

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 2867



# Sierra Student Coalition

House Finance Committee  
Alaska State Legislature  
State Capital  
Juneau, Alaska 99801

The Honorable Mike Chenault and Kevin Meyer

The Sierra Student Coalition is the student run arm of the Sierra Club. We have over 15,000 members nationwide and have hundreds of student groups on high school and college campuses. We are writing you today to express our opposition to HB 130 and SB 96, bills in the Alaska State Legislature that will transfer 260,000 of Alaska State lands to the University of Alaska.

Past University land management practices show that the University is not a good land steward. In the past, the University has managed its lands with only one goal in mind: short-term profits for the University. For example, in Southeast Alaska, the University has clear-cut its forested land with little regard for fish and wildlife habitat or future productivity. We expect that the University will continue with its poor land management practices if this bill passes and more of Alaska's lands are handed over to the University.

The SSC finds such practices unacceptable. Funding for higher education should not come at great cost to our national heritage. By sacrificing the future of its public lands, Alaska is doing a much greater disservice to its students and future citizenry than a small temporary income ever could.

If this bill passes and becomes law, we are prepared to advise students across the country of the University of Alaska's bad record on land stewardship. Just a few years ago, many students publicly turned down admission to University of Maryland when plans to destroy wetlands for a new stadium were approved.

Surely there are better ways to help fund the University of Alaska that don't place Alaska's public lands at risk. Do not hurt the reputation of the University of Alaska by forcing them to privatize public land for quick cash! Please oppose HB 130 and SB 96, and find alternative, *sustainable* means to provide full funding for the University system.

Sincerely,

Derek Brockbank  
National Director

ps. Please include this letter on the official record of the bills.



ADOPTED AUGUST 1972

March 15, 2005

## CITY OF WRANGELL, ALASKA

INCORPORATED JUNE 15 1900

BOX 521, 99529

(907) 874-2381

FAX: (907) 874-3952

Dear Representatives and Senators:

The City of Wrangell would like to present the following comments regarding HB130, an Act granting certain state land to the University of Alaska. Wrangell is not in favor of HB130 and we wish to go on record with our concerns.

Wrangell is very frustrated with the process of selection and information dissemination regarding this bill. We are not aware that any community that was consulted before the selection of land that was granted to the University was finalized. Wrangell, most emphatically, was not.

The public meeting that was held in Wrangell during February was not adequately advertised beforehand. My initial notification of this very important meeting was five minutes before it was to begin.

Our city manager and other council members were not included at the presentation which had a total attendance of seven Chamber of Commerce members and myself. We were completely caught off guard as to the full implications and impact to our community of the selection of these particular parcels.

The lands in the vicinity of Wrangell that are being proposed to grant to the University are the prime settlement, recreational and cultural lands that Wrangell would select when we become a borough. We are presently actively pursuing a borough petition to be submitted this summer or fall. We are only eligible to select a small percent of lands that are classified a certain way and so these parcels are particularly important to us.

Our city council has been approached by the Wrangell Cooperative Association (our local native organization) with their written concerns which we will forward to you. Areas selected include important archeological sites that they wish to address with you.

CITY OF WRANGELL, ALASKA

Page 2 of 2  
Representatives and Senators  
March 15, 2005

Wrangell respectfully asks you to remove from your list of lands to grant to the University of Alaska, the following: Thoms Place, Earl West Cove and Olive Cove. We would then be willing to enter into a discussion of alternate parcels.

Respectfully,

Valery McCandless, *serving as Mayor.*  
Valery McCandless,  
serving as Mayor

VM.cj

Attachments: WCA letters

**Department of Natural Resources**  
**University Land Transfer**  
**Factsheet**  
**February 4, 2005**

**Introduction**

An academically strong and financially secure state university system is a cornerstone of the longer-term development of a stable population and of a healthy, diverse economy in Alaska. It is in the best interests of the State and the University of Alaska that the University own a significant and substantial portfolio of income-producing land to provide financial support for public higher education in Alaska. It is also in the interest of the State and the University to provide the University with land to encourage and foster natural resources education and research important for Alaska.

**SB 7 (Chapter 136, SLA 2000)**

In 2000, the Alaska Legislature passed Senate Bill 7, which provided a process for the University of Alaska to select and eventually own 260,000 acres of State land. Unfortunately, implementing the bill proved difficult, expensive, time-consuming, and subject to litigation. To date, no lands have been conveyed to the University to implement the law. In addition, uncertainty over what State land the University may or may not select created a disincentive for investment and development, and the 10-year conveyance process had the potential to discourage development and use of State land. The fiscal note that accompanied SB 7 envisioned a 10-year process that would cost \$17 million.

By identifying specific lands to transfer to the University, this proposal implements the intent of SB 7. It transfers the same amount of land, 260,000 acres, but does so in a way that is less expensive and quicker. All but one of the 71 parcels in the Governor's proposal will be transferred within three years at a cost that is less than 5% of the SB 7 estimate. This proposal also eliminates the potential disincentive to development, because once the legislation passes, the eventual land manager is immediately clear. Finally, restrictions in SB 7 made it difficult for the University to gain land with significant income producing potential. The Governor's 260,000-acre proposal provides much better income-producing land than was available under SB 7.

**Lands to be Transferred to the University of Alaska**

The lands proposed to be transferred to the University are summarized below:

Type of Property	No. of Parcels	Approximate Acreage
Investment Properties, Southeast Alaska	44	40,102
Investment Property, Other than Southeast	14	39,222
Nenana Basin Oil and Gas	1	90,000
Educational Properties	12	90,676
<b>Total:</b>	<b>71</b>	<b>260,000</b>

In developing a list of investment properties to be transferred, the Department of Natural Resources (DNR) and the University of Alaska focused primarily on lands that had been designated settlement, general use, or general public recreation in DNR land-use plans. The list does not include any lands designated for timber harvest in Southeast Alaska because conveying these lands to the University would decrease DNR's allowable cut there. Nor does it include lands tentatively scheduled for sale by DNR within the next five years, as conveying these lands would leave DNR unable to meet its near-term land sale goals. The list does not include lands on which municipal selection applications have been filed. The list does not include any producing oil and gas or mineral properties, nor legislatively designated State Game Refuges, Critical Habitat Areas, Parks, or Public Use Areas.

The 44 investment parcels in Southeast Alaska are expected to have the greatest near-term income potential. Because of the limited State land in Southeast Alaska, these tracts are comparatively small and are distributed throughout the area.

The remaining investment properties, distributed throughout the State, include some lands suited for commercial or industrial development, but the majority is suited for residential or recreational development.

The Nenana Basin Oil and Gas property is a single 90,000-acre tract within the Nenana Basin. It is located west of the Nenana River across the river from the City of Nenana. DNR and the University believe the tract has significant potential for gas development. The area is part of the Oil and Gas License owned by Andex Corporation. The tract would be transferred to the University of Alaska subject to the Andex license.

The 12 educational properties are intended to strengthen the University of Alaska's education and research programs. Most are located in the Fairbanks area. The largest is a 51,820-acre tract southwest of Fairbanks within the Tanana Valley State Forest. This area, which includes the Bonanza Creek Experimental Forest, would become the University Research Forest. It will be one of the largest university-related forests in the country and will be an important asset to the University for forestry and related research. For at least the next 50 years, DNR would continue to manage the public uses in this area, such as recreation, and would continue to use the area for commercial timber sales, consistent with the needs of the University Research Forest.

#### Land Transfer Process

Under the proposed legislation, DNR will transfer all but one of the parcels to the University of Alaska within three years of the bill's passage. During those three years, DNR will complete the required title search, and will reserve appropriate public access easements, navigable waters, etc. Actual authority for management will change on the date the deeds are recorded. The exception to the three-year transfer is the University Research Forest. As noted above, for the next 50 years, DNR will continue to manage the forest for commercial timber and public use in a manner consistent with the University's research needs. Finally, all transfers are subject to valid existing rights.

**Summary — A Strong Financial Base**

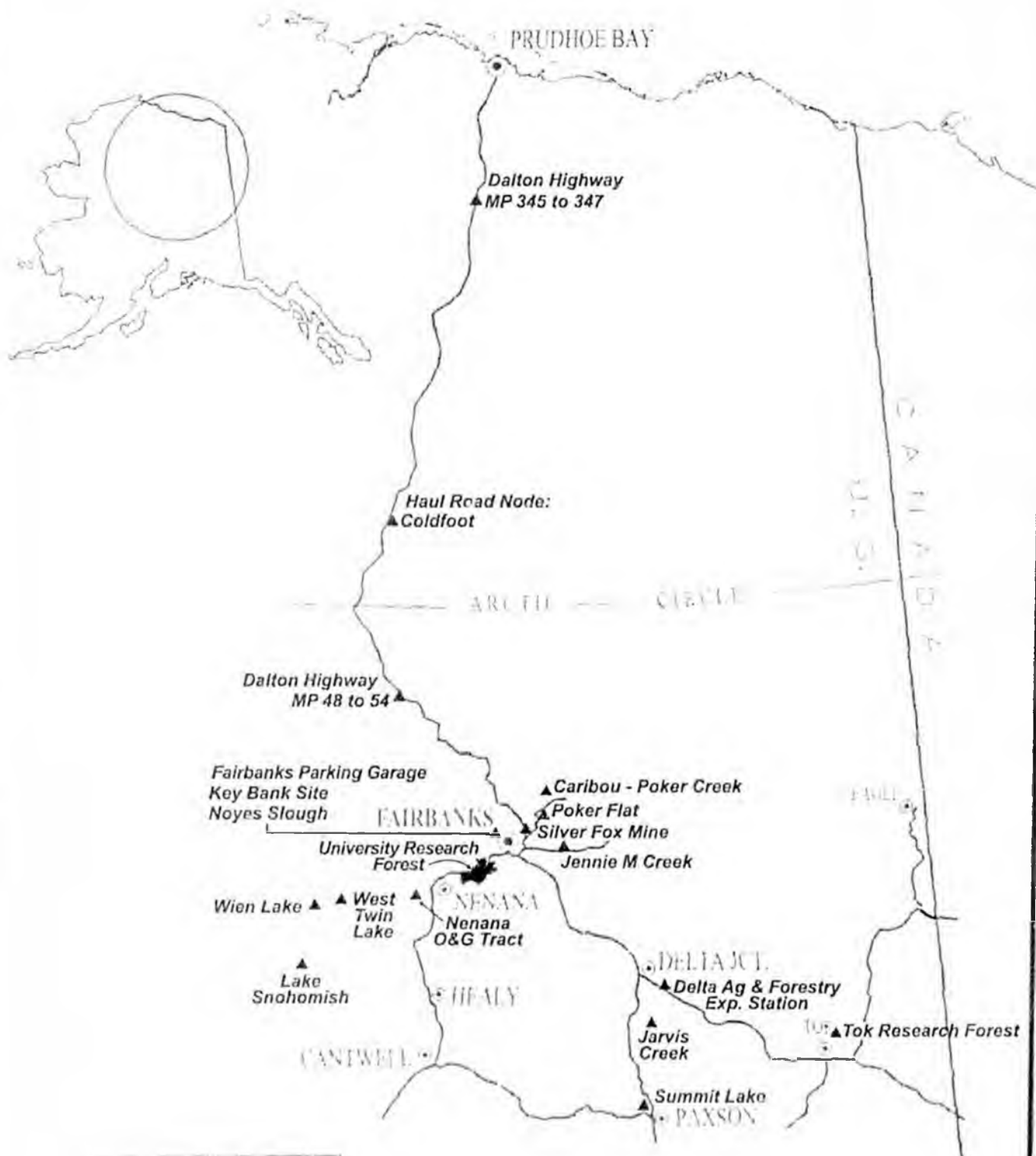
This transfer will provide the University with potential for near-term and long-term income. The investment properties — those in Southeast and elsewhere in Alaska — provide some near-term and medium-term revenue potential. However, it will take some time and effort to turn even the land with near-term income potential into revenue for the University. Despite the delay in creating income for the University, this land will strengthen the University's financial base.

The Nenana Oil and Gas Tract provides important long-term income potential. If marketable quantities of gas are found and developed on that tract, there is the potential for a significant, multi-year income stream to the University.

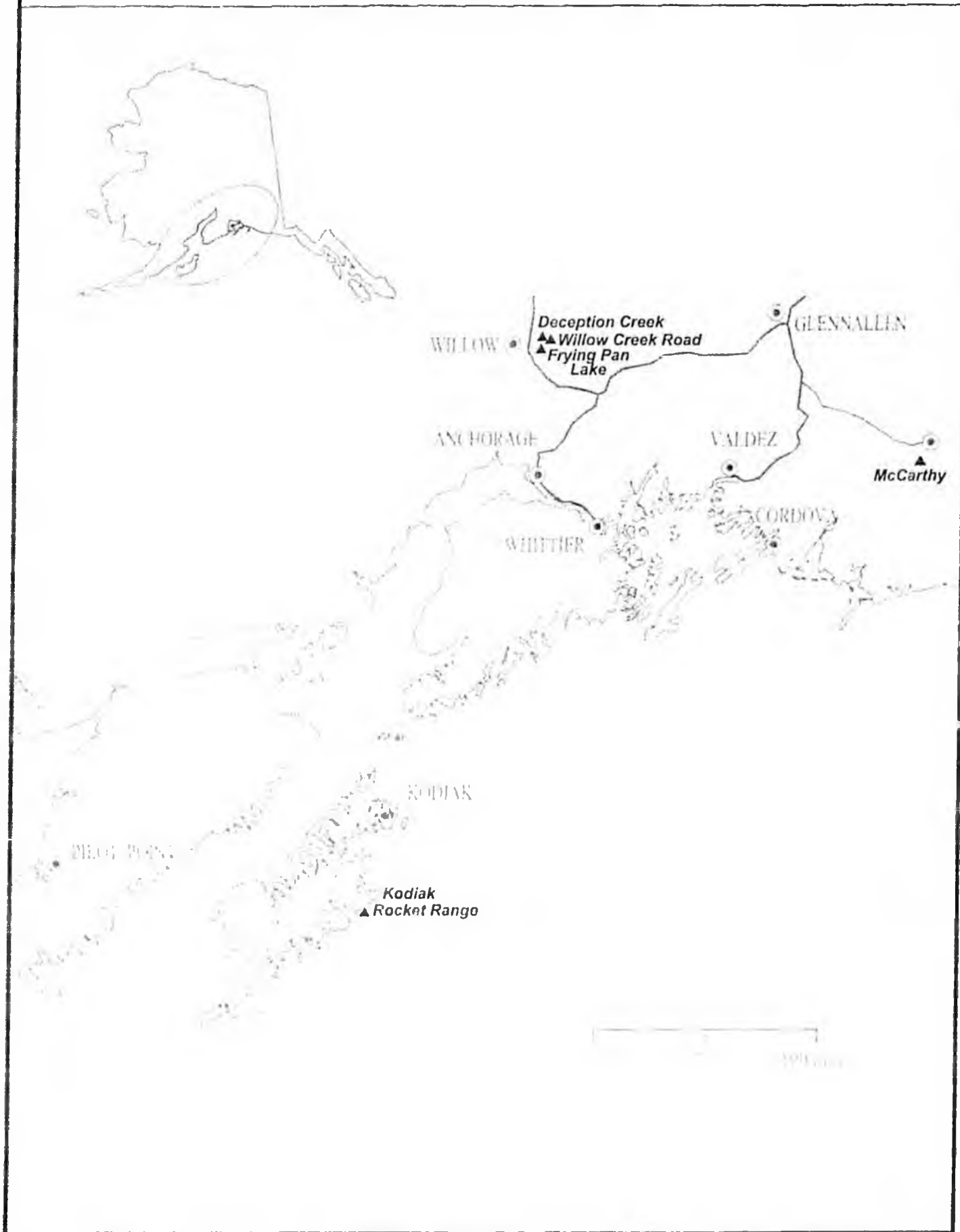
**Summary — A Strong Educational Base**

The educational properties strengthen the University's educational mission. The University Research Forest and other properties, such as the Caribou-Poker Creek Watershed, provide dedicated land for University education and research. Ownership by the University strengthens its natural resources education and research missions.

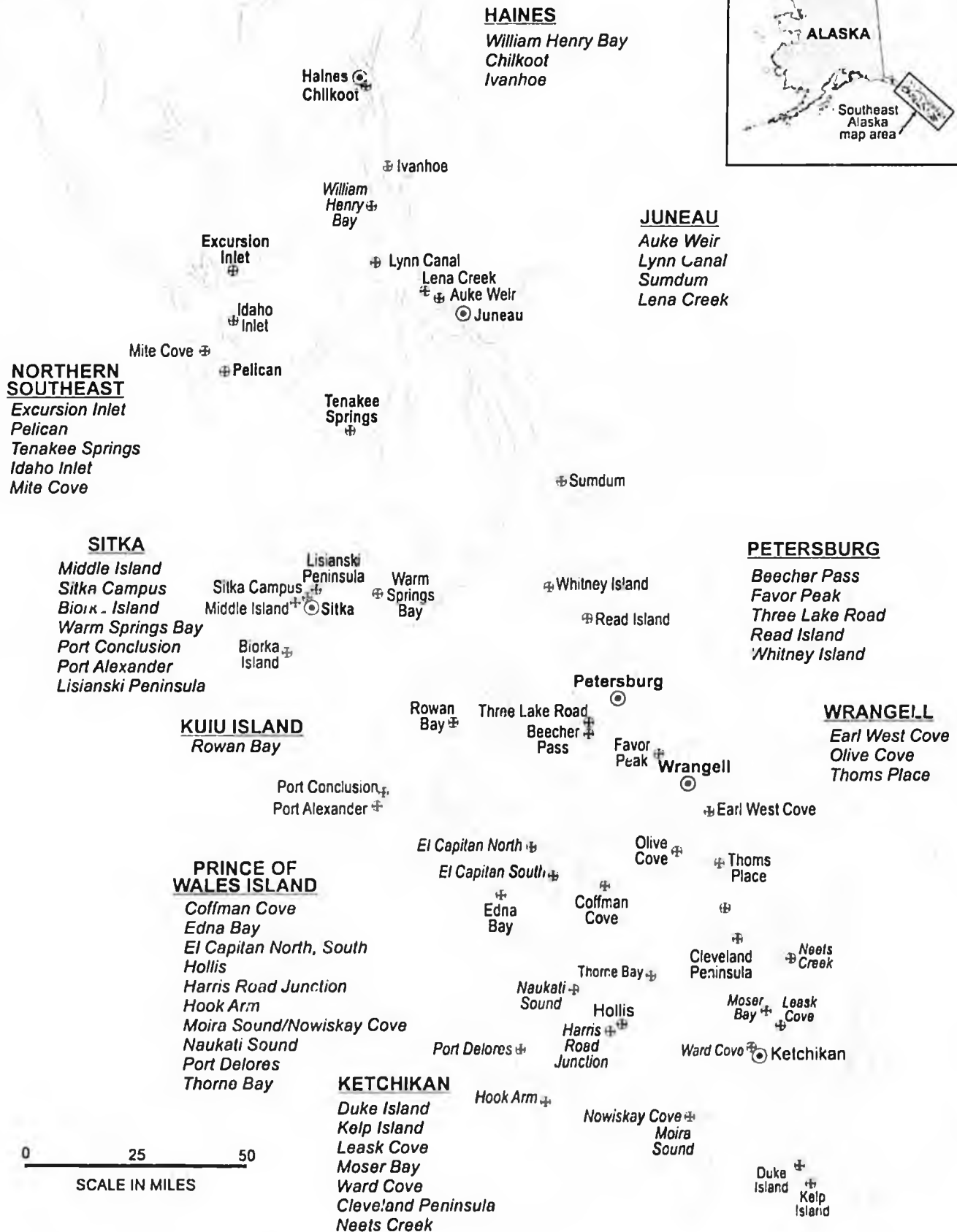
# NORTHERN - INTERIOR REGION



# SOUTHCENTRAL REGION



# SOUTHEAST REGION



**UNIVERSITY OF ALASKA  
OFFICE OF THE GENERAL COUNSEL**

**MEMORANDUM**

**DATE:** May 7, 2005

**SUBJECT:** Response to concerns raised by Legislative Counsel Donald M. Bullock, Jr. in Memorandum of May 5, 2005 on SCS CSHB 130(FIN), Draft version P

**TO:** Senator Lyda Green  
Co-Chair Senate Finance Committee

**CC:** Donald M. Bullock, Jr.  
Legislative Counsel

**FROM:** Mary E. Greene  
Associate General Counsel  
University of Alaska

Thank you for the opportunity to address the concerns raised in the thoughtful memo written by Mr. Bullock regarding the terms of SCS CSHB 130(FIN).

The University concurs with Mr. Bullock's opinion that transfer of the mineral estate in the lands to the University is consistent with section 6(i) of the Statehood Act. Like, the Mental Health Trust,<sup>1</sup> the University is an instrumentality of the state and thus transfer of the mineral estate does not violate section 6(i).

To understand how the "transfer" of funds operates takes some understanding of the current mechanics of the existing Land Endowment Trust Fund managed by the University. There has been a Land Endowment Trust Fund for the proceeds of University lands since long before statehood. The federal Act of January 21, 1929, which granted lands to the University for the support of the program, required that the lands be held in trust and that the proceeds earned from the lands similarly be held in trust. That Land Endowment Trust Fund is mandated in AS 14.40.400(a)(1) of existing law. The bill before you, like the earlier 2000 University lands statute, requires that proceeds from the lands in this new grant be deposited in the same fund. The University expects that the receipt of income from these new lands will be handled just as it is for our other land income. The net proceeds from the sale or other use of the land are deposited directly into the Land Endowment Trust Fund. That money is held in perpetuity. The University is allowed by the Legislature to use the earnings from the Trust Fund for University

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<sup>1</sup> This challenge was raised in the Mental Health Trust litigation and was unsuccessful in the trial court.

needs. The Legislature appropriates those funds, even though the state does not currently manage the Land Endowment Trust Fund. The funds are appropriated for the University's use through the receipt authority granted to the University. It is not a line item appropriation, but is included in the total receipt authority requested and appropriated. It is our understanding that the proceeds from these lands will work in exactly the same way. Thus, the bill need not be amended to deal with appropriation from the Legislature. The systems exist in the current AS 14.40.400 to deal with the issue; this land is merely added to those systems.

Turning to Mr. Bullock's concern about the provisions of AS 14.40.365(j) regarding the entitlement of the University to the income from the use of the land after conveyance. This provision is necessary so that the income from the existing encumbrances on the land, such as leases and contracts, created by the state during its ownership of the land are transferred to the University after the land is conveyed. That would probably be accomplished by DNR telling the holder of the interest to pay the University instead of the state through amendment of the document creating the interest. The mechanics of how it works are less important than that the Legislature has expressed its intent that THE University receives that income. If this section is substantially changed, the University may not be able to receive proceeds from the Nenana Basin gas, should that ever be developed, simply because there is an existing land exploration license. It is correct that these are future funds that would otherwise be paid to the state, but it is common that a new owner of land receive the benefits of that land that are received after the property is conveyed. To do otherwise would gut this endowment.

The University has considered the question of whether there is a "dedicated fund" problem with this bill. We do not believe there is because:

(1) The Alaska Supreme Court ruled that the Legislature's grant of these lands to the University is not an appropriation in *Alaska Legislative Council v. Knowles*, 86 P.3d 891 (Alaska 2004). Since the land is not an appropriation, the transfer of the lands cannot be the dedication of "the proceeds of any state tax or license," as specified in article IX, section 7; and

(2) The earnings from the Land Endowment Trust Fund are subject to Legislative appropriation. Thus, there is no dedication of those funds for a special purpose. The Legislature has ultimate authority over the use of the earnings.

We recognize that there is the possibility of a constitutional challenge on this basis, since the issue of "dedicated funds" was not addressed in the earlier litigation concerning these lands. But we believe that it is a challenge that we can win.

The University believes that it is not required to deposit earnings from these lands into the Permanent Fund for two reasons:

(1) University lands were not intended to be subject to deposit in the Permanent Fund considering the history of the adoption of Article IX, Section 15 and its language;<sup>2</sup> and

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<sup>2</sup> Similarly, we do not believe that university lands are "state lands" for the purposes of AS 37.14.050 (contributions to the Public School Trust Fund). That is consistent with the state's treatment of the University's other lands. The University has never been asked by the Commissioner of Revenue to transfer ½% of receipts derived from the management of University lands to the Public School Trust Fund.

(2) Even if Article IX, Section 15 does apply to the mineral proceeds from University lands, the Land Endowment Trust Fund (AS 14.40.400) meets the requirements of Article IX, Section 15. That section does not create *the* Permanent Fund. It provided the need for the Legislature to create the Permanent Fund. What Article IX, Section 15 explicitly requires is that 25 % of mineral proceeds be "placed in a permanent fund." The Land Endowment Trust Fund is *a permanent fund*, as recognized in 1963 Opinion of the Attorney General No. 13. What the new AS 14.40.400(a)(2) does is to require that no less than 25% from mineral proceeds from these newly granted lands be put into the lands endowment fund, *a permanent fund*.

In the event that this interpretation is challenged in court and the University loses, the University will have the money available to transfer into the Permanent Fund established for the state.

The "inconsistency" in AS 40.400(a)(2) is not really an inconsistency. The different language is necessary because of the difference between gross receipts and net revenue. As written in this bill, all *net income* from the use or sale of these lands must be put in the Land Endowment Trust Fund. The proviso ensures that the net income deposited is never less than 25% of gross revenue for mineral receipts from these lands. Thus, if the University has a mineral lease on these lands that produced \$10,000 in net income, \$10,000 would go into the Fund. But if the gross receipts from that lease were much higher and the University had significant expenses with the lease such that net income was less than 25 % of the gross receipts, the University would have to deposit a greater amount than the net income. For example, if our posited mineral lease that produced \$10,000 in net income had gross receipts in the amount of \$50,000 with chargeable expenses of \$40,000, the University would have to deposit \$12,500, 25% of the gross receipts, not \$10,000, the net income. The University requested the proviso language in this bill to ensure that if Article IX, Section 15 applies to these lands, the deposit in the Land Endowment Trust Fund never falls below the necessary 25% of gross receipts. It is unlikely that the proviso will be needed to guarantee that 25% of gross receipts are deposited, but the proviso is necessary to cover the rare and unexpected event.

For reasons discussed here, the University of Alaska respectfully requests that none of the changes suggested by Mr. Bullock be made.

Please contact me if my writing has confused rather than clarified. Pete Kelly can provide you my home and cell numbers if necessary.

1995 Alaska Op. Atty. Gen.  
1995 Alaska Op. Atty. Gen. (Inf.) 217  
(Cite as: 1995 WL 818804 (Alaska A.G.))

Office of the Attorney General  
State of Alaska

\*1 File No. 883-95-0102  
June 15, 1995

Re: HCS CSSB 16(FIN)– Additional University of Alaska land grant and the endowment trust fund

Honorable Tony Knowles  
Governor  
State of Alaska  
P.O. Box 110001  
Juneau, Alaska 99811-0001

Dear Governor Knowles:

At the request of your legislative director, Pat Pourchot, we have reviewed HCS CSSB 16(FIN), which allows the University of Alaska (university) to select additional state public domain land and defines net income from the university's endowment trust fund as "university receipts" subject to prior legislative appropriation.

Summary of the Bill

Section 1 of the bill sets out the legislature's findings and purpose in granting additional land to the university. Section 2 of the bill states the intent of the legislature that the university encourage in-state value-added industries "to the maximum extent feasible" in developing the land. Section 3 of the bill places responsibility for management of the land with the Board of Regents of the university (board) and requires the board to report to the legislature on use of money derived from the land. Section 5 of the bill amends AS 14.40.291 to exclude land granted under this bill from the state public domain.

Section 6 of the bill adds a new section, AS 14.40.365, which grants to the university the right to select and receive an additional 350,000 acres of state general grant land. Selections must be made by December 31, 2009. Section 6 also requires the board and the commissioner of natural resources (commissioner) to jointly submit to the legislature, within 30 days of the beginning of a regular legislative session, a list of at least 25,000 acres of land to be conveyed to the university. The legislature may disapprove or approve a list. Inaction by the legislature during the session in which the list was submitted is considered approval of the list.

Certain types of land (such as reserved land, land included in a five-year

proposed oil and gas leasing program or in an oil and gas lease or lease application, and land necessary for an interagency land management agreement, a land exchange, or a land settlement agreement) may not be included in the list. The commissioner also may not include land selected by a municipality under AS 29.65 or that the commissioner reasonably believes might be selected by a municipality, land that is subject to an oil and gas exploration license or that the commissioner reasonably believes will be made part of such a license, or a land selection that is not in the best interests of the state. The grant specifically includes minerals, except oil and gas is reserved to the state in perpetuity in all lands selected before the fifth anniversary of the effective date of this of this bill.

\*2 The state retains the authority, with the university's concurrence, to enter contracts and issue leases, licenses, prospecting sites, claims, permits, rights-of-way or easements for land selected, but not yet patented or interim conveyed. Ninety percent of the proceeds from such interests shall be held by the state and paid to the university upon conveyance, and following conveyance the university is entitled to 100 percent of the proceeds. With the exception of the public notice requirements in AS 38.05.945(b) and (c) and access requirements in AS 38.05.127, the provisions of AS 38.04 and AS 38.35 do not apply to conveyances under this section. The land conveyed is subject to sec. 6(i) of the Alaska Statehood Act (P.L. 85-508, 72 Stat. 339) (reservation of minerals), art. IX of the Constitution of Alaska (finance and taxation), AS 19.10.010 (section line easements), payments to the Alaska Permanent Fund under AS 37.13.010(a) and (b), and RS 2477 rights-of-way, and excludes any interests transferred to the state under the Alaska Omnibus Act, P.L. 86-70, 73 Stat. 141.

Under this section of the bill, the university bears all costs of selection, platting, surveying, and conveyance, except recording costs. The commissioner is required to recover title to the land if the university is not actively managing the land to provide income within 10 years of conveyance, or if the land is conveyed to the United States before January 1, 2010.

Section 7 of the bill adds three new sections to AS 14.40. The first, AS 14.40.366, requires the university to establish mineral entry or location and leasing procedures substantially similar to the procedures in AS 38.05.185 - 38.05.275. The university also must give public notice and seek public comment on land management proposals and on management plans it must adopt annually for the land. The second new section, AS 14.40.368, provides that for land conveyed to the university that is subject to a lease, contract, mining claim, prospecting site, sale, permit, or right-of-way, the state will continue to receive the income from such interest and manage the land for the duration of the interest and any authorized renewal. The third new section, AS 14.40.369, requires the university to manage the land, before disposing of an interest to a third party, to permit customary and traditional uses of the land's resources to the maximum extent practicable. Section 8 of the bill adds a new section to AS 14.40 to provide tort immunity to the university for injury to or death of a person or for property damage to property of a person on undeveloped university land unless the tort was the result of "gross negligence or reckless or intentional misconduct."

Sections 4, 9, 10, 11, 13, 14, and 15 of the bill relate to the university's endowment

trust fund. Sections 9 and 10 of the bill amend AS 14.40.400 to include income derived from the land granted in sec. 6 of the bill in the trust fund and to substitute the president of the university for the commissioner of revenue as the fiduciary of the trust fund. Section 11 of the bill adds the trust fund income to the definition of "university receipts" in AS 14.40.491. Section 4 of the bill amends AS 14.40.280 to transfer investment and custody powers over the endowment trust fund from the Department of Revenue to the university. Sections 13 and 15 of the bill make technical amendments related to the transfer of powers over the trust fund. Section 14 of the bill repeals AS 14.40.400(e), which currently authorizes the Department of Administration to disburse the net income from the trust fund.

\*3 Section 12 of the bill amends AS 29.45.030(a) to extend its provisions regarding taxation of property to the land conveyed to the university. And, finally, sec. 16 of the bill specifies that the commissioner may not convey mental health trust land or land designated for conveyance to the Alaska Mental Health Trust Authority to the university.

#### Discussion

This bill raises numerous issues including: (1) the amount of land granted; (2) concerns regarding removal of a large amount of land from the lands available for subsistence, recreation, and other traditional uses; (3) transfer of university trust fund management functions; (4) whether this bill constitutes a dedicated fund prohibited by art. IX, sec. 7, of the Constitution of Alaska; (5) whether this land grant is an appropriation and the bill violates art. II, sec. 13, of the Constitution of Alaska; (6) whether the process set out for approval of the list of lands by legislature is valid; (7) whether the safeguards of art. VIII of the Constitution of Alaska, such as the sustained yield requirement, will apply to land conveyed to the university and whether the reverter provision for failure to derive income from the land will foster improvident management; and (8) whether the conveyance of mineral rights violates sec. 6(i) of the Alaska Statehood Act.

The first two issues raise no legal concerns and are policy matters for your consideration in acting on the bill. As to the amount of land granted, the bill originally contained a grant of one million acres, but this was reduced before the bill's passage to 350,000 acres. As to the second issue regarding land uses, the bill contains a provision mandating continuation of customary and traditional uses of the resources of the land to the maximum extent practicable, but only for land that is not subject to third-party interests. While this provision and the immunity from tort liability discussed above should allow the continuation of some current uses on university grant land for a period of time, the requirement that the commissioner recover title to the land if it is not producing income in 10 years and the use of the phrase "maximum extent practicable" makes it highly likely that general public use of the land will be greatly reduced over time to give preference to higher revenue-producing uses of the land.

The third issue concerning the transfer of university trust fund management also raises concerns. The bill transfers custody and investment powers over the endowment trust fund established in AS 14.40.400 from the Department of Revenue

to the university. This division of state fund management powers will lead to a duplication of investment functions among public entities. If investment functions are concentrated in a single agency, the agency can contract for the services of managers and advisers using the economies of scale that large investment portfolios allow. The university may not be able to avail itself of these services in an efficient and cost-effective manner. Section 11 of the bill adds endowment trust fund receipts to the list of university receipts set out in AS 14.40.491. This appears to be an attempt to clearly designate the earnings of the fund as segregated revenues of the university.

\*4 The fourth issue concerns whether payment of the proceeds of managing the transferred lands into a trust fund to benefit the university would constitute the dedication of state money in violation of art. IX, sec. 7, of the Constitution of Alaska. We believe that it does not constitute an invalid dedication for two reasons. First, the university is permitted by the Constitution of Alaska to hold title to property. Art. VII, sec. 2, of the Constitution of Alaska. Once the university holds title to property, it would be consistent with the state constitution to use the proceeds of land management solely for university purposes. The dedicated fund prohibition must be construed along with the provision that gives the university the ability to hold title to property. Second, it is possible to construe the land selection authorization in the bill as an appropriation of state assets. See the discussion below. The constitutional dedicated fund prohibition is not violated when the legislature may freely appropriate assets for a purpose determined by the legislature. That apparently has occurred through this bill.

The fifth issue is related to the question of whether the authorization to select state land in this bill amounts to an appropriation. The Alaska Supreme Court considers certain transfers of land to be the equivalent of an appropriation for determining if the initiative may be used to effect such a transfer. See *Thomas v. Bailey*, 595 P.2d 1 (Alaska 1979) (Bierne Homestead Initiative purported to set aside certain land for homesteading and for that reason cannot be enacted by initiative); *McAlpine v. University of Alaska*, 762 P.2d 81 (Alaska 1988) (setting aside of property other than money is an "appropriation" as that term is used in art. XI, sec. 7, of the Constitution of Alaska).

The Constitution of Alaska prohibits the legislature from enacting bills that combine appropriations with nonappropriation items. Art. II, sec. 13, of the Constitution of Alaska (bills for appropriations shall be confined to appropriations). It can be argued that the bill contains amendments and additions to general law applicable to the university. If the land selection provisions are appropriations, they cannot be enacted in a bill that also contains non-appropriation items. The confinement requirement of the Constitution of Alaska was adopted by the framers to avoid the practice of combining various unrelated subjects in a single bill so that the bill will gain enough support for passage. Since the Alaska Supreme Court has not addressed a land selection authorization like the one contained in this bill, the outcome of a legal challenge is uncertain. [FN1]

The sixth issue concerns the procedure established by the legislature to review

and approve or disapprove the selections. As explained above, a list is annually submitted to the legislature. If the list is not expressly disapproved, it is considered approved by legislative inaction. This approval may, in fact, be the act of appropriating state assets. If that is the case, the act of appropriating is a law-making function which requires that the selections be approved in a bill enacted after three readings and a vote in each house of the legislature. It is doubtful that the legislature can craft a new enactment process to make a land transfer appropriation. The Constitution of Alaska makes express provision for approval by inaction under certain circumstances. See, art. III, sec. 23, of the Constitution of Alaska (executive reorganizations) and art. X, sec. 12, of the Constitution of Alaska (local boundary changes). Without express authorization in the Constitution of Alaska, it is questionable whether the process set out in AS 14.40.365(a) would withstand a legal challenge.

\*5 The seventh issue relates to how the land will be managed. Article VIII of the Constitution of Alaska contains several provisions designed to protect the broad public interest in the management and disposal of state land and resources. These safeguards include the sustained yield clause (art. VIII, sec. 4 of the Constitution of Alaska), the public notice provision (art. VIII, sec. 10, of the Constitution of Alaska), and the provisions relating to mining and mineral leasing (art. VIII, secs. 11 and 12, of the Constitution of Alaska).

It remains an open question whether and to what extent these constitutional safeguards apply generally to various trust lands held by state entities such as mental health trust lands and lands granted for the university by the federal government before statehood. However, this bill will transfer state land from one state entity, the Department of Natural Resources, to another, the university. While the purpose and findings section of the bill and some of the supporters of the bill suggest that the United States Congress assumed the State of Alaska would use some of the land granted to the new state for the support of the university, the state has no legal obligation to transfer additional land. Therefore, this new land made available under the bill may not be trust land like the lands granted by Congress specifically for the university. The argument that the protections of art. VIII of the Constitution of Alaska continue to apply to this land may be even stronger than in the case of mental health lands or original university lands.

In addition, in sec. 1 of the bill, the findings and purpose section, the legislature found that "(9) renewable resources should be managed on a sustained yield basis, taking into account the total land grant." Also, sec. 7 of the bill requires adoption of mining and mineral leasing provisions that track those applicable to other state lands, and requires a planning process that incorporates public notice and comment on proposals for development, exchange, or sale of this land. From these provisions of the bill, a strong argument can be made that the art. VIII protections of the Constitution of Alaska apply. Whether the specific safeguards included in this bill are sufficient under the constitution will have to be decided ultimately by the Alaska Supreme Court.

The eighth issue is whether the conveyance of mineral rights violates sec. 6(i) of the Alaska Statehood Act, P.L. 85-508, 72 Stat. 339. This issue was raised in testimony before the legislature and is likely to generate litigation. The Alaska Supreme Court has interpreted sec. 6(i) to apply only to land of known mineral

character at the time the state selected it from the United States. Trustees for Alaska v. State, 736 P.2d 324 (Alaska 1987). We do not believe sec. 6(i) presents a problem for several reasons.

\*6 First, in sec. 6 of the bill, AS 14.40.365(h) specifically makes the land transferred subject to sec. 6(i); therefore, the mineral estate will not be subject to disposal to third parties. Second, the university is a part of the state and the land is being transferred to it for a valid state purpose, to provide revenue for the state's university system. Third, the bill requires the university to adopt mining and mineral leasing procedures substantially similar to those existing in Title 38. Fourth, the congressional purpose in passing sec. 6(i) was to ensure long-term revenue for the state. Trustees for Alaska, supra. The transfer to the university does not diminish, and may enhance, the ability to do so for the state. Finally, the ultimate decisions regarding spending income generated by the university land will continue to be made by the legislature in the form of appropriations from the endowment trust fund to the university.

While the Alaska Supreme Court has not yet ruled on this question, the superior court in the mental health trust lands case adopted this reasoning with respect to transfer of the mineral estate to the mental health trust. Weiss v. State, Case No. 4FA-82-2208 Civil, Memorandum Decision and Order re: Intervenor's Complaint, April 26, 1993. Although in Weiss the lands transferred are replacement lands for original trust lands rather than an additional grant of land, we believe the same reasoning would apply for the reasons stated above.

In summary, this bill raises complex policy and legal concerns, some of which have yet to be decided by the courts. Litigation will likely follow should this bill be enacted into law.

Sincerely,

Bruce M. Botelho  
Attorney General

[FN1] In Weiss v. State, Case No. 4FA-82-2208 Civil, the mental health trust lands case, the superior court has ruled that for purposes of the confinement requirement of art. II, sec. 13, of the Constitution of Alaska, the term "appropriation" does not apply to the transfer of land. Memorandum Decision and Order re: Intervenor's Complaint, April 26, 1993. However, the facts of that case differ in that the lands transferred to the mental health lands trust are replacement lands to reconstitute the trust. While the superior court did not rely on this fact, the Alaska Supreme Court has not yet spoken on this issue.

1995 Alaska Op. Atty. Gen. (Inf.) 217, 1995 WL 818804 (Alaska A.G.)

END OF DOCUMENT

**TONY KNOWLES, GOVERNOR**

**DEPARTMENT OF LAW**  
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April 7, 2000

The Honorable Tony Knowles  
Governor  
State of Alaska  
P.O. Box 110001  
Juneau, Alaska 99811-0001

Re: HCS CSSB 7(FIN) am H -- Relating to the  
University of Alaska and University Land  
and Authorizing the University of Alaska to  
Select Additional State Land  
A.G. file no: 883-00-0012

Dear Governor Knowles:

At the request of your legislative director, Pat Pourchot, we have reviewed HCS CSSB 7(FIN) am H, which allows the University of Alaska (university) to select additional state public domain land and sets out principles for land management and development.

Summary of the Bill

Section 1 of the bill sets out the legislature's findings and purpose in granting additional land to the university. Section 2 of the bill states the intent of the legislature that the university receive the land expeditiously and encourage in-state value-added industries "to the maximum extent feasible" in developing the land. Section 3 of the bill places responsibility for management of the land with the Board of Regents of the university (Board), which will also take title to the land. Section 4 of the bill amends AS 14.40.291 to exclude land granted under this bill from the state public domain and requires that the land be managed under the provisions of the bill and policies of the Board.

Section 5 of the bill adds four new sections to AS 14.40. New section AS 14.40.365 grants to the university the right to select and receive at least 250,000 acres and not more than 260,000 acres of state general grant land. Selections must be made by December 31, 2010. This section requires the Board to periodically submit a list of selections to the Commissioner of Natural Resources (commissioner) and affected municipalities. The Board and the commissioner will jointly submit to the legislature, within 30 days of the beginning of a

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regular legislative session, a list of at least 25,000 acres of land to be conveyed to the university. Land included on the list cannot exceed 25 percent of the university's remaining entitlement under this section. The list will be considered approved unless the legislature acts to disapprove the list by the end of the regular session.

Land identified in AS 16.20,<sup>1</sup> AS 41.15.300 - 41.15.330,<sup>2</sup> AS 41.21,<sup>3</sup> or reserved by law from the public domain may not be conveyed to the university. However, the bill specifically allows selection of land identified under AS 41.23 (Public Use Areas, Recreation Rivers and Recreational Mining Areas) and land within the Tanana Valley State Forest. The list may not include land within a municipality unless the land is vacant, unappropriated, unreserved land and the municipality does not validly select it within 120 days. The university also may not select land subject to certain oil and gas, mining, or coal interests; land necessary for an interagency land management agreement; or land subject to conveyance under a land exchange or settlement agreement.

The transfer of ownership to the university includes the state's interest in coal, ores, minerals, fissionable materials, geothermal resources and fossils, and oil and gas, except that oil and gas in land selected within three years of the effective date of the bill is reserved to the state in perpetuity. Selections generally must be made in parcels of at least 40 acres.

The state retains the authority, with the university's concurrence, to enter contracts and grant leases, licenses, prospecting sites, claims, permits, rights-of-way, or easements on land on the legislatively approved list that has not yet been conveyed. Surveyed land is to be conveyed by patent within one year of legislative approval of the list containing the land. If the land is unsurveyed, the Department of Natural Resources (DNR) must survey it and issue a patent within one year of the legislative approval. Also, for unsurveyed land, the bill requires the DNR to provide an interim conveyance document to the university within the same one-year period. Management of the land vests with the university upon recording of the deed or interim conveyance document. The university takes the land subject to any possessory interest held by another person and, upon conveyance, under new section AS 14.40.368(a)(1), is entitled to receive the revenues under it for the duration of the interest. If the encumbrance did not exist at the time of selection, any revenues accruing before conveyance are to be separately accounted for under AS 37.05.142 and subject to legislative appropriation.

<sup>1</sup> Alaska Statute 16.20 includes State Game Refuges, Game Sanctuaries, Range Areas and Critical Habitat Areas.

<sup>2</sup> Alaska Statute 41.15.300-41.15.330 establishes the Haines State Forest Resource Management Area.

<sup>3</sup> Alaska Statute 41.21 establishes Park and Recreational Facilities.

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New subsection AS 14.40.365(e) provides that the list submitted to the legislature may not include a land selection if the commissioner determines in writing that the land contains habitat especially critical for fish or wildlife, is subject to a municipal selection under AS 29.65, is likely to be selected by a newly formed municipality, is subject to or will be made part of an oil and gas exploration license, or would not be in the best interests of the state to convey. This determination is subject to review under procedures established by the DNR.

New section AS 14.40.365 also provides that the conveyance of land to the university is subject to notice that substantially complies with the public notice requirements in AS 38.05.945(b) and (c) and the access requirements in AS 38.05.127, but the other provisions of AS 38.04 and AS 38.05 do not apply to conveyances under this section. The land conveyed is subject to sec. 6(i) of the Alaska Statehood Act (P.L. 85-508, 72 Stat. 339) (reservation of minerals), art. IX of the Constitution of Alaska (finance and taxation), AS 19.10.010 (section line easements), payments to the Alaska Permanent Fund under AS 37.13.010(a) and (b), and RS 2477 rights-of-way, and excludes any interests transferred to the state under the Alaska Omnibus Act, P.L. 86-70, 73 Stat. 141. The university bears all costs of selection, platting, surveying, and conveyance, except that DNR will pay the costs of recording. The commissioner is directed to reserve easements and other forms of access required by the Constitution of Alaska and to ensure public access to navigable and public waters.

Section 5 of the bill next adds new section AS 14.40.366, which requires the Board to establish procedures for mineral entry or location and mineral leasing consistent with the Constitution of Alaska and the Alaska Statehood Act. This section also requires the university to establish policies to provide for public notice and comment on development, sale, or exchange of university land. The university also must give public notice and seek public comment on land management proposals and on land management plans that it must prepare every year for the land. New AS 14.40.366 also directs the Board to use up to 20 percent of the earnings from the land for programs supporting the development of natural resources within the region from which the earnings were derived if the local municipality provides matching funds. Finally, it states that, prior to disposal of an interest in the land to a third party, it shall be managed in a manner that permits reasonable activities of the public on the land "to the extent practicable."

Another new section added by sec. 5 of the bill, AS 14.40.367, allows the university to keep certain information, such as names of applicants, technical, cost and financial data, and certain applications confidential if the president of the university determines it is in the best interest of the university or an applicant requests confidentiality.

Section 6 of the bill amends AS 14.40.400(a) to require that net income derived from the land conveyed under this bill shall be deposited in the university's endowment trust fund. Section 7 of the bill adds a new section AS 14.40.461 authorizing the Board to establish a university demonstration forest within a watershed to be managed under multiple use and sustained yield principles. The Board is required to analyze possible timber utilization programs.

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including on-site or off-site value-added product manufacture in the state. Information generated from this program is public information.

Section 8 of the bill amends AS 29.45.030(a) to extend its provisions regarding exemption of property from taxation to the land conveyed to the university. Finally, sec. 9 of the bill amends AS 41.17.118(a) to extend the riparian standards for state land to university land conveyed under this bill.

### Discussion

This bill raises numerous issues including: (1) the amount of land granted and the time frames in which to select and convey it; (2) concerns regarding removal of a large amount of land from the lands available for subsistence, recreation, and other traditional uses; (3) the ability to select any state land other than certain legislatively designated areas and valid municipal selections; (4) deposit of revenue in the university's endowment trust fund; (5) whether this bill constitutes a dedicated fund prohibited by art. IX, sec. 7 of the Constitution of Alaska; (6) whether this land grant is an appropriation and the bill violates art. II, sec. 13 of the Constitution of Alaska; (7) whether the safeguards of art. VIII of the Constitution of Alaska, such as the sustained yield requirement, will apply to management and disposal of land conveyed to the university; (8) the inapplicability of most of the requirements of AS 38.04 and AS 38.05 to conveyances by DNR under the bill; (9) whether the conveyance of fee simple violates sec. 6(i) of the Alaska Statehood Act; and (10) the adequacy of the legislative approval process.

The first two issues raise no legal concerns and are policy matters for your consideration in acting on the bill. As to the amount of land granted, similar bills in previous years began with a grant of 1 million acres; that has been reduced now to 250,000 to 260,000 acres. The bill allows less than 10 years for selection of the land and requires conveyance within one year of approval of a selection by the legislature. These time frames may be unrealistic. As to the second issue regarding land uses, the bill contains a provision mandating continuation of reasonable public uses of the land to the extent practicable, but only for land that is not subject to third party interests. While this provision should allow the continuation of some current uses on university grant land for some period of time, the bill's purpose of generating revenue from development of the land makes it highly likely that general public use of the land will be greatly reduced over time to give preference to higher revenue-producing uses of the land.

The third issue has been the subject of some debate and concern prior to the bill's passage. The bill allows the university to select any state land except land in certain legislatively designated areas, valid municipal selections, certain lands subject to mining or mineral leasing activities, and a few other categories of land. Many municipalities have yet to select their full entitlement. They will be competing with the university for land. Much of the state is not yet organized in boroughs; the bill allows the university to select land future boroughs may need or desire.

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The university land bill vetoed in 1996 did not prohibit selection of oil and gas leases and other revenue-generating interests. HCS CSSB 7(FIN) am H does, to some extent. However, because of the limited amount of state land with revenue-producing potential and the number of competing claims for that land, land selections will be highly contentious. Furthermore, under the bill, once land has been approved by the legislature for conveyance, the university has veto power over any activities requiring a permit, license, right-of-way, contract, or other encumbrance. This could affect continued development of existing projects, as well as new projects on state land.

The fourth issue concerns the requirement to deposit all revenues from the land into an endowment trust fund. Alaska Statute 14.40.400(c), which is not amended by the bill, provides: "[t]he net income from the trust fund shall be used exclusively for the Agricultural College and School of Mines." This must be construed together with AS 14.40.010, which provides that the College of Agriculture and School of Mines are parts of the university, which also consists of other colleges and departments. This raises the question whether endowment trust receipts, including revenues from this new land grant, may only be expended for agricultural or mining programs of the university.

The fifth issue concerns whether payment of the proceeds of managing the transferred lands into a trust fund to benefit the university would constitute the dedication of state money in violation of art. IX, sec. 7 of the Constitution of Alaska. We believe that it does not constitute an invalid dedication for two reasons. First, the university is permitted by the Constitution of Alaska to hold title to property. Art. VII, sec. 2 of the Constitution of Alaska. Once the university holds title to property, it would be consistent with the state constitution to use the proceeds of land management solely for university purposes. The dedicated fund prohibition must be construed along with the provision that gives the university the ability to hold title to property. Second, it is possible to construe the land selection authorization in the bill as an appropriation of state assets. See the discussion immediately below. The constitutional dedicated fund prohibition is not violated when the legislature may freely appropriate assets for a purpose determined by the legislature. That apparently has occurred through this bill.

The sixth issue relates to the question of whether the authorization to select state land in this bill amounts to an appropriation. The Alaska Supreme Court considers certain transfers of land to be equivalent to an appropriation for determining if the initiative may be used to effect such a transfer. See *Thomas v. Bailey*, 595 P.2d 1 (Alaska 1979) (Bicentennial Homestead Initiative purported to set aside certain land for homesteading and for that reason cannot be enacted by initiative); *McAlpine v. University of Alaska*, 762 P.2d 81 (Alaska 1988) (setting aside of property other than money is an "appropriation" as that term is used in art. XI, sec. 7 of the Constitution of Alaska).

The Constitution of Alaska prohibits the legislature from enacting bills that combine appropriations with nonappropriation items. Art. II, sec. 13 of the Constitution of Alaska (bills for appropriations shall be confined to appropriations). It can be argued that the bill contains amendments and additions to general law applicable to the university. If the land

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selection provisions are appropriations, they cannot be enacted in a bill that also contains non-appropriation items. The confinement requirement of the Constitution of Alaska was adopted by the framers to avoid the practice of combining various unrelated subjects in a single bill so that the bill will gain enough support for passage. Since the Alaska Supreme Court has not addressed a land selection authorization like the one contained in this bill, the outcome of a legal challenge is uncertain.<sup>4</sup>

The seventh issue relates to how the land will be managed. Article VIII of the Constitution of Alaska contains several provisions designed to protect the broad public interest in the management and disposal of state land and resources. These safeguards include the sustained yield clause (art. VIII, sec. 4 of the Constitution of Alaska), the public notice provision (art. VIII, sec. 10 of the Constitution of Alaska), and the provisions relating to mining and mineral leasing (art. VIII, secs. 11 and 12 of the Constitution of Alaska). Numerous provisions in AS 38.04 and AS 38.05 relating to land classification, management, and disposal implement these constitutional safeguards.

It remains an open question whether and to what extent these constitutional safeguards apply generally to various trust lands held by state entities such as mental health trust lands and lands granted for the university by the federal government before statehood. However, this bill will transfer state land from one state entity, DNR, to another, the university. While the purpose and findings section of the bill and some of the supporters of the bill suggest that the United States Congress assumed the State of Alaska would use some of the land granted to the new state for the support of the university, the state has no legal obligation to transfer additional land. Therefore, this new land made available under the bill is not trust land like the lands granted by Congress specifically for the university. Accordingly, the argument that the protections of art. VIII of the Constitution of Alaska continue to apply to this land is even stronger than in the case of mental health lands or original university lands.

In addition, in sec. 1 of the bill, the findings and purpose section, the legislature found that "(9) renewable resources should be managed on a sustained yield basis, taking into account the total land grant." Also, sec. 5 of the bill requires the university to provide public notice and seek public comment on development, sale, and exchange proposals and establish procedures for mining and mineral leasing. It also requires a planning process that incorporates public notice and comment on proposals for development, exchange, or sale of this land. From

<sup>4</sup> In *Wells v. State*, Case No. 4PA-82-2208 Civil, the mental health trust lands case, the superior court ruled that for purposes of the confinement requirement of art. II, sec. 13 of the Constitution of Alaska, the term "appropriation" does not apply to the transfer of land. Memorandum Decision and Order re: Intervenor's Complaint, April 26, 1993. However, the facts of that case differ in that the lands transferred to the mental health lands trust are replacement lands to reconstitute the trust. While the superior court did not rely on this fact, the Alaska Supreme Court has not spoken on this issue.

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these provisions of the bill, a strong argument can be made that the art. VIII protections of the Constitution of Alaska apply. Whether the specific safeguards included in this bill or followed by the university are sufficient under the constitution will have to be decided ultimately by the Alaska courts. At a minimum, for the public this will cause uncertainties over what standards govern management and disposal by the university, and will fragment land management in Alaska further.

The eighth issue concerns the provision in sec. 5 of the bill in AS 14.40.365(g) that requires the Commissioner of DNR, in making the conveyances to the university, to substantially follow the notice requirements of AS 38.05.945(b) and (c) and provide for access under AS 38.05.127, but makes inapplicable other provisions of AS 38.04 and 38.05. In practical terms this means that the land management plans and land classifications developed by the DNR through extensive public processes do not govern conveyance decisions. It also means the best interest determination process set out in AS 38.05.035 is inapplicable. While the legislative approval of the list will serve a "public interest" function, the general exemption from Title 38 has raised concern from diverse interests.

The ninth issue is whether the conveyance of fee simple title violates sec. 6(i) of the Alaska Statehood Act, P.L. 85-508, 72 Stat. 339. This issue may generate litigation. The Alaska Supreme Court has interpreted sec. 6(i) to apply only to land of known mineral character at the time the state selected it from the United States. *Trustees for Alaska v. State*, 736 P.2d 324 (Alaska 1987). We do not believe section 6(i) presents a problem for several reasons.

First, in sec. 5 of the bill, AS 14.40.365(b)(1)(A) specifically makes the land transferred subject to sec. 6(i); therefore, the mineral estate will not be subject to disposal to third parties. Second, the university is a part of the state and the land is being transferred to it for a valid state purpose, to provide revenue for the state's university system. Third, the bill requires the university to adopt mining and mineral leasing procedures consistent with the constitution and the Statehood Act. Fourth, the congressional purpose in passing sec. 6(i) was to ensure long-term revenue for the state. *Trustees for Alaska, supra*. The transfer to the university does not diminish, and may enhance, the ability to do so for the state. Finally, the ultimate decisions regarding spending income generated by the university land will continue to be made by the legislature in the form of appropriations from the endowment trust fund to the university.

While the Alaska Supreme Court has not yet ruled on this question, the superior court in the mental health trust lands case adopted this reasoning with respect to transfer of the mineral estate to the mental health trust. *Welss v. State*, Case No. 4PA-82-2208 Civil, Memorandum Decision and Order re: Intervenor's Complaint, April 26, 1993. Although in *Welss* the lands transferred are replacement lands for original trust lands rather than an additional grant of land, we believe the same reasoning would apply for the reasons stated above.

The final matter for your consideration is the legislative approval process set out in the bill for selections of university land. Under AS 14.40.365(a), the Commissioner of

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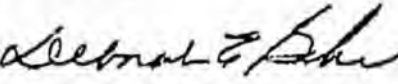
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Natural Resources and the university are to jointly submit a list of land to the legislature for approval. The bill provides that inaction on the submittal constitutes approval of the list.

This approval may, in fact, be the act of appropriating state assets. If that is the case, the act of appropriating is a law-making function that requires that the selections be approved in a bill enacted after three readings and a vote in each house of the legislature. It is doubtful that the legislature can craft a new enactment process to make a land transfer appropriation. The Constitution of Alaska makes express provision for approval by inaction under certain circumstances. See art. III, sec. 23, of the Constitution of Alaska (executive reorganizations) and art. X, sec. 12, of the Constitution of Alaska (local boundary changes). Without express authorization in the Constitution of Alaska, it is questionable whether the approval process set out in AS 14.40.365(a) would withstand a legal challenge.

In summary, this bill raises complex policy and legal concerns, some of which have yet to be decided by the courts. Litigation will likely follow should this bill become law.

Sincerely,

  
Bruce M. Botelho  
Attorney General

BMB:EJB:mw

**UA RESPONSE TO SENATE FINANCE COMMITTEE  
MAY 2, 2005 PUBLIC TESTIMONY  
CSHB 130 (FIN)**

**Inadequate Public Process**

The public has not had adequate opportunity to comment.

- ◆ The legislative process is the highest level of public process available in the State.
- ◆ The legislature has been accepting public comments on this bill for over 90 days.
- ◆ As a result of public comments, the legislature has amended the bill to include:
  - an extensive public noticing process by UA, prior to development or disposal
  - first rights of refusals to municipalities
  - protection of trails and access
  - the removal over 8,600 acres
  - selection rights on certain parcels to newly formed boroughs
  - protection of Native allotments
- ◆ Removal of additional lands from the land bill threatens the matching grant of 250,000 acres of federal land in legislation recently introduced by Senator Murkowski.

**No Conveyances in Southeast**

Legislature should not convey any lands in Southeast to UA: they are too precious, will negatively effect tourism, fishing industry, timber industry...

- ◆ The Southeast parcels included on the original CSHB 130 Land List represent only 0.2% of the acreage in Southeast Alaska, increasing private ownership from 1.3% to 1.5%.
- ◆ The proposed conveyances represent only 4.7% of all State land in Southeast Alaska.

SUMMARY	EST. ACRES	%	EST. ACRES	%
<b>FEDERAL LANDS</b>				
Tongass National Forest	16,577,000	76.2%	<b>TOTAL FEDERAL</b>	
Glacier Bay and other National Park Units	3,297,000	15.2%	19,876,000	91.4%
Other federal lands	2,000	0.0%		
<b>STATE/MUNICIPAL LANDS</b>				
State Parks and Refuges	78,000	0.4%		
Haines State Forest	286,000	1.3%	<b>TOTAL STATE/MUNI</b>	
State Lands	483,000	2.2%	904,000	4.2%
Municipal Entitlements	57,000	0.3%		
<b>NATIVE LANDS</b>				
Metlakatla Indian Reservation	86,000	0.4%	<b>TOTAL NATIVE</b>	
ANCSA Corporations	600,000	2.8%	686,000	3.2%
<b>PRIVATE LANDS</b>				
University (original grants)	27,000	0.1%	<b>TOTAL PRIVATE</b>	
Mental Health	53,000	0.2%	280,000	1.3%
Private and other	200,000	0.9%		
<b>TOTAL</b>	<b>21,746,000</b>	<b>100.0%</b>		

**UA Response to Senate Finance Committee Testimony  
CSHB 130 (FIN)  
May 4, 2005**

**Export Logs**

Effects the availability of timber for local process.

- ◆ DNR specifically did not include timber acres in its 5-year timber harvest plan or acres that contributed to the States allowable cut in this bill.
- ◆ Board of Regents' Policy 05.11.04 provides that, to the extent economically feasible and practicable, development of UA land and resources will encourage in-state value-added industries.

**Borough Entitlements/Community Needs**

Availability of State lands diminishes selection options for newly formed boroughs.

- ◆ Sec. 7 was added to the bill to eliminate the diminution of municipal entitlement acreage.
- ◆ Sec. 4 was added to provide a first right of refusal to the closest municipality.
- ◆ Sec. 4 provides a newly formed borough selection right on over 7,500 acres of land included in CSHB 130 located in Southeast Alaska until July 2009.

**Archeological Resources**

Archeological resources will not be protected by UA.

- ◆ All state and federal laws, including those that protect archeological resources, apply to UA.
- ◆ UA has numerous academic programs qualified to evaluate archeological resources on UA lands.
- ◆ UA has entered into an agreement with the State for access to and confidentiality of the State's database of Archeological and Historic Resources.
- ◆ UA is committed to the protection of the State's archeological resources.

**Nenana Oil & Gas**

UA ownership will negatively effect the availability of gas to the Railbelt:

- ◆ Less than 20% of the Nenana Basin will be conveyed to UA under CSHB 130.
- ◆ The parcel will be conveyed subject to the existing oil & gas license/lease.
- ◆ The licensees and other interest holders are supportive of the transfer of a portion of the Nenana Basin to UA.
- ◆ The Nenana Basin is a very speculative gas play, with no guarantee that it will ever be in production.
- ◆ If gas production occurs UA will be very supportive of getting it to market.

**University Research Forest**

Timber will not be available for small, local operations.

- ◆ State ownership/management will continue until 2055.
  - Passage of CSHB 130 will be invisible to local operators until after that date.
  - Any changes to current use will require an extensive DNR public process.
- ◆ Continued use by local timber operators is very likely to continue under UA ownership after 2055.

**Frying Pan Lake**

Existing dog mushing trails will not be protected.

- ◆ The vast majority of the Haessler-Norris Trail system traversing this parcel is located within wetland areas and a powerline right-of-way, areas that would not typically be developed by UA.
- ◆ The highest and best use of this parcel would likely be development of large parcels for sale to the dog mushing community.
- ◆ The trails on this parcel have been submitted to the Mat-Su Borough for inclusion in the Borough's trail acquisition plan.
- ◆ UA is subject to local platting ordinances and development of this parcel by UA would undergo extensive public scrutiny. The platting authority (currently the Mat-Su Borough) will require UA to address trail concerns during the platting process.
- ◆ CSHB 130 protects historic RS2477 trails and provides for continued traditional uses on parcels, while they are in UA ownership.
- ◆ UA has a long history of working with the public to provide access through its properties.

**UA Response to Senate Finance Committee Testimony  
CSHB 130 (FIN)  
May 4, 2005**

**McCarthy**

(1) UA will convey the parcels to the National Park Service; (2) the community needs these parcels to sustain its subsistence lifestyle (gravel, firewood, etc.); and (3) lack of maintenance on May Creek Road.

- ◆ UA will NOT voluntarily sell these parcels to the National Park Service.
- ◆ CSHB 130 provides for continued traditional uses on parcels, while they are in UA ownership.
- ◆ Valid existing rights (gravel contracts, etc.) are protected under Sec. 3 of the bill.
- ◆ The subdivision lot absorption rate for UA in McCarthy is fairly low (10 lots/year). Development of this property may not occur for many years.
- ◆ UA has an extensive history of working closely with the community of McCarthy to develop projects consistent with local lifestyles. UA has developed 88 lots in McCarthy and has sold 66 of those lots over a period of nine (9) years. In the past, the community has requested that UA projects include:
  - Large, self-sustaining parcels (averaging 10 acres in size).
  - Undeveloped roads – to keep the sales price down (the community felt they could develop necessary roads at less cost than UA).
  - Extensive covenants to protect the scenic and rural nature of the community.
- ◆ UA managed and maintained the McCarthy Lotowners' Association records and business for over eight (8) years (1996 – 2004). UA continues to attend and participate in Association meetings. 2005 was the first year the annual association meeting was not hosted by UA.
- ◆ UA pays its prorated share of assessments necessary to construct and maintain roads and trails within the McCarthy Creek Subdivisions and has provided other facilities (restroom).
- ◆ Additional support for infrastructure may be possible if McCarthy were an organized municipality.
- ◆ The community of McCarthy has historically been very vocal about limiting access to its community. The May Creek Road, which accesses existing UA holdings and one of the large parcels included in CSHB 130 is a State of Alaska DOT&PF public right-of-way. The lack of maintenance by DOT&PF is directly related to the lack of vehicular bridges.

**Auke Weir**

UA ownership would effect access to Auke Lake and fish habitat.

- ◆ Conveyance to UA is subject to a 50' access easement along Auke Creek.
- ◆ This parcel is adjacent to the UAS campus and was selected for educational use.
- ◆ Existing laws and regulations protect fish and fish habitat.

**Biorka**

UA ownership will effect FAA operations and a Native allotment.

- ◆ The FAA operations are not located on the parcels in this land bill.
- ◆ FAA has not objected to this conveyance, but has requested that UA contact them about developments that may effect its radar.
- ◆ Native allotments are protected under federal law.
- ◆ CSHB 130 provides that these parcels cannot be conveyed to UA until Native allotments are adjudicated.

**Hollis**

The community's watershed needs to be protected.

- ◆ DNR has apologized for the mapping error, and the community's watershed will not be conveyed to UA.

**Lisianski Peninsula**

Archeological resources will not be protected by UA.

- ◆ Archeological resources will be protected, see comments under Archeological Resources, Page 2.

**UA Response to Senate Finance Committee Testimony**  
**CSHB 130 (FIN)**  
**May 4, 2005**

**Naukati**

UA ownership will effect the community's ability to support itself and select municipal entitlements.

- ◆ DNR indicates that there are additional State lands (approx. 4,500 acres) available to Naukati for municipal selections (approx. 500 acres).

**Olive Cove**

UA will not protect important salmon streams and the parcel will not be available for Borough selection.

- ◆ UA is subject to all state and federal laws, including protection of fish streams.
- ◆ CSHB 130 makes this parcel available for selection by a newly formed Borough, see comments under Borough Entitlements/Community Needs, Page 2.

**Pelican**

Remove this parcel from conveyance to UA.

- ◆ Sec. 3 prevents conveyance of this parcel to UA.

**Sumdum**

Archeological resources will not be protected by UA.

- ◆ Archeological resources will be protected, see comments under Archeological Resources, Page 2.

**Thoms Place**

Archeological resources will not be protected by UA.

- ◆ Archeological resources will be protected, see comments under Archeological Resources, Page 2.

**Warm Springs Bay**

Remove this parcel from conveyance to UA.

- ◆ Sec. 3 prevents conveyance of this parcel to UA.

**Residents of McCarthy opposed to HB 130 and SB 96**

April 7, 2005

To: Senator Wilken  
Co-Chair Senate Finance Committee  
907-4654714

Dear Senator Wilken,

Attached to this cover is a petition circulated in the McCarthy area, opposing HB130 and SB 96. There are, at this time, 41 signatures on the petition. We are still gathering signatures and will have more which we will forward later. A substantial portion of the residents and landowners affected by this land transfer have not been notified about the transfer and have been hard to reach.

Attached to the petition is a list of signers. Copies of the original signature are available but due to the problem we have faxing with our phone system and time constraints I thought it best just to list the signators. If you need the original they are available and I will fax additional signatures as they are recieved. Please provide copies of the petition and letters to each of the committee members and include it in the record.

Thanks in advance for your attention to this issue,

Kelly Bay  
McCarthy, AK  
907-554-4411  
[info@wrangellmountainair.com](mailto:info@wrangellmountainair.com)

CC: Senator Albert Kookesh  
Senator Thomas Wagoner, Senate Resources Committee  
Rep. Woodie Salmon  
Rep. Mike Chenault, Co-Chair Hours Finance Committee  
Rep Mike Kelly

## A PETITION

### **IN OPPOSITION TO the Governor's University Land Bills HB 130/ SB 96, specifically the 12,500 acres of land in McCarthy-Nizina**

**To:** Frank Murkowski, Governor, State of Alaska  
Mark Hamilton, President, University of Alaska  
Bob Loeffler, Director, Department of Natural Resources  
Representative Mike Chenault, House Finance co-chair  
Representative Kevin Meyer, House Finance co-chair  
Senator Thomas Wagoner, Senate Resources co-chair  
Senator Albert Kookesh, District C  
Representative Woodie Salmon, District 6

#### *Whereas,*

Land near McCarthy- Nizina proposed for transfer in the Governor's University Land Bills is important to the community of McCarthy for subsistence firewood cutting, hunting and trapping as well as recreation and wildlife habitat; *and*

While the Department of Natural Resources has designated this land for wildlife habitat and public recreation, transfer to the University would erase the plan designation and allow the parcel to be sold and developed for any purpose; *and*

A large percentage of the land included in the 12,500 acres is uninhabitable and presents potential buyer with complex and expensive access issues as well as problems associated with availability of potable water. Long term impacts on the community of McCarthy must be weighed against the short term gain to the University system, *and*

According to the University, a 260,000 acre state land grant would provide less than 1% of the UA's total budget after twenty years of intensive management; *and*

Alaskans deserve a well-funded and high-quality university system; *and*

The University of Alaska deserves a responsible funding mechanism for the 21<sup>st</sup> Century and should not be made land managers on the backs of communities

#### *Therefore,*

**WE, THE UNDERSIGNED ALASKANS,** petition Governor Frank Murkowski, University of Alaska President Mark Hamilton, DNR Division of Land, Mining and Water Director Bob Loeffler, House Finance and Senate Resources committee members, and McCarthy legislators to remove parcel MA.MC.1001 from legislative consideration in HB 130/SB 96, and, furthermore, to seek a viable, long-term funding solution for the University that does not harm Alaskan citizens, communities and businesses.

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Susan Doherty	Kennicott, AK	Nancy Cook	McCarthy, AK
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L. Frederick Dure	McCarthy, AK		
Ann Durt	McCarthy, AK		
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Guy Holt	Chitina, AK		
Niel Darrish	McCarthy, AK		
Daniel Doak	Kennicott, AK		
Pat Doak	McCarthy, AK		

April 7, 2005

To: Senator Gary Wilken

Subject: HB 130, SB 96

Dear Senator Wilken,

Governor Murkowski's bill to transfer land to the University of Alaska to fund education may seem like a great idea at first glance, but on further inspection there are several serious problems with the idea. The lack of public process, in the form of meetings in communities that are most affected, is alarming. It is obvious this administration is not concerned with the viability of subsistence communities, the quality of their existence or the impact these land transfers potentially have on the land that surrounds them. Furthermore the 12,500 acres proposed for transfer near McCarthy includes only a small percentage of habitable land and is spread out in areas that are a long way from a road, trail or any kind of access.

The University has held two land sales in the McCarthy area in recent years. While not all lots have sold, the few that have sold are having a negative effect on roads that have been used for year by a limited number of local residents. Generally, it is creating a maintenance problem on minimal or non-existent roads and degrading existing access for long time residents. The State does not maintain the roads they currently claim ownership to, in or around McCarthy, due to lack of funds. Nor are they likely to do so in the future. Sale of more University subdivision lots will create a demand for more roads and maintenance of existing roads (the May Creek Road) that the State can ill afford. The transfer will also impact many subsistence users that rely on uninhabited state for subsistence activities, denying them access to traditional trapping and hunting areas. More land sales will also increase competition and curtail access on scarce resources, such as firewood. The DNR land identified by the Governor in the McCarthy area contains some of the only viable sources of firewood for residents that have lived in the McCarthy area for 30 year or more. What will they do when that source of firewood is no longer available?

The quality of the land available for disposal is another issue. I have been a year round resident of the McCarthy area for 29 years and have spent a fair amount of time walking across, flying over, hunting and cutting firewood in the proposed disposal area. The land that is suitable for habitation in the proposed disposal area is minimal. Most of the south sloping land along the Nizina which may look good on a map is marshy and wet. This poses two problems. There are very few good building sites and they happen to be mostly along the bluffs of the Nizina River, a mile or more from the existing May Creek Road. The road building costs across this kind of terrain are very high and likely not affordable by prospective buyers. Furthermore there could be wetland issues adding even more cost. While previous University land disposals in the McCarthy area have contained some relatively good land, the proposed disposal area has a much different topography, which is not nearly as conducive to reasonable habitation.

All in all, there is more to this land disposal than might seem obvious to someone who hasn't actually been on the ground. The previous University land sales in the McCarthy area have been somewhat successful, because that land is much closer to the May Creek Road which make access more viable. In addition, the lots that have sold are generally well drained and on high ground which allow for good view with little clearing. The proposed disposal area will most likely be much harder to sell and have a much lower value because it lacks those attributes.

Another very important factor to consider is water. There are no clear streams or potable surface water available on most of the land. That means that wells will have to be drilled, or water hauled long distances. Considering the costs of roads and water wells, most prospective buyers will likely be discouraged. Some of the wells drilled on the Seltenreich Property near the Nizina Bridge and adjacent to the proposed transfer area, cost in excess of \$10,000 to drill 10 years ago and there was already a road to the property making it relatively easy to get a drill rig in. It still had to happen in the winter when the May Creek Road was frozen and with the help of a D-8 cat. Without a road it would be a much costlier undertaking.

I strongly urge you to exclude the McCarthy-Nizina land from the DNR University Land Transfer, at least until the above mentioned land, access and subsistence issues can be evaluated and incorporated into an overall plan for the area. I think that it is irresponsible for the state to undertake this land transfer without considering the ramifications to existing land owners and the community of McCarthy. Please feel free to call or e-mail if you have any questions regarding potential problems associated with the proposed land transfer.

Sincerely,

Kelly M. Bay  
Wrangell Mountain Air  
907-554-4411  
info@WrangellMountainAir.com

CC: Senator Thomas Wagoner  
Rep. Mike Chermant  
Rep. Woodie Salmon  
Senator Albert Kookesh



FRANK H. MURKOWSKI  
GOVERNOR  
GOVERNOR@GOV.STATE.AK.US

P.O. Box 110001  
JUNEAU, ALASKA 99811-0001  
(907) 465-3500  
FAX (907) 465-3532  
WWW.GOV.STATE.AK.US

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 4, 2005

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

Dear Speaker Harris:

Under authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would provide for the conveyance of approximately 260,000 acres of state land to the University of Alaska (university), most of it over the next three years.

This bill is the product of more than a year of discussions between the Department of Natural Resources (department) and the university. Its major goal is to supplant the more time-consuming and expensive features of legislation enacted in 2000 (ch. 136, SLA 2000). Statutory changes enacted in ch. 136, SLA 2000 provided for a ten-year process during which the university would select up to 260,000 acres of state-owned land to be conveyed to the university for the primary purpose of generating income for the university. Unfortunately, that process has proved difficult, expensive, time-consuming, and subject to litigation. To date, no land has been conveyed to the university under ch. 136, SLA 2000.

Over the course of the past year, the university and the department have reached an agreement on land that may be conveyed to the university without unreasonably conflicting with programs associated with, and uses of, state land managed by the department. The land is identified in a document titled "University of Alaska Land Grant List 2005," dated January 12, 2005, a copy of which will be provided upon request. The bill I transmit today would provide legislative approval for the conveyance of that land to the university, thereby avoiding unnecessary delay and expense, and expediting a highly significant source of income for the university.

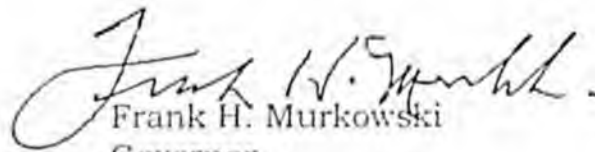
The bill also would establish a university research forest on certain land to be conveyed under the bill in 2055, or soon after that, that is located mainly in the Tanana Valley State Forest. The research forest would be used to advance research into forest practices, ecology, wildlife management, and recreation. Existing law authorizes the university to create a demonstration forest on land selected and

The Honorable John Harris  
February 4, 2005  
Page 2

conveyed under ch. 136, SLA 2000. This bill would repeal and reenact that law to establish the research forest without requiring a separate procedure. Because the land designated as the university research forest would not be conveyed to the university until 2055, it would be managed by the department until then under applicable state land use and forest management plans, and other applicable state law. While the research forest land is under department management, the department would be able to dispose of certain natural resources located on that land, so long as the disposal is consistent with the purposes of the research forest and complies with other applicable law.

I urge your prompt and favorable action on this measure, which will provide for the cost-effective and timely conveyance of land to the university in order to ensure a very significant and additional source of income for the support of public higher education in Alaska and to secure the benefits of a research forest.

Sincerely yours,

  
Frank H. Murkowski  
Governor

Enclosure

# HB 130/ SB 96

University Land Grant

## Public Comments

Albert M. Pugh 907-479-6643

HOUSE BILL 130

When Governor Murkowski was campaigning for Governor he promised to encourage resource development. This bill does just the opposite.

The Bonanza Creek Experimental Forest was established when the state leased 12,500 acres to the U.S. Forest Service for a research forest. Even though there was a lot more land available they deemed that 12,500 acres was adequate.

The lease was for 50 years of which 43 years have passed. Eight years ago the U.S. Forest Service pulled out leaving the lease to the University of Alaska Fairbanks.

During the 35 years that the U.S. Forest Service managed the lease, they managed it as a productive forest. They had the Alaska Forestry Division conduct timber sales using different methods of reforestation and logging.

The winter of 1971-1972 John <sup>Juzota</sup> Zargoto had 6 plots logged, 3 of them were clear cuts and 3 were shelterwood or selective logging. They did strip logging where they would log a strip and leave a strip to reseed the logged area. Another way was to leave seed trees throughout an otherwise clear cut area.

Neither of these methods proved very effective but the State Division of Forestry settled on clear cutting and then scarified the land and planted seedlings.

When the U.S. Forest Service pulled out, leaving the management to the University, they ended all logging. When there was a heavy infestation of bugs they said "Leave it and we will see what happens." They didn't need to watch this forest to see what would happen, all they had to do was look at what was happening on the Kenai Peninsula and the Copper River Basin. The bugs were denuding the forest.

During this period, the Alaska Division of Forestry was marking out timber sales that had heavy bug kill. Luckily, an export of round logs was happening to absorb the logs. The exportation was a big boost for the small timber industry in the interior. The exportation took place between August and

Albert M. Page 907-479-6643

HOUSE BILL 130

breakup creating year round employment instead of just the summer months when building was going on.

In 1982 a group of loggers and firewood cutters formed an association and lobbied to get a state forest established. It didn't happen in 1982 but did happen in 1983. The bill made it a multiple use forest.

After the 1983 fire in the Rosie Creek area, the State Division of Forestry salvaged over 24 million board feet of logs.

If there hadn't been a small timber industry in place, the 24 million board feet of timber in the Rosie Creek area, 5 million board feet of timber on the Delta Agriculture Project and the millions of board feet of bug killed timber would have been wasted.

The University had to remove some trees so that a dish would work properly. Instead of making money off of the timber, they paid about \$150 per tree to a contractor to remove the trees and then gave the contractor the trees.

There are 254,00 acres in the Chena Hot Springs Recreation Area. If the University wants to watch trees grow, there is a lot of good timber in that area for them to watch.

The last section in the bill allows the University to dispose of some or all of the research land. This supposedly was not allowed under the Tanana Valley State Forest Bill. The reasoning was that this would prevent controversy with the private landowners. Even though that was the intent when the Tanana Valley State Forest was established, there has been conflict with the landowners bordering the state forest.

Given the past track record of the University, I don't believe there will be a program to encourage timber development.

House Bill 130

Albert M. Pugh 907-479-6643

Timber harvesting is one of the few industries in Alaska that use a renewable resource.

The timber industry has not become a large industry in Alaska because of the lack of a guarantee of timber availability. House Bill 130 will further reduce the amount of timber available. The land in question is some of the best in the interior, as it is on a south slope. It also has a good road system in place from previous logging.

I am sure the original intent of a land grant was to establish a University and fund its operation. If this grant would at least help pay the cost of its operation, that would be one thing, but that is not the case.

If this land out of the state forest was actually going to be for research, that would be one thing, but I know that is not the case.

I believe the state should retain as much revenue producing land as it can to pay for the university budget that it has now.

As the state forest is now, it is open to all activity. If this grant goes through, activities will, I believe, be very limited.

I believe that the lack of protest concerning this bill is due to the fact that people aren't aware of the bill or aware of the impact it will have.

What testimony I have heard concerning this bill has all been negative. It makes me wonder why it is being rammed down our throats when there is no visible public support. It appears to impact the majority to favor few.

May 2, 2005  
Senate Finance Committee,  
Subcommittee Senators Wilken, Dyson and Hoffman

I feel that the public notification and opportunity for testimony on the University Lands Bill, (HB 130), has been woefully inadequate. Many of the proposed selections in the Ketchikan area are vital to the locals for fishing, hunting and recreation, as well as for the economic future of our community. Areas such as Leask Cove and Moser Bay offer easily accessible recreation for Ketchikan residents. They are adjacent to remote and recreation home sites, many of which have been developed. The Leask Cove selection also covers the proposed off-island road corridor and power line corridor.

The Neets Bay selection threatens the future of the SSRAA Neets Bay Hatchery. This is vital to both commercial and sport fisheries. In addition, several of the other selections show numerous anadromous fish streams and should be exempt due to their habitat value.

It is my opinion that the Land Grant program should be reevaluated. In Ketchikan, the Mental Health Trust is currently logging its holdings. Supporters tout the creation of local logging jobs. The reality is that these lands are being logged by a company, Alcan Logging that has a Korean majority owner, and is exporting round logs to Korea. Pathetically few of these jobs are going to actual locals. Many times this number of jobs are being exported with the unprocessed round logs. Neither MHT nor the University have the ability to do much more than resource extraction with their lands. This bodes ill for their long term economic health and the economic health of the State. As long as we export our raw resources, we are exporting our processing jobs and our economic future. You, as our elected leaders, are dooming Alaska to the status of third world nation.

Thank you.



Jack Lee,  
PO Box 1081  
Ward Cove, AK. 99928  
907-247-8156

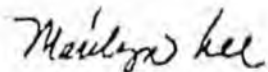
May 2, 2005

Senate Finance Committee;

HB 130 does not give enough public notice for this sweeping give away of lands to the university. Many of these parcels are vital to our communities for hunting, fishing recreation, and other public use. In our area, many of the proposed parcels are places my family, as well as most other local residents, use for hunting and fishing on a regular basis. In particular, Cleveland Peninsula, Moser Bay, Neets Bay, and Leask Cove are wonderful, highly accessible, camping areas rich in wildlife and fishing streams. Slide Ridge, a University area just minutes from my home, was logged by the University quite a few years ago and the clear cut is still an ugly eye sore visible just about everywhere in Tongass Narrows.

In this era of soaring oil prices, you should be able to find a feasible means of financing our higher education system rather than leaving many of our prime outdoor recreation areas vulnerable to the ravages of clear cutting.

Thank you.



Marilyn Lee  
PO Box 1081  
Ward Cove, Alaska 99928  
907-247-8156



**LEGISLATIVE AFFAIRS AGENCY**  
**LEGISLATIVE INFORMATION OFFICE**  
201 Katlian Street, Suite 200A, Sitka, AK 99835  
Phone: 747-6276 Fax: 747-5807  
Email: sitka\_lio@legis.state.ak.us

DATE: 5/3/05, 2004

TO: Senator Hilken

FAX: 465 4714

2 pages, including cover sheet

FROM: Sitka LIO

MESSAGE: The attached testimony should be included with HB130 teleconference on 5/2/05. Thank you. - Kathleen Everett



FAXED TO SENATE RESOURCES  
5-2-05, 6:25 pm

# Alaska State Legislature

Please enter into the record my testimony to the Senate Resources Sub Committee  
committee name

Committee on NR 96 / University Land Transfer, dated 05-02-05  
bill # / subject

I am not in favor of this bill. I strongly support and encourage the removal of not only all Sitka borough lands from this bill, but all southeast lands.

This bill seems to be a slap in the face to the DNR who has worked to survey many of the land areas in this bill. This is land that in some cases is needed for ~~subsistence~~ subsistence living, resources, and parks.

I also feel that the amount of money that the university will make from this will be extremely ~~small~~ small when looking @ their annual income.

Let's not allow more areas to be destroyed by logging!

I stand to "kill" this bill altogether.

Signed: Weather Wuk's Heather Vukelic  
Testifier

Representing (Optional)  
1330 Seward Ave Sitka AK 99835  
Address  
(907) 736-1384 hevcosta1@hotmail.com  
Phone Number email address

HB-130 written testimony

Testifier: Sarah Lundstedt, from Sitka, AK.

- Please do not pass this bill. Saying that, please remove all Sitka area lands or better, all Southeast land.
- The cost of the loss of these lands does not meet the benefit to the University, stated as one percent of its annual budget over the next ten years. In a purely economic sense, the loss of fishing & tourism revenue will be greater than the gain, if considered that the loss of these lands is irreversible, and minimally taxing the industries that would be negatively impacted by the transfer and allocating the gained revenue to the University would meet the need.
- The choice of lands ignores the plans of DNR, well studied and thought out over a number of years, as opposed to what appears to be a slapped together, thoughtless, plan of land allocation.
- I further object to the method of land selection, specifically the lack of public input.
- There is no guarantee of public process regarding the use of these lands once transferred. The University is in the business of education and research, not land management, and this bill would make them stewards of a huge area of land.
- As legislators, please represent the views of your constituents who are overwhelmingly against this bill. To do otherwise would be undemocratic.
- Friends and family who have attended the University or worked there are appalled that this bill is being pursued on their behalf. Please find a better way to fund the University. There are few worse ways.

**Residents of McCarthy opposed to HB 130 and SB 96**

April 7, 2005

To: Senator Wilken  
Co-Chair Senate Finance Committee  
907-4654714

Dear Senator Wilken,

Attached to this cover is a petition circulated in the McCarthy area, opposing HB130 and SB 96. There are, at this time, 41 signatures on the petition. We are still gathering signatures and will have more which we will forward later. A substantial portion of the residents and landowners affected by this land transfer have not been notified about the transfer and have been hard to reach.

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Thanks in advance for your attention to this issue,

Kelly Bay  
McCarthy, AK  
907-554-4411  
[info@wrangellmountainair.com](mailto:info@wrangellmountainair.com)

CC: Senator Albert Kookesh  
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Rep. Woodie Salmon  
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Rep Mike Kelly

## A PETITION

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A large percentage of the land included in the 12,500 acres is uninhabitable and presents potential buyer with complex and expensive access issues as well as problems associated with availability of potable water. Long term impacts on the community of McCarthy must be weighed against the short term gain to the University system, *and*

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Alaskans deserve a well-funded and high-quality university system; *and*

The University of Alaska deserves a responsible funding mechanism for the 21<sup>st</sup> Century and should not be made land managers on the backs of communities

#### *Therefore,*

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Guy Holt	Chitina, AK		
Niel Darrish	McCarthy, AK		
Daniel Doak	Kennicott, AK		
Pat Doak	McCarthy, AK		

April 7, 2005

To: Senator Gary Wilken

Subject: HB 130, SB 96

Dear Senator Wilken,

Governor Murkowski's bill to transfer land to the University of Alaska to fund education may seem like a great idea at first glance, but on further inspection there are several serious problems with the idea. The lack of public process, in the form of meetings in communities that are most affected, is alarming. It is obvious this administration is not concerned with the viability of subsistence communities, the quality of their existence or the impact these land transfers potentially have on the land that surrounds them. Furthermore the 12,500 acres proposed for transfer near McCarthy includes only a small percentage of habitable land and is spread out in areas that are a long way from a road, trail or any kind of access.

The University has held two land sales in the McCarthy area in recent years. While not all lots have sold, the few that have sold are having a negative effect on roads that have been used for year by a limited number of local residents. Generally, it is creating a maintenance problem on minimal or non-existent roads and degrading existing access for long time residents. The State does not maintain the roads they currently claim ownership to, in or around McCarthy, due to lack of funds. Nor are they likely to do so in the future. Sale of more University subdivision lots will create a demand for more roads and maintenance of existing roads (the May Creek Road) that the State can ill afford. The transfer will also impact many subsistence users that rely on uninhabited state for subsistence activities, denying them access to traditional trapping and hunting areas. More land sales will also increase competition and curtail access on scarce resources, such as firewood. The DNR land identified by the Governor in the McCarthy area contains some of the only viable sources of firewood for residents that have lived in the McCarthy area for 30 year or more. What will they do when that source of firewood is no longer available?

The quality of the land available for disposal is another issue. I have been a year round resident of the McCarthy area for 29 years and have spent a fair amount of time walking across, flying over, hunting and cutting firewood in the proposed disposal area. The land that is suitable for habitation in the proposed disposal area is minimal. Most of the south sloping land along the Nizina which may look good on a map is marshy and wet. This poses two problems. There are very few good building sites and they happen to be mostly along the bluffs of the Nizina River, a mile or more from the existing May Creek Road. The road building costs across this kind of terrain are very high and likely not affordable by prospective buyers. Furthermore there could be wetland issues adding even more cost. While previous University land disposals in the McCarthy area have contained some relatively good land, the proposed disposal area has a much different topography, which is not nearly as conducive to reasonable habitation.

All in all, there is more to this land disposal than might seem obvious to someone who hasn't actually been on the ground. The previous University land sales in the McCarthy area have been somewhat successful, because that land is much closer to the May Creek Road which make access more viable. In addition, the lots that have sold are generally well drained and on high ground which allow for good view with little clearing. The proposed disposal area will most likely be much harder to sell and have a much lower value because it lacks those attributes.

Another very important factor to consider is water. There are no clear streams or potable surface water available on most of the land. That means that wells will have to be drilled, or water hauled long distances. Considering the costs of roads and water wells, most prospective buyers will likely be discouraged. Some of the wells drilled on the Seltenreich Property near the Nizina Bridge and adjacent to the proposed transfer area, cost in excess of \$10,000 to drill 10 years ago and there was already a road to the property making it relatively easy to get a drill rig in. It still had to happen in the winter when the May Creek Road was frozen and with the help of a D-8 cat. Without a road it would be a much costlier undertaking.

I strongly urge you to exclude the McCarthy-Nizina land from the DNR University Land Transfer, at least until the above mentioned land, access and subsistence issues can be evaluated and incorporated into an overall plan for the area. I think that it is irresponsible for the state to undertake this land transfer without considering the ramifications to existing land owners and the community of McCarthy. Please feel free to call or e-mail if you have any questions regarding potential problems associated with the proposed land transfer.

Sincerely,

Kelly M. Bay  
Wrangell Mountain Air  
907-554-4411  
info@WrangellMountainAir.com

CC: Senator Thomas Wagoner  
Rep. Mike Chenault  
Rep. Woodie Salmon  
Senator Albert Kookesh



City

of

Pelican

BOX 737 - PELICAN, ALASKA 99832 - PHONE 735-2202/2203 - FAX 735-2250 - E-MAIL pelican@alaska.net - WEBSITE www.pelican.net

**CITY OF PELICAN  
RESOLUTION 2005-7**

**A RESOLUTION FOR THE CITY OF PELICAN IN OPPOSITION TO GRANTING CERTAIN STATE LAND AT PELICAN, MITE COVE, AND IDAHO INLET TO THE UNIVERSITY OF ALASKA THROUGH THE PROPOSED UNIVERSITY LAND GRANT LEGISLATION UNDER CONSIDERATION BY THE 24<sup>TH</sup> ALASKA LEGISLATURE.**

**WHEREAS**, the University Lands Bills (SB 96, HB 130) introduced in the Alaska State Legislature would transfer 260,000 acres from land owned by the State of Alaska to the University of Alaska; and

**WHEREAS**, the University was already granted 30 percent of state lands in the northwest Chichagof/Yakobi Island region, well above the 10 percent average for all of Southeast state lands and the 21 percent average for the remainder of the state; and

**WHEREAS**, these additional parcels will represent over 99 percent of state lands in the region transferred to the University; and

**WHEREAS**, two of these parcels are adjacent to municipal lands; and

**WHEREAS**, University ownership/sale of these parcels will restrict potential economic opportunities for Pelican and will preclude use of these lands for borough formation; and

**WHEREAS**, Mite Cove has been identified as a potential site for a spring king salmon penstock and release site by NSRAA which will benefit our economically depressed region; and

**WHEREAS**, it is in Pelican's best interest that these parcels be managed under the recently revised Northern Southeast Area Plan (NSEAP); and

**WHEREAS**, the NSEAP is the result of much public input and seeks to balance the needs of all stakeholders; and

**WHEREAS**, the University is not required by Alaska Statute to provide for any form of public process or land management in the HB 130 / SB 96; and

**WHEREAS**, the University has a history of selling land in our region without notification to our community or the use of a public bid process.

**RESOLUTION 2005-7**

**PAGE 2**

**NOW THEREFORE BE IT RESOLVED:** That the City of Pelican opposes the transfer of the Pelican, Mite Cove, and Idaho Inlet parcels to the University and requests their removal from HB 130.

**BE IT FURTHER RESOLVED:** That the City of Pelican urges the Alaska Legislature and the Governor of Alaska to explore mechanisms to fund the University with equity to all regions of the state.

**BE IT FURTHER RESOLVED:** That the City of Pelican desires to see state lands in Lisianski Inlet and Idaho Inlet managed under the NSEAP and to remain under State of Alaska ownership to provide for future needs.

**BE IT FURTHER RESOLVED:** That the City of Pelican is in opposition to granting certain State land at Pelican, Mite Cove, Idaho Inlet to the University of Alaska through the proposed University Land Grant Legislation under consideration by the 24<sup>th</sup> Alaska Legislature.

**PASSED, APPROVED AND ADOPTED THIS** 15<sup>th</sup> **DAY OF** April, 2005.

Signed: Patricia Phillips  
Patricia Phillips, Mayor

Attest: \*

Betty L. Bean  
Betty L. Bean, City Clerk/Treasurer

February 14, 2005

Dear Legislators:

We the undersigned, residents of Pelican and Lisianski Inlet, request that you reject HB 130 and SB 96, The University Lands Bill. We urge you to protect the lands slated for transfer in Lisianski Inlet for the following reasons:

- They are highly used for subsistence and recreation purposes. Privatization of these lands designated as "Public Recreation and Tourism -Undeveloped" in DNR's own Northern Southeast Area Plan (NSEAP) would open them for any type of commercial development.
- They are adjacent to Wilderness and Roadless areas and large-scale development would be an inconsistent use. Further, this use would be inconsistent with local planning documents.
- There are no safeguards in the bill that mandate the University manage these lands in a manner that is consistent with community planning and resident's needs. "[Land] shall be managed in a manner that, to the extent practicable, permits reasonable activities of the public that do not interfere with the use or management of the land by the university," is insufficient to protect the public's best interest.
- There is already a process in place whereby the transfer of land to the University may be accomplished that allows for greater public process. Moreover, SB 7 requires the University to establish a management plan and seek public comment before land disposals. This bill seeks to circumvent the public process.
- The University is compelled to manage these parcels for profit only. DNR's management mandate is more encompassing to include recreation, compatibility with adjacent lands, local planning, traditional uses including subsistence, habitat, and development among other needs.
- The Mite Cove parcel is an important anchorage for commercial fishermen and the uplands are a documented deer and bear corridor. The NSEAP recognizes this critical habitat and use and protects this land from private ownership.
- Businesses holding DNR tidelands leases adjacent to these parcels would be displaced by private ownership.
- These parcels were designated as primarily "Public Recreation and Tourism - Undeveloped" in DNR's NSEAP; this calls for land to be remain undeveloped and cannot be sold to individuals. Other uses included water uses and some settlement, but only on the beach fringe. This is a far cry from DNR's own characterization of the bill as "focused primarily on lands that had been designated settlement, general use, or general public recreation in DNR land-use plans." Of note, "general public recreation" does not exist in the NSEAP as a land use designation.

Please carefully consider the negative impacts on the residents of Pelican and Lisianski Inlet of this legislation. We can only extrapolate the deleterious effects statewide of the University Lands Bill.

Thank you for your consideration.  
Sincerely,

The Residents of Pelican and Lisianski Inlet

and Lisianski Inlet Residents Opposed to HB 130/SB 96, University Lands Bill

The undersigned residents offer their concurrence with the letter dated February 14, 2005 regarding transfer of state land the University:

Name	Date	Signature	Mailing Address	Phone	Registered Voter? (Y/N)
Deborah...	2-13-05	[Signature]	PO Box 619 Pelican	735-2445	Y
Keith Heller	2-13-05	[Signature]	BOX 304 Pelican	735-2445	Y
Catherine Stewart	2-14-05	[Signature]	Box 402 Pelican	735-2498	Y
Mary Allard	2/14/05	[Signature]	Box 27 Pelican	735-2631	Y
Harold ALLARD SR	2-14/05	[Signature]	Box 27 PELICAN	735-2631	Y
Cian Jensen	2-14/05	[Signature]	P.O. Box 26 Pelican		Y
William C. Stewart	2-14-05	[Signature]	PO Box 703 Pelican	735-2340	
Royce J. Mattson	2-14-05	[Signature]	1307 94 Pelican, 99832	735-2343	Y
Eudelia F. Paddock	2-14-05	[Signature]	Box 24 Pelican AK 99832	735-2288	Y
DAVID DUFFEY	2-14-05	[Signature]	Box 23 Pelican AK 99832	735-2212	Y
Marcy Strathm	2-14-05	[Signature]	Box 723 Pelican AK 99832	735-2297	Y
William STRAHM	2-14-05	[Signature]	Box 723 Pelican AK 99832	735-2297	Y
William H Paddock	2-14-05	[Signature]	Box 29 Pelican AK 99832	735-2286	Y
Harold R. ALLARD JR	2-14-05	[Signature]	Box 410 PELICAN AK 99832		Y
Michael Allard	2-14-05	[Signature]	Box 733 Pelican AK 99832		Y
GEN WOLFF	2-15-05	[Signature]	Box 94 PELICAN AK 99832	735-2303	Y
Bernice Kimpel	2-15-05	[Signature]	PO Box 705 Pelican AK 99832	735-2314	Y
Dery Bean	2-15-05	[Signature]	PO Box 743 Pelican AK 99832	735-2265	Y
Sandra Ramsdell	2-15-05	[Signature]	PO Box 735 Pelican AK 99832	735-2285	Y
Ed Schamer	2-15-05	[Signature]	PO Box 739 Pelican AK	735-2248	YES
Sally Jo Bridge	2-15-05	[Signature]	PO Box 54 Pelican AK	735-2215	YES
Martha A. Hewlett	2/15/05	[Signature]	PO Box 762 PELICAN AK	735-2204	YES
Allen Stewart	2/16/05	[Signature]	PO Box 69 Pelican AK 99832	735-2267	Yes
Linda M. Aebi	2/16/05	[Signature]	PO Box 606 Pelican AK	735-2243	Yes
Vicki Shackley	2/17/05	[Signature]	PO Box 775 Pelican AK	735-2247	Yes
Mark Shackley	2/17/05	[Signature]	PO Box 76 Pelican AK	735-2220	Yes
Ruth Schubert	2/17/05	[Signature]	P.O. Box 76 Pelican AK	735-2220	Yes
	2/17/05	[Signature]	P.O. Box 401 Pelican AK	735-2262	Yes

Pelican and Lisianski Inlet Residents Opposed to HB 130/SB 96, University Lands Bill

The undersigned residents offer their concurrence with the letter dated February 14, 2005 regarding transfer of state land the University:

Name	Date	Signature	Mailing Address	Phone	Registered Voter? (Y/N)
Elizabeth Clausen	2/14/05	Elizabeth Clausen	P.O. Box 771	735-2287	Yes
John H. Clausen	2/14/05	John H. Clausen	176 Box 771	735-2287	Yes
Harry Wasserman	2/14/05	Harry Wasserman	POB Co. 1 Pelican, AK	735-2287	Yes
Claude Odell	2/13/05	Claude Odell	Box 616 Pelicans	735-2287	Yes
Rose Miller	4-2-05	Rose Miller	P.O. Box 1	735-2288	Yes
MILLEN R. WOLFF	4-3-05	Milene R. Wolff	P.O. Box 45	735-2310	Yes
GLEN E. WOLFF	4-3-05	Glen E. Wolff	P.O. Box 45	735-2310	Yes
Laura L. Whitmarsh	4-3-05	Laura L. Whitmarsh	PO Box 755	735-2225	Yes
Thomas J. Bauer	4-3-05	Thomas J. Bauer	P. Box 755	735-2225	Yes
Serry Gullstrand	4-3-05	Serry Gullstrand	PO Box 2	723-3726	Yes
Jason Kramer	4-3-05	Jason Kramer	PO Box 303	735-2251	Yes
Verne Young	4-3-05	Verne Young	PO Box 4	735-2222	Yes
Cheryl A. Young	4-3-05	Cheryl A. Young	PO. Box 611	735-2173	Yes
Leticia M. Huetter	4-3-05	Leticia M. Huetter	P.O. Box 295	735-2273	Yes
TERRY WIRTH	4/13/05	Terry Wirth	PO Box 418	735-2273	Yes
Linda B. Carson	5/1/05	Linda B. Carson	PO Box 775	735-2253	Yes
Richard H. Carson	5-1-05	Richard H. Carson	General Delivery		Yes

HB 120788 Re Publican Program

Section and District Data Received Opposed to HB 120788, University Level Bill

The following residents of the State of Alaska with no later dated February 14, 2004 regarding transfer of rights from the University:

Name	Date	Signature	Mailing Address	Phone	Supplemental Verbal (Y/N)
TRACY M. LUTHER	2/21/05	[Signature]	PO Box 3 Pelican AK 99526		Yes
ROBERT R. LUTHER	2/21/05	[Signature]	PO Box 3 Pelican AK 99526		Yes
EDNA E. PETERSON	2/21/05	[Signature]	PO Box 96 Pelican AK 99526		Yes
LARRY N. CARSON	2/21/05	[Signature]	PO Box 98 Pelican AK 99526		Yes
LINDA J. OWSEN	2/21/05	[Signature]	PO Box 94 Pelican AK 99526		Yes
ALBERT G. SIMONIS	2/21/05	[Signature]	PO Box 95 Pelican AK 99526		Yes
EDWIN ROBERT SIMONIS	2/21/05	[Signature]	PO Box 95 Pelican AK 99526		Yes
JAMES C. SLATER	3/1/05	[Signature]	P.O. Box 63, Pelican AK 99522		Yes
LORETTA VALDEZ	3/1/05	[Signature]	P.O. Box 63, Pelican AK 99522		No

Dick Coose  
PO Box 9533  
Ketchikan, Alaska 99901  
May 2, 2005

Senator Gary Wilken  
Senator Lyda Green  
Alaska State Legislature  
Juneau, Alaska

Dear Senator Wilken and Senator Green:

Reference is made to HB 130 being heard in the Senate Finance Committee today a 6pm.

I support Governor Murkowski's original bills to provide state lands to the University of Alaska. I do not support HB 130 as the House has amended it. I do not support SB 96 as the Senate Resources Committee has amended it.

My reasons for supporting the original bills are simple. From all the negative whining (especially from SE Alaska) presented about these lands going to the University of Alaska, I heard loud and clear NOT IN MY BACK YARD. NIMBY's. But, all the communities protesting want money from the state, they want their benefits from the university funded. But, don't touch our permanent fund. Many of the individuals complaining are anti-development, just read their names and you see SEACC and related organizations. They are taking benefits from the state lands for free.

The State of Alaska has nearly 100 million acres and they cannot give up a quarter million to help run the university? Alaska has about 1% private taxable land, it is time a whole lot of state government land became private and could help our economy and communities. That might even mean borough formations.

The proposed land in Neets Bay surrounds state land under permit to SSRAA (the local aquaculture association) and they are protesting. The land in question is mostly young growth timber, the USFS harvested the area about 30 years ago, so the potential for harvesting it slim to none for another 30-50 years. SSRAA could always buy it from U of A.

I have heard no good reasons for any of the lands proposed by the Governor's bill to withdrawn from the bill.

There are only a couple of amendments that I believe are in the Senate version that would make a little sense: one is give the locals first chance to purchase the land at appraised price if it is to be sold, and the second is to restrict any timber sold from the UofA lands to being processed in Alaska (this though could reduce the value received considerably).

I simply ask that the Senate Finance Committee consider very carefully any changes to the original bills. We are in it for the long term, not the NIMBY's and greedy hands.

Good Luck and Thank You,

Dick Coose  
907-617-0990

Dick

Karla Hart  
4950 Wren Drive  
Juneau AK 99801

University of Alaska Lands Bill HB 130  
Testimony to the House Finance Committee on May 2, 2005

Like my parents, I am an alumna of the University of Alaska Fairbanks. I am a strong supporter of the University <sup>system</sup>. I am a strong opponent of this bill. As many have testified, it does not make good economic or community sense. Gutting public access and use of public lands to support a public university is not good public policy. A state income tax that supports essential public services makes far more sense. *I would also support a cash endowment as suggested by testimony earlier this evening - this would be a wise investment*

In addition to the community and university-related public policy objections, this bill creates a laundry list of additional public expenses that are not accounted for in the balance sheet ~~of this bill~~. These include:

- the cost of developing and providing public access (runways, docks, roads) to these parcels;
- the cost of protecting remote and dispersed structures, that may be of little economic value, from wildfires;
- the cost of providing schools wherever you may have a cluster of families with enough children to warrant a public school;
- the cost of providing public safety and emergency services;
- the inevitable public demand for modern infrastructure such as water, sewer, electricity, television, and telephone/internet that come at great subsidized cost in small and remote communities; and,
- the subsequent public demand for economic develop projects (read grants) to provide jobs where they may make little sense.

For me to discuss areas that you have included in the bill one at a time would be too long and too painful and pits one value or community or use against another. Do I sacrifice remote areas in hopes of saving close-by community recreational or other assets? Do I give up close-by recreational areas in hopes of saving remote areas of special value?

*Besides parcel commits - address pg 7 line 13-16 -> giveaways should be established w/ 501(c)(3) status.*

A statewide income tax provides an obvious, equitable, forward-thinking alternative for funding the University of Alaska and other essential government functions. It ensures that non-residents working in Alaska make a contribution, as well as residents. It does not compromise future options as values shift, nor does it leave a legacy of short-sightedness and destruction. Please spend your energy and efforts on a statewide income tax and let this bill die in committee.

*Karla Hart*

To: Senate Finance Committee

From: Nick Stelzenmuller, Resident of Sitka, AK and UAS student.

Regarding: <sup>H</sup>SB 130

Thank you for allowing me to testify again concerning SB 130. I, along with a number of other Sitkans testified against this bill, and I am somewhat dismayed to see that it may actually pass. I am very opposed to SB 130 for the following reasons:

1. **The lack of public process.**

I have heard Legislators hear this complaint and answer by saying that is what they are doing by taking public testimony, but if each far flung parcel isn't considered individually then it doesn't sound like very good public process to me.

2. **Using the University of Alaska to develop State lands.**

UA should not be in the land development business, especially when the potential benefits are so hypothetical and the potential liabilities are so real.

There are better ways to fund our University and better ways to manage lands. This is a bad bill that will only create conflicts between the University and the local communities this bill will affect.

Please listen to the local people affected by these proposed changes to the colors of our maps.

Thank you very much,



Nick Stelzenmuller

Dick Coose  
PO Box 9533  
Ketchikan, Alaska 99901  
May 2, 2005

Senator Gary Wilken  
Senator Lyda Green  
Alaska State Legislature  
Juneau, Alaska

Dear Senator Wilken and Senator Green:

Reference is made to HB 130 being heard in the Senate Finance Committee today a 6pm.

I support Governor Murkowski's original bills to provide state lands to the University of Alaska. I do not support HB 130 as the House has amended it. I do not support SB 96 as the Senate Resources Committee has amended it.

My reasons for supporting the original bills are simple. From all the negative whining (especially from SE Alaska) presented about these lands going to the University of Alaska, I heard loud and clear NOT IN MY BACK YARD. NIMBY's. But, all the communities protesting want money from the state, they want their benefits from the university funded. But, don't touch our permanent fund. Many of the individuals complaining are anti-development, just read their names and you see SEACC and related organizations. They are taking benefits from the state lands for free.

The State of Alaska has nearly 100 million acres and they cannot give up a quarter million to help run the university? Alaska has about 1% private taxable land, it is time a whole lot of state government land became private and could help our economy and communities. That might even mean borough formations.

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I have heard no good reasons for any of the lands proposed by the Governor's bill to withdrawn from the bill.

There are only a couple of amendments that I believe are in the Senate version that would make a little sense: one is give the locals first chance to purchase the land at appraised price if it is to be sold, and the second is to restrict any timber sold from the UofA lands to being processed in Alaska (this though could reduce the value received considerably).

I simply ask that the Senate Finance Committee consider very carefully any changes to the original bills. We are in it for the long term, not the NIMBY's and greedy hands.

Good Luck and Thank You,

Dick Coose  
907-617-0990

Dick



#25, PO Box MXY, McCarthy, Alaska 99588  
907-554-4411 fax 907-554-4400  
info@WrangellMountainAir.com  
www.WrangellMountainAir.com

Facsimile Transmission

May 2, 2005

To: Senators, Dyson, Wilken and Hoffman

From: Kelly Bay

Pages: 2

Re: SB 96

Dear Senators,

Land near McCarthy proposed for transfer in the Governor's University Lands Bill is critical to our small community for resources such as firewood, house and saw logs, gravel for driveways and house foundation and is a popular Moose hunting area for locals. To remove this land from DNR ownership leaves the community at the mercy of onerous regulation of the National Park Service for local resources. Recently, members of the community have been denied permits to cut standing dead spruce for saw logs even though the same trees could be cut if they were used for firewood. Permits for gravel (which is available in abundance) have also been routinely denied, none having ever been granted. These are but two examples of a long list of controversy the community has had in this regard.

Lisa Murkowski's bill to match the 250,000 acres with a federal grant is contingent on giving back land in Wrangell-St. Elias (8800 acres already conveyed most of which is near McCarthy). Although the House inserted a letter of intent to limit conveyance of University land to non-profits or to be set aside in conservation trust ("The University may not convey the land to a not-for-profit corporation or to an entity that intends to set the land aside in trust for conservation purposes or non-economically productive uses.") it really doesn't go far enough. A letter of intent is not enforceable and does not address the larger question of access to resources for the community.

Another issue that is a problem is the development of lots in an area without any infrastructure to support an ever increasing population. The state owned road to Kennicott from McCarthy is currently maintained by local businesses. Snow removal on the last 30 miles of the McCarthy Road is done with a grader that was acquired by the local Chamber of Commerce and funded by the community. Road maintenance on the State owned May Creek road, that is the main access

to the University subdivision already sold, is becoming a problem. Currently there is no bridge over McCarthy Creek so damage to the road so far has been kept to a minimum. With ever increasing traffic these and other issues will have to be addressed. Will it be the community that bear the burden of road maintenance, solid waste management, schools and other infrastructure issues? If this land is conveyed it should have attached a planning process so that these problems aren't dumped on the community.

While the idea of funding the University is a good one, I don't think it is a good idea in this case. The 12,500 acres proposed for transfer should be withdrawn from the bill. The problems associated with development of this parcel certainly outweighs the advantages the University will realize. Further more the University already has 8800 acres her in different stages of development. Doesn't seem fair to leave some DNR land available to the public for all of the reasons mentioned above?

Respectfully,

Kelly Bay  
Wrangell Mountain Air  
McCarthy, Alaska  
800-478-1160  
[info@WrangellMountainAir.com](mailto:info@WrangellMountainAir.com)  
[www.WrangellMountainAir.com](http://www.WrangellMountainAir.com)

# PRESERVING COMMUNITY VALUES

## WILLOW, ALASKA

Presented to:

Governor Frank Murkowski  
Senate Finance Committee

Co-chair     Senator Lyda Green  
Co-chair     Senator Gary Wilkins  
Vice-chair    Senator Con Bunde  
                  Senator Fred Dyson  
                  Senator Bert Stedman  
                  Senator Lynn Hoffman  
                  Senator Donny Olson

And

Senator Charlie Huggins

Presented by:



Vern Halter  
Iditarod Musher  
Willow, Alaska

The documents contained in this packet represent the values and aspirations of the people of Willow, Alaska and the need for preservation of the rural character, quality of life and recreational trails within our community.

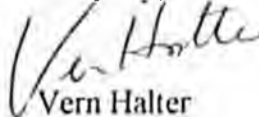
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- Letter to Senators from Willow Trail Committee: Steve Charles, Chairman
- Letter from Iditarod Trail Committee: Stan Hooley, Executive Director
- MAP: HB 130/SB 96 Frying Pan Lake/Parcel#SU.DC. 1001 Super-imposed on the Haessler-Norris Trail System/Bruno and Joan Bryner
- the Haessler-Norris Trail System: Historic Use Documentation/Mike Bishop
- Willow Community Survey/2005 Results
- Willow Development Committee Action Plan/Vision and Goals-SMART GROWTH

THANKYOU FOR YOUR CONSIDERATION IN THIS MATTER

May all your trails be smooth and fast with a full moon on the horizon!

Sincerely,



Vern Halter

WILLOW AREA COMMUNITY ORGANIZATION

Home of the State Winter Carnival

P. O. Box 1027  
Willow, AK 99688  
907-405-6633

April 24, 2005

Governor Frank Murkowski  
P. O. Box 110001  
Juneau, AK 99811-0001

RE: Senate Bill 7, 'Transfer of Land to the University of Alaska' / *Now SB 96- HB 130*


Dear Sir,

The Willow Area Community Organization requests you withdraw the Frying Pan Lake parcel # SU.DC.1001, 450 acres, from your proposed land transfer letter dated January 14, 2005, to the University of Alaska.

We further request that if the University of Alaska is granted Deception Creek Parcel # SU.DC.1001, 280 acres, and Willow Creek Road Parcel # SU.DC.1001, 1,000 acres, they retain ownership of this land for the Universities future Higher educational facilities.

The community feels the Willow Creek road and Deception Creek parcels are strategically located at the entrance to Hatcher Pass and the Historic Willow Creek Mining District and would have later value for educational facilities within the University.

Sincerely,



Krista Grilliot  
Chairman  
Willow Area Community Organization

cc:

Senator Charles Huggins, Alaska State Senator  
Representative Mark Neumann, Alaska State Representative  
Commissioner Tom Irwin, Department of Natural Resources  
Mayor Tim Anderson, Mat-Su Borough  
John Duffy, Manager, Mat-Su Borough  
Betty Vehrs, Assemblyperson, Mat-Su Borough

## WILLOW TRAIL COMMITTEE

P.O. BOX 845  
WILLOW, AK 99688  
PR. 495-6368

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April 29, 2005

Dear Senators,

The Willow Trail Committee would like to respond to SB 96 and call your attention to the conflict the transfer of state lands will have to Willow residents and the community in general. Our trail committee is a sub committee of the Willow Area Community Organization and has been very active in documenting, preserving and maintaining recreational trails in the Willow area.

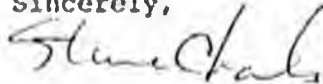
Senate Bill 96 will impact the oldest recreational trail system in Willow. The Haessler-Norris Trail System was first used in the 1960's by Alaska dog mushing legends, Earl and Natalie Norris. It has since been the training ground for many notable long distance and sprint mushers as well as recreational mushers and dog tour guides. The Mat-Su Borough has documentation for the trail system to be included in the Mat-Su Borough Trails Plan.

The Frying Pan Lake parcel is an area crucial to continuing north-south access of the trail system. Because of the topography and private lands in the area, we believe that the best solution would be to eliminate the 450 acres from the bill.

The Willow Area Community Organization is on record in it's support for recreational trails in the area. The vision statement and goals of it's annual Action Plan refers to trails and "To preserve open areas for future public use..." and "Improve winter and summer recreational facilities..." It goes on to mention trail projects in detail. Most recently, the Willow Community Development Committee voted overwhelmingly to oppose the state/university land transfer.

Willow prides itself in being the "recreational capital of the state." Preservation of it's trails and specifically the Haessler-Norris Trails System is extremely important to our community. The WTC strongly supports the elimination of the Frying Pan Lake, Deception Creek and Willow Creek parcels from SB 96, the "University Lands Bill."

Sincerely,



Steve Charles, chair  
Willow Trail Committee



# Iditarod Trail Committee, Inc.

Post Office Box 870800 • Wasilla, Alaska 99687-0800  
907.376.5155 (voice) • 907.373.6998 (facsimile)  
www.iditarod.com

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May 4, 2005

Governor Frank Murkowski  
P.O. Box 110001  
Juneau, Alaska 99811-0001

Dear Governor Murkowski:

Thank you for considering the following letter in support of preserving community values in Willow, Alaska.

While the Iditarod Trail Sled Dog Race is visible to millions of race fans around the globe each March, the daily training runs over hundreds of miles of trails by teams preparing for the race take place in relative obscurity. Yet for the race to be a success, mushers must have ready access to trails. Perhaps no where is this more important than the Willow area where many mushers live and train.

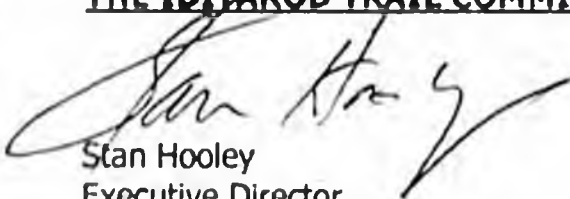
A healthy Iditarod has a desirable impact on our economy. Consider the following:

- A 2003 economic impact study measured one days' impact to Anchorage at nearly 7 million dollars. Suffice it to say that the event has a far greater economic impact as makes it way across our state and on to Nome.
- [www.iditarod.com](http://www.iditarod.com) received in excess of 500 million hits and serves as an outstanding tourism marketing tool greatly benefiting the state's tourism marketing efforts.

It is regrettable when we learn of mushers leaving the sport because of increasing difficulty in accessing trails. We respectfully ask that you consider the potential future impact to trail access as you make decisions to transfer and/or sell State land.

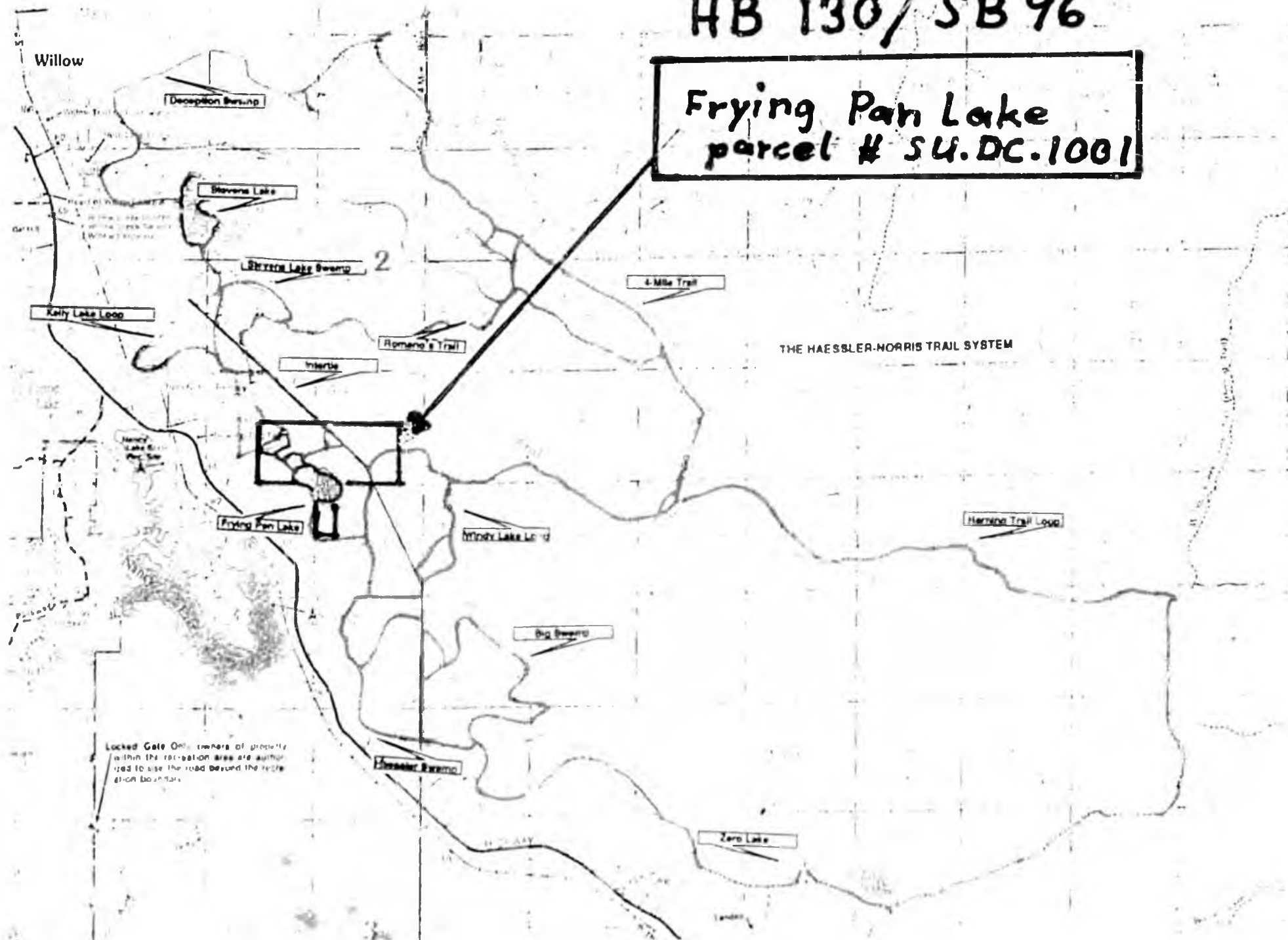
Sincerely yours for,

**THE IDITAROD TRAIL COMMITTEE**

  
Stan Hooley  
Executive Director

HB 130/SB 96

Frying Pan Lake  
parcel # SU.DC.1001



THE HAESBLER-NORRIS TRAIL SYSTEM

Locked Gate Only owners of property within the recreation area are authorized to use the road beyond the recreation boundary

Dog Sled  
Cross-Country Ski  
Skijor



## THE HAESSLER-NORRIS TRAIL SYSTEM

October, 2003

Prepared by—  
Willow Area Trails Committee

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## THE HAESSLER-NORRIS TRAIL SYSTEM

### 1. INTRODUCTION

The Willow area is home to some 30 mushers and numerous cross country skiers. This is not an accident. Traditionally, Willow has enjoyed good snow cover, moderate temperatures and a lack of wind. Most importantly, the area boasts access to good winter trails.

The area bounded by Willow-Fishhook (Hatchers Pass) Road on the North, 4-Mile Road on the East, the Parks Highway on the West and Houston to the South—also known as the Deception Creek drainage—is a training ground for some 23+ sport, long distance and recreational mushers. This trail system is named the Haessler-Norris Trail System in this document, as a tribute to the skier stationer of Willow mushing.

The Matanuska-Susitna borough is currently the fastest growing area in Alaska. In Willow, the number of weekend cabins and year-round houses has increased dramatically in the last few years. With a growing population, improvements to the main highways and the possibility of faster access to Anchorage, this trend will only continue for the foreseeable future.

The majority of the Deception Creek Drainage winter trails are on swamps or lakes. Users of these trails, however, live on the road system. As population pressures increase it would be prudent to record the existence of these winter trails, and to preserve access to the Trail System for all winter sports enthusiasts.

### 2. TRAIL SYSTEM

The Haessler-Norris Trail System consists of a number of loops interconnected by the Intertie to the west and the 4-Mile trail to the east. The largest loop is approximately 25 miles, but by detouring around various swamps and retracing that route distances of 45 miles or more can be achieved. Unlike the trails to the west of Willow, these trails exist only for winter sports—there are no road houses, lodges or public cabins to provide a lay-over destination. With the exception of the 4WD (ATV) trail off 4-Mile Road and the trail allowing access to Stevens Lake, these are winter trails only.

Access is from the end of 4-Mile Road, from Willow-Fishhook at the Intertie, from Tuxedo Street, and via the Willow Creek Sled Dog Trail (Yerming Trail) out of Houston. Parking at such access points is limited at present.

Most of these trails are either old trap line trails, or narrow trails brushed out by mushers. Many trails are groomed to varying standards—six foot+ wide where sport teams may run, four foot where limited to distance and recreational teams.

Once sufficient cover exists to groom trails most of the area mushers can be expected to train between two and three teams per day, from around December through March. Mushers are a close knit community and guest accommodations are frequently provided nearer Fur Rendezvous and Iditarod race dates. A

conservative estimate would be some 25 teams using the trails on a normal day. Willow locals also use the system for family outings or ice fishing. Currently, the system has much less snow machine traffic than the west Willow trails, nor does the area sport many week-end cabins.

Most of the Haessler-Norris Trail System cannot be seen on maps derived in part from aerial photography for the following reasons—

- Winter trails cross swamps, skirt lakes with small incursions into wooded areas to join the two. Little trace of such trails remains following break-up, and such is extremely hard to see from the air during the summer months.
- Except for the historic trails (serving the Hatcher Pass mining area for example, or as a mail trail), sled dog trails are not that well traveled. Indeed, early trails had to be put in by snow shoe. This is changing as snow machines become more popular and reliable and many of today's trails are groomed regularly. Except for wooded areas however, only slight sign of the trails can be seen from the air and wouldn't have been noted on official maps.
- In a lake and wetlands area, trails vary slightly each year. Wet spots, overflow from tiny creeks or beaver colonies all necessitate minor changes in a trails position each year.

### 2.1 Historical Precedence

1. *Deception Creek Land Use Plan (1988)*. This document<sup>1</sup> makes several references to dog mushing trails. Within the area of discussion, mention is made of *Lloyd's Trap line and Dog mushing trail* as used primarily by "local dog mushers", and of the *Frying Pan Lake/Windy Lake* area as being used by "... local dog mushers from the Nancy Lake area."<sup>2</sup>
2. *USGS C8 Quadrangle*. Parts of some trails and the 4WD trails to Stevens Lake and continuing 4-Mile Road are shown on the USGS Anchorage C8 Quadrangle Topographic map.

### 3 TRAIL DESCRIPTIONS

Attached to this document are two maps, each showing the trails of interest—

1. Part of the USGS Anchorage C8 Quadrangle Topographic map, 1:63 360 series;
2. Part of the Willow section of the *Matanuska Valley Road & Recreation Map*, copyright 1992, scale 1"=1 mile.

For convenience, the *Road and Recreation (R&R)* map is used in the following descriptions with numeric references, for example [22], referring to that numbered

1. *Deception Creek Land Use Plan*, October 1989, Division of Land and Water Management, Alaska Department of Natural Resources

2. "Lloyd" is Lloyd Haessler, one of the two mushers for whom this trail system is named.

square mile on the stated trail.

The trails are named for their most significant geographic feature, with local names noted where known.

### 3.1 Deception Swamp

Also known as *Sullivan's Trail* this large loop has long been used by sprint and Iditarod mushers. It is a loop across the large swamp [9,10,13,14] south of Deception Creek and west of the 4-Mile Road trail. Access is from 4-Mile Road, or from Stevens Lake.

Loop connectors joining the north-east side of the trail to the south-east side of trail are often put in to vary distances.

The loop also connects to the *Stevens Lake* trail via *Bath Lake*, and to the eastern part of the *Windy Lake Loop*.

### 3.2 Stevens Lake

This trail leaves the *Intertie* at [22], crosses a small swamp then circumnavigates Stevens Lake. Access is from the *Intertie* or the *Deception Swamp* trail.

### 3.3 Intertie

Since construction of the *Intertie*, this has long been used as the main thoroughfare connecting the various trails together. Note that a section of trail at [35] is private property and is blocked to recreational traffic. An alternative trail leaves the *Intertie* at [35] and reconnects to the *Intertie* at *Windy Lake (South)* at [36] and at *Haessler Swamp* [2,12].

### 3.4 Kelly Lake Loop

A trail loop that actually predates the *Intertie* runs from the west side of the L-shaped lake at [27] out to Kelly Lake and then connects to the the *Stevens Lake Swamp* at *Intertie* was constructed.

### 3.5 Windy Lake Loop

From the *Intertie* at [26] a northern trail runs to Windy Lake, while a southern route leaves the *Intertie* at [38].

Leaving Windy Lake on the north-east, the loop may be completed by joining the *4-Mile Road* trail at [20], then to *Deception Swamp*, *Stevens Lake* and back to the *Intertie* trail.

### 3.6 Frying Pan Lake

Two trails leave the *Intertie* at [26,35] leading to a circumnavigation of Frying Pan Lake (shown as Lynx Lake on the R&R map) and the smaller lake to the north (known locally as the L-Shaped Lake).

### 3.7 4-Mile Trail

Departing from the end of 4-Mile Road, a 4WD (and former trap line) trails parallels Deception Creek until [20] where it joins the *Windy Lake* trail.

Part of *4-Mile Trail* at [10] is private property, although permission for dog team traffic has been granted in the past. A parallel trail (which we will call "4-Mile Trail (Alt)" bypasses private property and joins *Deception Swamp*.

### 3.8 Zero Lake

From the *Intertie* at [17] a trail runs to Zero Lake, joining the *Heming* (RS2477) Trail at [15].

### 3.9 Stevens Lake Swamp

To the east of Stevens Lake a trail circumnavigates the swamp at [2] and includes part of the *Intertie* trail.

#### Romano's Trail

From the eastern edge of *Stevens Lake Swamp* a trail connects to *Deception Swamp* and the *4-Mile (Alt)* trail.

### 3.11 Haessler Swamp, Big Swamp

Two looping trails cross swamps on either side of the *Intertie* trail at [ 2,31 ] (west) and [1,12] (east). The western trail is known locally as "Haessler Swamp" and the eastern trail as "Heidi's Swamp" or simply "Big Swamp".

### 3.12 Heming Trail Loop

The *Zero Lake/Heming Trail* becomes a loop with a trail leaving [1] (on the *Heming Trail*) and joining the north-eastern leg of the *Windy Lake* trail. This trail is believed to be part of "Lloyd's Trapline and Dog Mushing Trail", but has not been used for some years and is in need of work.

## 4. ATTACHMENTS

- [1] USGS Anchorage C6 Quadrangle Topographic map, 1:50,000 scale; the Trail System is marked in red.
- [2] Part of the Willow section of the *Metanaska Valley Road & Recreation Map*, scale 1"=1 mile. The Trail System is marked in red with labels naming each trail as described above.

In November/December 2004 a survey was mailed to all property owners in Willow. Some 90% of respondents reported that a rural life style was important to them, while 83% indicated the same for recreational opportunities. On the planning questions, 82% were concerned with residential growth, 73% were concerned with strip development down the Parks Highway, 84% were in favor of responsible land use regulations, and 88% supported organized development of road, subdivisions and businesses. If this doesn't sound like a rallying cry for some form of planning, Willow clearly has a hearing problem.



[Home](#) [FAQ](#) [Meetings](#) [Links](#) [Downloads](#)

### Results of Community Survey

To date 272 (April 18) responses have been received considered a high number given the nature of the survey and it's mail in requirement. The chart below shows the percentage of respondents who either *strongly agreed/agreed* or *strongly disagreed/disagreed* with the survey statements.

Survey statement	Agree	Disagree
Community a good place to live	83.87	4.03%
Community should remain as is now	56.10	25.61%
Effects of rapid residential growth need to be addressed	82.56	7.75%
Rural lifestyle important	90.74	2.96%
More commercial growth needed in Willow	41.83	38.37%
Recreational opportunities important to me	82.95	7.75%
Willow should become incorporated city	28.74	36.03%
More industrial growth is needed	21.05	59.21%
Strip development down Parks Hwy a concern	73.60	11.20%
Responsible land use regulations important	84.79	11.03%
Organized development road/subdivisions/businesses important	88.19	7.87%
More trooper presence needed	59.04	8.43%
Tourism important part of community	57.81	20.10%

Given the degree of importance that is attached to a rural lifestyle and recreational opportunities, it should come as no surprise that 88% of respondents favor organized planning.

Some anomalies were detected: a number of those who indicated they were a resident had postal addresses outside Willow. A number against "organized planning" also agreed with those questions

## COMMUNITY DEVELOPMENT COMMITTEE

### ACTION PLAN

#### Background

#### Willow

Turn of the century gold rushes indirectly led to the establishment of Willow. Early maps of the area show the Lucky Shot Trail leading from a boat landing about 1500 feet south of Willow Creek to the gold fields at Hatcher Pass. The first claims were staked in 1897 and a year later the Willow Creek Mining District - for recording mining claims - was established.

The construction of the Alaska Railroad (which was completed in 1921) put a station and siding in Willow and made the boat portion of the boat/trail access to Hatcher Pass obsolete. Settlement followed and the station became the hub of the early day community of Willow.

During World War II, the military established an airfield in Willow to provide an emergency landing field for the Anchorage-Fairbanks route.

By 1963, the Parks Highway reached Willow. This new accessibility caused gradual relocation of the business center from the railroad to the highway and started a steady population growth.

The Community Center was constructed in 1985 providing a focal point for community activities. An addition to the building was completed in 1992 to house the Borough library.

#### Willow Area Community Organization

The Willow Area Civic Organization (WACO) was incorporated as a non-profit in 1965, primarily as a vehicle to stage the annual Willow Winter Carnival which has been held every year since.

In 1985, the Borough recognized WACO as the Community Council for the area and the name was changed to the Willow Area Community Organization to reflect the new status. All residents of the community are members of WACO. An annual election is held in April to select the officers and directors. There are a number of standing committees, including the Community Development Committee.

## **Vision and Goal Statement**

The State Department of Labor has projected that the Mat-Su Boro will become the second most populous area in the state by 2018, growing from the current 55,000 to 103,000. The Willow population has seen an accelerating increase over the past several years, and it is likely to continue. The demographics indicate a remarkable amount of stability in the population and there is no reason to think that will change.

The Willow of the future should be the kind of place that continues to attract residents by its life style and amenities, where people are proud of and involved in their community, and where essential public services are available to all.

Our vision statement for Willow is **Smart Growth**, i.e. growth that;

**Preserves the rural character and maintains or improves quality of life;  
Updates and improves the community infrastructure; and  
Encourages sustainable economic development.**

**Goal 1: To preserve open areas for future public use, designate areas for future schools, trails, public buildings, etc., undertake community beautification projects, and provide for senior citizens facilities.**

**Objective 1.1: Using the Community Development Committee of WACO as an avenue for community input and feedback, develop a comprehensive plan that will establish the vision and goals for the community inclusive of transportation, utilities, public facilities and land use.**

**Task 1.1.1: Request the Borough Planning Department to assist the community to develop a comprehensive plan for the WACO area. Assist by scheduling and hosting meetings and providing input.**

**Objective 1.2: Improve the quality of life by maintaining and improving the visual impact of Willow.**

**Task 1.2.1: Develop and implement a landscape plan for the Community Center property. Include in the plan recreational facilities such as ball fields, picnic area, playgrounds, and a swimming dock**

**Task 1.2.2: Work with the State Department of Transportation and Public Facilities and the Borough Planning Commission to ensure that viewsapes are maintained after development projects are completed.**

May 2, 2005

The Honorable Gary Wilken  
Co-Chair, Senate Finance Committee  
Alaska State Legislature

Dear Co-Chairman Wilken,

I am writing today to voice my strong objection to the transfer of land at Olive Cove, on Etolin Island, as proposed in SB 96. I ask that this letter be included in the SB 96 Official Record.

The salmon in our streams are a wonderful resource that not only puts food on the table in our homes, but also provides economic benefit to fishermen and processors in communities across the state. It seems to me that we should make every effort to keep our fish habitat healthy, that way we all benefit by this sustainable natural resource. SB 96 plans on transferring land at Olive Cove that has a significant fish stream crossing through it which supports wild populations of Coho, Pinks, Chum, Steelhead, Cutthroat and Dolly Varden. That stream currently puts food on the tables in Wrangell and contributes to the commercial fisheries in the area. Logging the watershed or parceling the land abutting the stream will certainly compromise the fish habitat. We have an obligation not to change the character of streams that are supporting fish populations.

It is certain that the University will develop this land to generate revenue. This is the intent of the Bill. I think it would be short sighted to transfer land that currently benefits so many, but most important we should consider the fish habitat itself and keep it healthy for future generations.

I urge you to withdraw the Olive Cove parcel from transfer in SB 96.

Thank you for your consideration,

Sincerely,  
Gayle Gross



PO Box 11  
Wrangell, AK 99929  
(907) 874-3950



LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE INFORMATION OFFICE  
201 Katlian Street, Suite 200A, Sitka, AK 99835  
Phone: 747-6276 Fax: 747-5807  
Email: sitka\_lio@legis.state.ak.us

DATE: 5-2, 2004

TO: Senate Finance

FAX: 465 2187

5 pages, including cover sheet

FROM: Doris Bailey, Assembly C & B of Sitka

MESSAGE:

These taped pages are for the Senate Finance Committee and its sub-committee taking public testimony tonight May 2, 2005

Thank you for hearing Sitka. The resolution and letter went by unanimous vote of the Assembly.

My name is Doris Bailey and I am a member of the Assembly of the City and Borough of Sitka. We had an emergency meeting the evening of February 14<sup>th</sup> to unanimously oppose the parcels that are proposed within the City and Borough of Sitka to be transferred to the University, with the exception of that parcel on Japonski Island where the University has its campus. We believe that parcel to be an appropriate transfer.

1. I would like to consider each parcel that is in the C&B of Sitka. As we understand it, these parcels are being transferred with the idea that they are viable commercial property that is now or will be appropriate for development and therefore would be good to transfer to the University so that they can be sold for funds to operate said institution.

The City and Borough already has a substantial amount of lands along our road system and in Sitka Sound which are in trust land status. The University controls the 193 acres South Benchlands and a 487 acre tract that includes Thimbleberry and Heart Lakes. The Mental Health Trust owns parcels above Sawmill Creek Road, half of Lisianski Peninsula and large numbers of islands in Sitka Sound. Therefore, the community is already shouldering more than its share of trust land selections. In addition, the willingness of the University to accept local land use controls has not been clarified.

Blorka Island is 16 miles out in the Pacific Ocean from Sitka. It is at the head of Sitka Sound and directly faces the ocean. There are no islands or other barriers outside of Blorka. My husband and I lived out there for 3-1/2 years in the middle and late 1970's so we are aware of Nature's forces which are available in all their fury at Blorka Island. There are occasions year round when it is impossible to either get on or off this island by either boat or air. During the winter these "times" can extend to a week or more. Development of Blorka Island could result in a fishing lodge being placed adjacent to one of the most heavily used salmon fishing areas (there's a major drag on the north side of the island) and there is concern that lodge clients may put added pressure on this fishery. There is also the possibility that the development of a lodge on Blorka Island could put substantial pressure on Goddard Hot Springs and the two small municipally owned bath houses on that property. In addition, there are many aids to navigation located on that island which are owned, operated and maintained by the Federal Aviation Administration. There are at least two radars, a Tacan and other communications equipment. Has the FAA been contacted regarding development on the island? I would suspect they would have security concerns and would not welcome development which would bring people to wander about the island investigating their facilities. You have said that the Native allotment that is under dispute within the parcel designated would be released when that parcel is proved. I am a bit amazed that the University is interested in land on which there is such a specific encumbrance. I do not think that the highest and best use for the proposed land on Blorka Island could possibly be development of any kind.

Lisianski Peninsula is another case in point with regard to Native issues. The Dog Point Fish Camp operated by the Littlefield family has used Dog Point for subsistence and cultural teaching activities for many years. They have children's camp, camps for adults with addictions and family camps wherein they teach Tlingit cultural values and subsistence fishing and hunting and preservation of food. The proposed parcel completely surrounds the Littlefield parcel and will without doubt be impacted to extinction should it be developed. And, once again, as I understand it, development is the purpose of the transfer. As you are aware Sitka Tribe is strongly opposing the transfer of this property to the University, as is the City and Borough of Sitka. It is in protected waters and the highest and best development use would undoubtedly be tourist use which, as I said, would strongly impact the Littlefield operation.

Middle Island is an island which was subdivided by the State of Alaska and a lottery held some years ago for parcels which now have many with homes and cabins located upon them. The entire developable beachfront of Middle Island is targeted for residential and recreational uses. This beachfront on Middle Island has already been selected or subdivided (the University would acquire two beachfront areas - one on the west side that has steep terrain and the back of the bay on the south side that runs totally dry at low tide). The center of the island which consists of a steep rocky wooded mountain was not claimed for any residential use at the time of the lottery because of the topography. The only possible use that the City and Borough can fathom would be logging. Logging would certainly impact those residential uses which exist on the beach front as well as destroy the view shed. In addition, the City and Borough has claimed for part of their land the rest of the beach front property on Middle Island and has designated it for residential uses

along with strict park/reserved uses because the primary herring spawn fishery is around Middle Island. This was done because of the Tribe's strong concerns about activity affecting the herring spawn in this primary use area. The City has done its part to set aside a major fish habitat area on Middle Island for public recreation and has set aside an area that has development potential but has petroglyphs. The selection of Middle Island and the potential for logging, creates incredible uncertainty for private land owners, the municipality and residents on the north half of Sitka that have homes that look over the island. This uncertainty may harm values of existing lots and lots the municipality plans on developing. Once again, we strongly feel that this parcel should not be transferred to the University because its development possibilities are in conflict with the other uses of the island.

The parcel at Baranof Warm Springs townsite is 9.5 acres. The proposed University selection is 267 acres. It is up the bluff from the town site and on the opposite side of the spectacular falls which draw so many people to visit. This open meadowy area is mostly wetlands and is the watershed for the town site as well as the possible connection to the warm springs for which it gets its name. Any kind of development in this area is going to be very iffy due to the need for permits from the Corps of Engineers for wetlands permits, the danger of contamination of the water supply and the possibility of destroying the thermal conduits for the hot water that has been a drawing card for this settlement. The small bay already receives a large amount of transient traffic during the summer and development of the UA land would totally overwhelm the small anchorage, State of Alaska dock, small boardwalk that serves the private cottages, and the small fragile hot springs.

Having said all this and trying to show that development is not appropriate on the parcels selected, please be assured that the City and Borough is desperately in need of land for building residential units. The University owns a large parcel which the City and Borough has coveted for residential building use for many years. It is the only large parcel of land close enough and with terrain that is suitable for building. Getting utilities to this parcel is estimated to cost more than \$52,000 per lot which is the stumbling block for development. We are diligently working with the University to try to come up with some way we can save this land for residential use as we are extremely concerned that it not be sold to some kind of conservancy entity which would tie it up as "wilderness." If costs are so prohibitive close to the City and Borough, we believe that is another reason these proposed remote parcels are absolutely not conducive to development.

To reiterate, the City and Borough of Sitka already has a substantial amount of area in trust status. We respectfully and urgently request that you hear our plea and do not transfer these parcels to the University who would find little in these parcels to allow them to get any income from them.



# City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

(907) 747-6020 markodap@ptialaska.net

February 15, 2005

The Honorable Frank Murkowski  
Governor of the State of Alaska  
PO Box 110001  
Third Floor, State Capitol  
Juneau, Alaska 99801-0001

Dear Governor:

The City and Borough Assembly of Sitka met for a special meeting on February 14, 2005 to discuss the issue of University Land Transfers. We would like to take this opportunity to oppose HB 130/SB 96 in their current form.

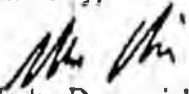
The properties for transfer are integral parts of the communities of Baranof Island, and this action could have incalculable detrimental effects on these communities. We believe the City and Borough of Sitka would be better served if these properties are left intact so that the Municipality would have better oversight as to their issues.

As this proposal has come as a surprise to us and gives us little or no opportunity to respond we respectfully request that this process be slowed to a more appropriate pace. This would allow the affected communities to hold public hearing and pass resolutions in response.

More specifically we are opposed to the transfer of Middle and Biorka Islands, Lisianski Point, Baranof Warm Springs, and Port Alexander. We are supportive of the University obtaining the parcel of land that the Sitka Campus resides on. Further more, it is our hope that the State reconciles the land transfer proposals with existing approved State and local land management plans. We are also concerned with the possibility of incorrect maps, disputed Native allotments within the proposals, and the impact on subsistence activities.

It is worth noting that there was no public testimony favoring these bills; and we do not support them proceeding. Thank you for your consideration of our comments.

Sincerely,

  
Marko Dapceovich  
Mayor

Cc: Senator Bert Stedman  
Representative Peggy Wilson

Sponsor: Bailey/D. Dapceвич

**CITY AND BOROUGH OF SITKA**

**RESOLUTION NO. 2005-06**

**A RESOLUTION OF THE CITY AND BOROUGH OF SITKA  
IN OPPOSITION TO HB 130 AND SB 96 THAT TRANSFERS LAND  
TO THE UNIVERSITY OF ALASKA**

**WHEREAS**, the State of Alaska Department of Natural Resources has nominated 260,000 acres throughout the state for transfer to the University of Alaska to generate income for the university system; and

**WHEREAS**, the properties designated for transfer within the City and Borough of Sitka (CBS) are integral parts of the communities of Baranof Island and could suffer incalculable detrimental effects from this transfer; and

**WHEREAS**, there is concern about the impact on proposed properties that are heavily used for subsistence and recreation; and

**WHEREAS**, the possibility exists that there are incorrect maps and disputed Native allotments within the proposals; and

**WHEREAS**, there has been no time for public hearing or response on an issue that has such far-reaching consequences;

**THEREFORE, BE IT RESOLVED**, that the Assembly of the City and Borough of Sitka Alaska by this resolution do oppose House Bill 130 and Senate Bill 96 in their current form; and

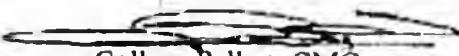
**BE IT FURTHER RESOLVED** that CBS respectfully requests that this process be slowed to a more appropriate pace to allow affected communities to hold public hearings and pass resolutions in response; and

**BE IT FURTHER RESOLVED** that CBS request that the State reconcile the land transfer proposals with existing approved State and local land management plans.

**PASSED, APPROVED AND ADOPTED** by the Assembly of the City and Borough of Sitka, Alaska on this 22nd day of February 2004.

  
\_\_\_\_\_  
Marko Dapceвич, Mayor

**ATTEST:**

  
Colleen Pellett, CMC  
Municipal Clerk

May 2, 2005

The Honorable Gary Wilken  
Co-Chair, Senate Finance Committee  
Alaska State Legislature

Dear Co-Chairman Wilken,

I am writing today to voice my strong objection to the transfer of land at Olive Cove, on Etolin Island, as proposed in SB 96. I ask that this letter be included in the SB 96 Official Record.

The salmon in our streams are a wonderful resource that not only puts food on the table in our homes, but also provides economic benefit to fishermen and processors in communities across the state. It seems to me that we should make every effort to keep our fish habitat healthy, that way we all benefit by this sustainable natural resource. SB 96 plans on transferring land at Olive Cove that has a significant fish stream crossing through it which supports wild populations of Coho, Pinks, Chum, Steelhead, Cutthroat and Dolly Varden. That stream currently puts food on the tables in Wrangell and contributes to the commercial fisheries in the area. Logging the watershed or parceling the land abutting the stream will certainly compromise the fish habitat. We have an obligation not to change the character of streams that are supporting fish populations.

It is certain that the University will develop this land to generate revenue. This is the intent of the Bill. I think it would be short sighted to transfer land that currently benefits so many, but most important we should consider the fish habitat itself and keep it healthy for future generations.

I urge you to withdraw the Olive Cove parcel from transfer in SB 96.

Thank you for your consideration,

Sincerely,  
Gayle Gross



PO Box 11  
Wrangell, AK 99929  
(907) 874-3950



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DATE: 5-2, 2004

TO: Senate Finance

FAX: 465 2187

5 pages, including cover sheet

FROM: Doris Bailey, Assembly C+B of Sitka

MESSAGE:

These faxed pages are for the Senate Finance Committee and its sub-committee taking public testimony tonight May 2, 2005

Thank you for hearing Sitka. The resolution and letter went by unanimous vote of the Assembly.