used the "original" RS 2477 route, maintained it, or created new routes and caused damage to the park is at issue. The federal district court denied plaintiffs' motion for a temporary restraining order and directed the plaintiff's to work with the NPS. The decision relied on the Vogler case and stated that NPS has the authority, despite the existence of valid existing rights of access (the RS 2477), to reasonably regulate routes across NPS land. The court also ruled that NPS must be allowed to evaluate the permit application and consider the impacts to the park before issuing a permit for access. The parties do not contest the validity of the RS 2477. The case has now been appealed to the 9th Circuit Court of Appeals.

Kenai Peninsula Borough v. State Department of Natural Resources (Superior Court No. 3KN-00-30 Civ.) challenged DNR's 1999 reporting of Quartz Creek, RST 1323, to the legislature as a qualifying R.S. 2477 right-of-way. After additional research and a field

investigation carried out jointly by DNR and the borough, it appears the parties agree on an alignment of the trail, including its branches. DNR surveyors used GPS technology to map the Quartz Creek trail, Coyote Notch, and Russian Gap. The agreed-on route will provide secure public access, minimize impacts on an existing borough subdivision, and skirt a developed airfield where unrestricted public use would be hazardous. The final question to be resolved is the width. The case is still pending in court awaiting the final agreement.

ATTACHMENT A

Routes First Reported to the Legislature in January 2001

<i>Interior</i>			
RST 1801	Lost Chicken - Wall Street Creek	RST 1968	Davidson Ditch Access Roads: Camp Creek - Ptarmigan Creek
RST 1967	Davidson Ditch Access Roads: Elliott Highway		

Routes First Reported to the Legislature in January 2000

<i>Interior</i>		<i>Northwest</i>	
RST 625 ¹	Cantwell Small Tracts Road (Lovers Lane)	RST 732	Rennies Landing - Cripple Landing (South) - Bear Creek
RST 695	Donnelly Dome: Old Valdez Trail Segment		
RST 815	Birch Creek Trail	<i>Southcentral</i>	
RST 1604	Frying Pan Creek Trail	RST 1359	Keystone Canyon - Thompson Pass
RST 1926	Fairbanks Creek - Fish Creek		
RST 1959	Dictator Creek Trail		
RST 1966	Caro-Coldfoot - West Fork Route		

Routes First Reported to the Legislature in March 1999

<i>Interior</i>			
RST 99	Illinois Creek - Moran Creek	RST 1832	Chicken - Fish/McKinley Creeks
RST 278	Fairbanks - Chena Hot Springs	RST 1844	Little Melozitna Hot Springs Trail
RST 464	Richardson Highway (Birch Lake) - Caribou Creek Trail	RST 1846	Melozitna Hot Springs Trail
RST 465	Fortymile Dome - Boundary Creek	RST 1849	Homer Hot Springs Trail
RST 644	Cleary Summit - Gilmore Dome Trail	RST 1856	Mastodon Creek - Eagle Creek Trail
RST 656	Dennison Fork Trail	RST 1864	Silver Fox Road

¹ A subsequent Superior Court ruling, *Gilbertson v. Shively* (Feb. 14, 2000), held that DNR could not research, identify, and report this trail under AS 19.30.400 without first nominating, identifying, and certifying it under administrative regulations in 11 AAC 51 that were adopted in 1992. However, DNR had already identified and reported the trail to the legislature and, in DNR's opinion, the route clearly qualifies as an R.S. 2477 right-of-way. In May of 2001, the administrative certification regulations were repealed.

RST 686	Ober Creek Trail	RST 1865	Last Tetlin (Nandell's Village) – Tetlin Trail
RST 781	Richardson Telegraph Station – Ridge (a/k/a Banner Creek Trail)	RST 1883	Walker Fork – Davis Creek – Border
RST 782	Redmond Creek – Banner Creek Trail	RST 1888	Hogatza Road
RST 783	Shaw Creek Lodge – Tenderfoot Creek Trail	RST 1903	Poker Creek Trail
RST 787	Teddy's Fork Trail	RST 1908	Chena Hot Springs – Olympia Creek Trail
RST 797	Napoleon Creek Trail	RST 1921	Washington Creek Trail
RST 841	Fish Lake – American Creek	RST 1921	Smallwood Creek – Nugget Creek Loop
RST 1477	Mastodon Creek – Mastodon Dome – Deadwood Creek Trail	RST 1924	Bear Creek Trail (Livengood quad)
RST 1572	Tuck Creek Trail	RST 1925	Solo Creek Trail
RST 1602	Ester Dome – Nugget Creek Trail	RST 1927	Walnut Creek Trail
RST 1611	Bergman – Cathedral Mountain Trail	RST 1929	Old Chatanika – Leary – Fairbanks Creek
RST 1642	Franklin – Chicken/Lilliwig Creek Trail via South Fork River Trail	RST 1930	Pedro Dome Road
RST 1644	Caro – Ft. Yukon Trail	RST 1931	Gilmore Hill Road
RST 1824	Alder Creek Trail (Ester)	RST 1932	Little Eldorado Road and Spurs
RST 1826	Chena – Ester	RST 1958	Davidson Ditch Access Roads: Belle Creek, McKay Creek, Boston Creek, Long Creek

Northwest

RST 1719	Wesley Creek Trail	RST 1915	Kobuk – Alatna River Portage: Northern Route
RST 1744	Kobuk River – Junction Trail	RST 1913	Pah River Portage: Kobuk – Hogatza River

Southcentral

RST 1323	Quartz Creek Trail (Seward quad)
RST 1506	Goose Creek Road
RST 1509	Curry Landing Strip – Lookout Tower
RST 1562	Trail Creek Trail
RST 1678	Greyling Creek Trail
RST 1819	Chisna – Slate Creek
RST 1862	Beluga Indian Trail

Southeast

RST 1851	Keystone Trail
----------	----------------

Southwest

RST 502	Boulder Creek – Flat Road
RST 1211	Egegik – Pilot Point – Ugashik
RST 1215	Coffee Creek Channel – Kvichak River Trail

Non-Qualifying Routes in AS 19.30.400
 (originally reported to the Legislature in March 1999)

Based on subsequent evidence and research, DNR believes the following 12 trails listed in AS 19.30.400 do not qualify as R.S. 2477 rights-of-way:

	<i>Interior</i>		<i>Southcentral</i>
RST 881	Alexanders Village - Veh - Tenjerlow Lakes	RST 1345	Long Lake - Chitina River
	<i>North Slope</i>		<i>Southwest</i>
RST 914	Poker (Pokok) Lagoon Southeast	RST 507	Stuyahok - Cabin
RST 916	Tarnayariak River - Camden Bay		<i>Northwest</i>
RST 1042	Anderson Point East	RST 457	Beeson Slough - Second Creek (Winter)
RST 912	Gordon - U.S. Border Tractor Trail	RST 635	Beeson Slough - Shaktoolik Roadhouse - Ungalik
RST 913	Nuvagapak Pt. Landing Strip - Kogatpak River	RST 752	Shaktoolik River - Junction Creek
		RST 738	Gambell - Boxer Bay

NOTIFICATION OF ANNUAL MINING REPORT

INTRODUCTION

This notification fulfills the requirement of AS 27.05.060 that the Department of Natural Resources prepare an annual report on mining in the state and notify the legislature that the report is available.

ANNUAL MINING REPORT

The most recent annual report on mining in Alaska, *Alaska's Mineral Industry 2002*, has been published jointly by the Department of Natural Resources' Division of Mining, Land and Water and Division of Geological and Geophysical Surveys and by the Department of Community and Economic Development's Division of Community and Business Development. The report is available as the Division of Geological and Geophysical Surveys' Special Report 57.

LAND DISPOSAL INCOME FUND REPORT

INTRODUCTION

This report fulfills the requirements AS 38.04.022(b) for a report to the legislature reflecting all money deposited in the state Land Disposal Income Fund during the prior fiscal year. Also provided is a short status report regarding the state land disposal program.

LAND DISPOSAL INCOME FUND

The revenue from sale of state land is deposited in a special state Land Disposal Income Fund within the state General Fund. The legislature may appropriate money for implementation of state land disposal programs from this fund. At the end of FY 02, the fund had a balance of approximately \$2,144,422. During FY 03, \$6,085,419 was deposited into this fund (including interest): \$1,472,176 from agricultural sales and \$4,613,243 from all other land sales (subdivisions, auctions, lotteries, school fund, etc.) The fund was reduced by \$2,589,642 for expenditures in support of the land sales components of Mining, Land and Water and the Division of Agriculture. The remainder of the fund was appropriated by the legislature during the 2003 session. The balance at the end of FY 03 was \$0.00.

LAND DISPOSAL PROGRAM STATUS REPORT

Subdivision Disposal

During FY 03, the Department offered 1,928 subdivision parcels for sale, totaling 14,774 acres. During FY 04 (through December 31, 2003), the Department has offered 109 surveyed parcels for sale, totaling 777 acres. As of December 31, 2003, DNR had sold 68 of these parcels totaling 377.5 acres with a total value of \$1,658,910. The remaining 41 parcels will be for sale over-the-counter starting in February, 2004. DNR currently has 2,964 parcels for sale over-the-counter (as of December 23, 2003), representing 23,061 acres. 539 over-the-counter parcels have sold in calendar year 2003 totaling of 4,005 acres and with a value of \$4,698,150.

Remote Recreational Cabin Disposal

In FY 04 to date, DNR has offered 266 authorizations (5,320 acres) for staking under AS 38.05.600, Remote Recreational Cabin Sites. The Department issued 158 staking authorizations and to date has received 25 lease applications, though the staking period for these authorizations does not end until mid-February 2004. By comparison, in FY 03, DNR

offered 245 authorizations (4,470 acres) for staking, received 776 applications, and issued 107 leases.

This program was first offered in FY 02. In FY 02, we offered 295 stakings and received 687 applications. Of these, 115 parcels were staked totaling 1,313 acres

NOTIFICATION OF ANNUAL REPORT ON WATER REMOVALS AND EXPORTS

INTRODUCTION

AS 46.15.020(b)(5) requires the Department of Natural Resources to prepare an annual report regarding activities of the commissioner under AS 46.15.035 and 46.15.037, and to notify the legislature that the report is available. As the report is brief, it is submitted in full below.

WATER REMOVAL AND EXPORTS

(A) The number of applications for the removal of water from a hydrologic unit to another that were requested and that were granted, and the amount of water involved:

There were no applications filed for the removal of water between February 1, 2003 and December 31, 2003.

(B) Information on the number and location of sales of water conducted by the commissioner and on the volume of water sold:

The Department has not sold any water and no actions are pending.

(C) Recommendations of the commissioner for changes in state water law:

None

(D) A description of state revenue and expenses related to activities under AS 46.15.035, and AS 46.15.037:

Expenses: From February 1, 2003 through December 31, 2003, DNR spent \$250 directly related to this statute in pre-application meetings.

Revenue Collected: The revenue that has been collected from February 1, 2003 through December 31, 2003 is \$0.

NOTIFICATION OF INTERIM CLASSIFICATIONS

INTRODUCTION

AS 38.05.300 requires the Department of Natural Resources submit for legislative approval all interim classification orders issued for areas exceeding 640 acres during the proceeding year.

INTERIM CLASSIFICATIONS

Between January 22, 2003 and January 16, 2004, the Department of Natural Resources has proposed one interim classification order for a mineral closing order covering a portion of Bristol Bay region in southwest Alaska. The interim order (Mineral Closing Order #791) closed land to oil and gas licensing and leasing under AS 38.05.131-134 and AS 38.05.177. This interim classification order has been transmitted to the legislature in the form of proposed legislation, (Senate Bill 266). The purpose of the closure is to prevent conflicts between oil and gas licensing and the proposed competitive oil and gas lease sale under AS 38.05.180.

AS 38.05.600. Remote recreational cabin sites.

(a) The commissioner may provide for the sale or lease of state land for remote recreational cabin sites. Sales under this section shall be at fair market value determined as of the time of entry, and the purchaser shall reimburse the state for the appraisal, survey, and platting costs for the recreational cabin site.

(b) The annual fee for a remote recreational cabin site lease shall be set by the commissioner so as to ensure that the state receives a fair return for the use granted by the lease for the term of the lease. The commissioner shall establish regulations that specify the application procedures for and the terms and conditions of a remote recreational cabin site lease. A lease must be for a term of not more than five years, and may be renewed for one additional five-year period. At any time during the lease, the lessee may purchase the remote recreational cabin site by having the site appraised and surveyed in a manner acceptable to the department and by paying to the state the fair market value for the site determined as of the time of entry. The lease may not be assigned by the original lessee during the term of the lease.

(c) A remote recreational cabin site lease may be terminated by the commissioner before the expiration of the term of the lease if a lessee fails to use the land under lease in the manner required by the terms of the lease. After termination of a remote recreational cabin site lease, improvements or personal property on the land subject to the lease shall be managed in the same manner as required by AS 38.05.090 .

AS 38.05.090. Removal or reversion of improvements upon termination of leases.

(a) Unless otherwise agreed to in writing by the commissioner, a lessee shall remove from a former leasehold

(1) all personal property, including above-ground tanks, transportable buildings, equipment, machinery, tools, and other goods, not belonging to the state, within 30 days after termination of the lease; and

(2) all buildings and fixtures, including gravel pads, and below-ground tanks, foundations, and slabs, not belonging to the state, within 60 days after termination of the lease.

(b) Unless otherwise agreed to in writing by the commissioner, the lessee shall restore the leasehold to a good and marketable condition, acceptable to the commissioner, within 120 days after termination of the lease.

(c) If the lessee does not remove personal property, buildings, and fixtures as required within the time specified under (a) of this section, title to the personal property, buildings, and fixtures that remain automatically vests in the state unless the commissioner elects to remove and dispose of the remaining personal property, buildings, and fixtures of the lessee. The commissioner may assess upon the lessee the cost of removing and disposing of personal property, buildings, and fixtures remaining upon the land.

Reference Statute Language in HB 319

(d) If the lessee does not restore the land within the time period specified under (b) of this section, the commissioner may have the land restored and assess the costs upon the lessee.

(e) As part of a lease agreement, and in order to protect the public interest, the commissioner may require terms for removal or reversion of improvements additional to those specified in (a) - (d) of this section.

(f) Private residential improvements of a lessee that have become fixtures of the land and that are not removed by that lessee upon termination of the lease shall be purchased by the subsequent purchaser of the land if the improvements were authorized in the former lease or by permit from the director and if they have a net value of more than \$10,000. The net value is the value of the improvements as determined by an appraisal approved by the commissioner, less all rents due the department, all costs of restoration under (d) of this section, and all department expenses estimated to be incurred in making the sale. After termination of the former lessee's lease, and at additional times as determined necessary by the commissioner, the value of the authorized residential fixtures shall be determined by an independent appraisal made at the cost of the former lessee. A notice or offer by the state to sell formerly leased land under this subsection must state (1) the appraised value of authorized residential fixtures remaining on the land that must be purchased, and (2) that that cost is included in the purchase price. Out of the proceeds of the sale, the department shall pay to the former lessee the appraised value of the residential improvements, less all rents due the department, all costs of restoration due the department under (d) of this section, and all department expenses incurred in making the sale.

(g) Personal property described in (c) of this section is not subject to AS 34.45 (Uniform Unclaimed Property Act).

AS 38.05.127. Access to navigable or public water.

(a) Before the sale, lease, grant, or other disposal of any interest in state land adjacent to a body of water or waterway, the commissioner shall,

(1) determine if the body of water or waterway is navigable water, public water, or neither;

(2) upon finding that the body of water or waterway is navigable or public water, provide for the specific easements or rights-of-way necessary to ensure free access to and along the body of water, unless the commissioner finds that regulating or limiting access is necessary for other beneficial uses or public purposes.

(b) The department shall adopt regulations implementing this section.

(c) Nothing in this section affects valid existing rights or limits in any way the constitutional right of the public to use and have free access to the navigable or public waters of the state.

(d) Upon application by a municipality or an affected owner of land, the department may vacate, release, modify, or relocate an easement and right-of-way for public access to or along navigable or public waters reserved by the department in a patent issued under AS 29.65 or former AS 29.18, if the commissioner determines the action is consistent with the public interest.

(e) The establishment of easements or rights-of-way for oil and gas and mineral leases under (a) of this section need not be made until the leases are ready to be developed.

(f) Rights-of-way or easements to waterways established under (a)(2) of this section shall be established approximately once each mile unless the commissioner makes a written finding that regulating or limiting access is necessary for other beneficial uses or public purposes.

(g) The commissioner may exchange land under AS 38.50 to create access to public water of the state.

Sec. 38.05.128. Obstructions to navigable water.

(a) A person may not obstruct or interfere with the free passage or use by a person of any navigable water unless the obstruction or interference is

(1) authorized by a federal agency and a state agency;

(2) authorized under a federal or state law or permit;

(3) exempt under 33 U.S.C. 1344(f) (Clean Water Act);

(4) caused by the normal operation of freight barging that is otherwise consistent with law;

or

(5) authorized by the commissioner after reasonable public notice.

(b) An unauthorized obstruction or interference is a public nuisance and is subject to abatement. The cost of abatement shall be borne by the violator and is in addition to any penalty imposed by the court.

(c) This section may not be construed to affect or abridge valid existing rights.

(d) Free passage or use of any navigable water includes the right to use land below the ordinary high water mark to the extent reasonably necessary to use the navigable water consistent with the public trust.

(e) Free passage or use of any navigable water includes the right to enter adjacent land above the ordinary high water mark as necessary to portage around obstacles or obstructions to travel on the water, provided

(1) entry is made without injury or damage to the land;

(2) entry is made in the least obtrusive manner possible;

(3) there is no reasonable alternative available to avoid the use of the adjacent land above the ordinary high water mark; and

(4) the navigable water is reentered immediately below the obstacle or obstruction at the nearest point where it is safe to do so.

(f) A violation of (a) of this section is a class B misdemeanor.

Sec. 38.04.010. Public interest in making land available for private use.

(b) State land that is located beyond the range of existing schools and other necessary public services, or that is located where development of sources of employment is improbable, may be made available for seasonal recreational purposes or for low density settlement. The seasonal recreation use or low density settlement shall have sufficient separation between residences so that public services will not be necessary or expected. The availability of timber, firewood, and water resources shall be considered in determining separation between residences. By considering the availability of timber, firewood, and water under this subsection or in making any disposal decision, the state does not by virtue of that consideration imply any right of the person receiving the disposal to an exclusive or other right to the timber, firewood, or water, that the state will not make any other disposals in the area, or that any disposals made will be limited in type or any other manner.

History

(§ 5 ch 181 SLA 1978; am § 4 ch 152 SLA 1984; am § 2 ch 91 SLA 1997)

Annotations

Administrative Code. - For remote recreational cabin sites, see 11 AAC 67, art. 8B.

Effect of amendments. The 1997 amendment, effective July 1, 1997, added the last sentence in subsection (b).

ANILCA provisions

However, § 1326 of ANILCA limits the authority of the President or the Secretary of the Interior to create large withdrawals in Alaska. Subsection (a) of that section states that a large withdrawal of public lands in Alaska terminates unless Congress extends the withdrawal by approving it in legislation enacted within one year after the withdrawal is made:

No future executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the President or the Secretary may withdraw public lands in the State of Alaska exceeding five thousand acres in the aggregate, which withdrawal shall not become effective until notice is provided in the Federal Register and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress. 10

This provision appears to limit a withdrawal to create a national monument to one year duration unless Congress legislates to "approve" the withdrawal.¹¹ Congress has acted in the past to terminate national monuments, 12 and could terminate a new monument withdrawal in Alaska before the expiration of the one-year period. Various political considerations might affect whether Congress might affirmatively enact approval of an ANWR monument. Absent such approval, it appears the monument designation would terminate and the situation as to the coastal plain would be as it is now - - that oil and gas development in the Refuge is prohibited until Congress acts to approve development.

Another section of ANILCA also appears relevant. Section 101(d) of ANILCA stated the sentiment of Congress in 1980 that ANILCA presented a balance between conservation units and development and disposal of lands:

This Act provides sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people; accordingly, the designation and disposition of the public lands in Alaska pursuant to this Act are found to represent a proper balance between the reservation of national conservation system units and those public lands necessary and appropriate for more intensive use and disposition, and thus Congress believes that the need for future legislation designating new conservation system units, new national conservation areas, or new national recreation areas, has been obviated thereby.

Technically, this section speaks of types of conservation units other than national monuments, 13 and it is true that one Congress cannot tie the hands of another. It could also be argued that because the fate of the coastal plain was expressly left to be decided in the future after additional studies of the area, the possibility of additional protection for the coastal plain was contemplated as part of ANILCA. Also, it could be noted that the President's 1906 authority was left intact as to Alaska, and §1326 expressly recognizes that additional large withdrawals might be made. Therefore, arguably, designation of the coastal plain might not be subject to the § 101 policy. However, that policy may ensure a lively debate if Congress is faced with considering approval of an ANWR national monument.