

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86 / 2

730 SCOMM22: ALASKA LANDS FILE 1977-78

Ten years is not acceptable to the bank to protect their loan where there is no subordination of the fee. The state will not subordinate so the only way we can obtain a loan for improvements on lease land is to either have a healthy bank account yourself, which very few now days have, or have a lease with a long enough level term lease on the front end to convince the lending people that you will be able to amortize the loan and also stay in business.

I feel safe in stating that any loans for improvements in our sector in the last ten years have been made on the financial statement of the man, not on the lease. Therefore I strongly support the twenty five year fixed base annual rental concept so that we may secure long term money for expansion. That way we can improve and upgrade our leases to the best use of the land.

I would like to comment at this time and submit figures to illustrate that the 50% increase every five years after the level term is not in my estimation a viable solution and this is the breakdown of my lease at the appraised value as of January 1, 1975

-3-

ALASKA INDUSTRIAL BLOCK 10, LOTS 15, 16, 22, 23 and 24

APPRAISED LAND VALUE \$61,167.00

<u>TERM</u>	<u>% INC PERM</u>	<u>% ORIG VALUE</u>	<u>NEW APPRAISED VALUE</u>	<u>LEASE PAYMENTS</u>	<u>ACCUMULATED COST TO LEASEE</u>
1-10	0%	100%	\$ 61,167.00	\$ 48,933.00	\$ 48,933.00
10-15	50%	150%	91,750.00	36,700.00	85,633.00
15-20	50%	225%	137,625.00	55,050.00	140,683.00
20-25	50%	337.5%	206,438.00	82,575.20	223,258.20
25-30	50%	506.25%	309,656.00	123,862.40	347,120.60
30-35	50%	759.38%	464,487.00	185,794.80	532,915.40
35-40	50%	1,139.07%	696,731.00	278,692.40	811,607.80
40-45	50%	1,708.61%	1,045,100.00	418,040.00	1,229,647.80
45-50	50%	2,562.92%	1,567,653.00	627,061.20	1,856,709.00
50-55	50%	3,844.38%	2,351,479.00	940,591.60	2,797,300.60

Ladies and Gentleman, I can not comprehend paying the astronomical figure of \$2,797,300.00 for 70,000 square feet of land over the next 55 years. I realize inflation is on the rise but God help us all if we are to be faced with figures like these and more, especialy land we can never own.

I thank you for your kind attention.

TESTIMONY ON SENATE BILL #159

By Joe Wilhour

Ladies and Gentlemen:

First, I would like to thank you for your time and efforts in consideration of our "headache"; and second, I would like to request you "hang in there" -- we're improved, but not cured.

On my lot 7-A, Block 3, Alaska Industrial Subdivision, the proposed lease payments of Bill 159 would total over three million dollars. That's 45 times the 1975 valuation, or approximately 600 times the appraised value when first leased in 1958.

I contend that this is not a fair lease. Not to me, not to future leaseholders, and not to the State of Alaska. It will not encourage development; in all probability it will force the leaseholders to do unto others as the State of Alaska has done unto them; increase our tenants' rent, increase the price of our products and services to the extent they are not competitive, thereby forcing us out of business and to abandon our State leases. Within 10 to 15 years, Section 16 could easily be mistaken for a slum area.

I built a 12,500 foot warehouse for over \$200,000.00, and have it leased to Mammoth Trucking for 35 cents per foot, which is a fair market value for the location. This is a gross annual income of \$52,500.00. With annual expenses as follows:

Bank payments	\$21,000.00
Utilities	4,274.59
Taxes, Insurance	6,311.14
Maintenance, Misc.	5,400.64
Land Lease	3,940.00
Total:	\$40,926.37

This produces a net profit, before taxes, depreciation, inflation, vacancies, etc. of \$11,573.63. Senate Bill #159 would allow me to hold the property for approximately 10 years, which would relieve my present situation and allow the leaseholders time to seek additional corrective legislation, but both my inability to obtain bank financing and my common sense would prohibit improvements or further development. Look at the statistics:

ALASKA INDUSTRIAL SUBDIVISION LEASEHOLDERS ASSOCIATION

EFFECT OF SENATE BILL #159 ON MY PROPERTY LOCATED BLOCK 1, LOT 7A, ALASKA INDUSTRIAL SUBDIVISION. LOT SIZE APPROXIMATELY 64,000 SQ. FT. APPRAISED AT \$65,640.00 TO BE REAPPRAISED 1978.

<u>TERM</u>	<u>% INC TERM</u>	<u>% ORIG VALUE</u>	<u>NEW APPRAISED VALUE</u>	<u>LEASE PAYMENTS</u>	<u>ACCUMULATED COST TO LEASEE</u>
1-10	0%	100%	\$ 65,640.00	\$ 52,512.00	\$ 52,512.00
10-15	50%	150%	98,460.00	39,384.00	91,896.00
15-20	50%	225%	147,690.00	59,076.00	150,972.00
20-25	50%	337.5%	221,535.00	88,614.00	239,586.00
25-30	50%	506.25%	332,302.00	132,920.80	372,506.80
30-35	50%	759.38%	498,454.00	199,381.60	571,888.40
35-40	50%	1,139.07%	747,686.00	299,074.40	870,962.80
40-45	50%	1,708.61%	1,121,531.00	448,612.64	1,319,575.44
45-50	50%	2,562.92%	1,682,301.00	672,920.28	1,992,495.72
50-55	50%	3,844.38%	2,523,451.00	1,009,380.40	3,001,876.12

1. Above is MINIMUM
2. Rates are compounded
3. When lease finished, leasee will have paid 45.73 times value
(3,001,876 ÷ 65,640)

What amount would I, or anyone, have to invest to make this land support a State lease under SB#159? And where and how could it be financed?

Regardless of the formula used, as I said before, whether it be a percentage of the reappraised value every five years, a comparison to private leases, the number of quills on a porcupine divided by pi, or the number of moose in the Mat-Su Valley times the square root, if the total monetary figure exceeds six times the appraised value of the land at the time of lease, it will not be a fair rental that will enhance development and be acceptable to future leasees.

This is but one example of many, so again I request your cooperation. Put your feet in my boots and walk a mile, and I'm confident we can pass a better law that will be fair to present leaseholders, more desirable to all future leaseholders and non-leaseholders, and beneficial to our State Government both now, and in the future.



THE FIRST NATIONAL BANK OF ANCHORAGE

February 22, 1977

Mrs. Kay Poland
Resource & Finance
Legislature of Alaska
Juneau, Alaska

Dear Mrs. Poland:

This concerns our bank's attitude in providing funds for the purpose of financing leasehold improvements on land leased from the State of Alaska.

Our loans on improved real estate are governed by certain regulations made by the Comptroller of the Currency, United States Treasury Department. Any leasehold, against which we are lending money, must have a firm lease extending at least ten (10) years beyond the term of our loan. In calculating the amount of the loan against a leasehold, we must project the expenses incident to the operation of the property. This includes lease payments that are subject to increases of an unknown amount. We are understandably reluctant to make such loans.

Our bank's policy is to loan against leaseholds for a term in which we are assured of a reasonable fixed payment. We will not make loans when we are not able to accurately forecast the lease payments during the term of our loan.

Sincerely,


David G. Freund
Vice President

DGF/er

The following comments, opinions, and recommendations regarding State land leasing are offered to further acquaint you with the bill we are submitting this session.

I first leased property in Section 16 in 1958 in an advertised competitive bid sale. Mr. Chipperfield, Territorial Director of Lands at the time, told the group that we would pay no taxes on the land because we didn't own it. This is not true - the city of Anchorage came up with what they call lease-hold-interest, and we have paid taxes every year. Also, we were told that over the 55 year period we would be paying more than the land could sell for, but not having to pay taxes, it would be very little more. Many of the present leaseholders acquired their land at the original sale and were told that the State wanted to develop a tax base, and develop the land.

I was in my thirties in 1958, so a 55 year lease represented my life span. Either through stupidity or unwarranted faith in the integrity of the State, I have spent most of my, and my wives, available time and money that was not absolutely necessary for a growing family, on the development of these leases. A lot of this time and money was spent improving the land itself; stripping the trees and top soil, filling a large gully which ran from the road through the property and along the south side and adding gravel. I now lease these improvements back from the State.

Until recently the State has adjusted our rent every five years from approximately 40 to 100 percent, which is high, but workable. Now that the land has been developed and put to good use, forming a tax base by the investment of millions of dollars, and creating employment for over a thousand people, the State has adjusted our rent 850 percent to over 1000 percent.

Are we reverting back to a feudal system? Or State Land Baron vs sharecropper leasees? Or a con-game? One wonders, but with lease payments so high it's the equivalent of the State condemning the land! Through their reappraisal, the State has, in effect, condemned the leases.

Under the current policy the State has turned a 55 year lease into a 5 year lease. This year there has been less development in Section 16 than in any other part of town. It is impossible for the leaseholders to get financing, which has stopped development. See paper from the First National Bank of Anchorage attached. One questions whether it is advisable to repair a leaky roof.

My position is impossible. My annual rent increased from \$3,940.00 to \$32,800.00. I cannot increase my investment because the financing has been made impossible. I cannot raise my tenants rent and compete with fee-simple land rents. To raise my rents accordingly will only create vacancies and undermine my chances of making lease payments if and when the State does come up with a fair rental. And I cannot afford to just walk away from my 20 years investment of time and money, with only part of the money repaid to the bank.

At the 1975 rate of \$3940.00 per year, I would pay the State, for my less than 2 acres, a lease rental for my remaining 37 years, \$145,780.00 - nearly 15 times the original appraised value, plus what's already been paid the past 18 years.

At the current rate of \$32,800.00 per year, and with no additional reappraisals but precariously assuming I could hold onto the property, I would pay the State for my less than 2 acres, a lease rental for my remaining 37 years, \$1,213,600.00, plus what's already been paid the past 18 years.

If the State raises my rent the same 850 percent every 5 years, I would pay the State a lease rental for my less than 2 acres, for my remaining 37 years, \$272,151,090,464.00, plus what's already been paid the past 18 years. Fantastic!

I built a 12,500 foot warehouse for over \$200,000.00, and have it leased to Mammoth Trucking for 35 cents per ft. which is a fair market value for the location. This is a gross annual income of \$52,500.00. With expenses as follows: (annually)

Bank payments	\$21,000.00
Utilities	4,274.59
Taxes, Insurance	6,311.14
Maintenance, Misc.	5,400.64
Land Lease	3,940.00
Total	\$40,926.37

This produces a net profit, before taxes, depreciation, inflation, etc. of \$11,573.63. With the land lease raised to \$32,800.00, an increase of \$28,860.00, it will show a loss of \$17,286.37. It appears the State not only wants their land back, but also my warehouse! Who pays the bank? What amount would I have to invest to make it support a State lease? Few, if any of us, would not give up our leases if we could recover our investments.

In comparison to the Fishing land leases, the lease for set-net fishing, not to exceed 10 years, quote, "The Director shall establish a reasonable rental for the lease, equal to the Administration costs involved in processing the leasehold application." These leases, however, may produce large profits for the lessee with small, comparable investment, and cost less than \$50.00 a year.

In comparison of individual tracts of land, Bob Penney and the Teamsters Union are leasing larger tracts, of greater value, for pennies where many are paying dollars. Mr. Penney averages about \$750.00 per acre. The Teamsters Union averages about \$3,500.00 per acre - with no reappraisal. My lease averages over \$19,000.00 per acre. If I, and my banker, had chosen to be dishonest we could have arranged a similar situation, but that is not justification for bias on the States behalf.

In comparison to housing, the State has passed a law of rent control whereby the lessor must justify any housing rent increase. No law exists for State leaseholders and rents may be unjustly raised. No law states we cannot just pass this increase on to our tenants, but there is no way we could still compete with fee-simple land rents so we will only create vacant land and buildings. Because, however,

additional expenses must be commensurate with additional income if we are to survive financially, a large measure, or all, of such additional expense must be passed on to our tenants, or added to the cost of our product or services. The State should not be the leader increasing such inflation, but should take every action possible to hold it down.

In comparison to other land lease policies, the Mat-Su Borough pamphlet of June 26th states the lease amount is not subject to reappraisal. The highest bid establishes the annual rental for the 55 year term of the lease. With the capital move to Willow, how will the State lease land in the Willow area?

Some possible recommendations:

1. level payments, similar to the recent Mat-Su Borough auction, not changed every time the administration is changed. Eliminate the State "open-end" policy. A stable lease enables the lessee to plan ahead and this ridiculous predicament won't happen again in the future.
2. Some arrangement should be made whereby a lease is bankable. A long term lease should be comparable and competitive in price at time of lease, with fee-simple sales.
3. Taxes, if any, on the land itself, should be at a percentage rate, on all state-owned lease land.
4. Consideration and lowering lease rate scale for value of improvements made, due to additional taxes incurred and as incentive to develop industry, and protect human rights.
5. Some method to renew a lease 15 to 20 years prior to its current expiration date, in order to secure financing and continue to develop the property.
6. Maximum return for State leased land should be a fair rental encouraging leasing and development of additional State land, and not exorbitant returns and the eventual forced voidance of the approximately one percent of state land now leased. Forced voidance of the present land leases, and continuance of the existing policy so no one will be dumb enough to lease additional lands, will surely not benefit the State, and just as surely will not benefit her residents.
7. Some formula giving retroactive credit for money already paid into the land lease and credit for development and investments already made. Also, a fair appeal process - fair to both the State and the lessee.
8. The present blanket easement should be eliminated from the leases not only because it is not bankable, but also because, if exercised, it would take all value out of the leasehold interest, and could ruin the lessee business without any compensation.
9. A public hearing would be informative and advisable. I would recommend such public hearing be held in the Anchorage area where the majority of lease holders can attend.

As I see it, the recommendations should result in a lease policy that make leases desirable to you as individuals, and all residents of the State. They shouldn't change every 5 years. They should be bankable and have a value, especially after payments have been made for some 20 years or more. They should, as the Constitution states, "enhance development". The State will get their maximum return by

taxing the development and its income, and by being able to lease their millions of surplus lands. Reappraisal and any adjustment of increased values due to inflation should come at the end of the lease period. If this can't be done, the land should be sold, allowing credits for those who have for a long time paid lease rents, paid to improve the land itself, and paid to develop the property into taxable use.

The State gets three shots at its leaseholders; (a) land lease rental payments, (b) taxes on improvements and (c) income tax. By taking an unfair advantage of the lease rental payments, the State will, or possibly has already, eliminated all three.

On Thursday morning, Dec. 16th, I attended the Governors Advisory Committee meeting where two representatives of F.H.A. testified that the appraisal clause and other parts of the State leases would not be acceptable for F.H.A. commercial or residential loans.

Mr. Paul Troch, (344-4665) a constitutional lawyer and teaching professor testified he has clients who are going to bring suit if that is the only way to get the State to comply with the regulations provided in its charter, which reads the State must provide a way to distribute its lands to the public for development.

Thursday afternoon I saw Mr. Richard Ullrich, Loan Examiner of the State Veterans Affairs. After explaining the terms of our State leases, he said the State Veterans would not, or could not, make a loan under the terms of our leases. Especially the reappraisal clause which the State Division of Lands claims is a fair rental.

Also, Thursday, I visited the Alaska State Bank where I couldn't help but notice the pictures of Anchorage, taken about 1915, on the walls. And compare the Anchorage of today through the windows. I wondered what Anchorage would look like now if the Territory, or Federal Government, had used the present state land policy to develop the area.

There is no way the leaseholders can unreasonably increase the price of their rentals, products, or services, every five years to meet the increased rentals which the State Division of Lands claims are fair. Local competition in the town and the State, as well as State and Federal regulations, such as the trucking industry who must abide by ICC regulations, eliminate the possibility. Other businesses in town, grocery stores, department stores, banks, etc. do not raise the price of their products and services because of the appreciation of the land their businesses are occupying. They must compete too.

It would seem the State is in the same position with their excess lands as the banks are with their money. Both need people to manage it. The banks, thanks to competition and regulations, do not change their interest rates every five years on committed loans. The State should be forced by law to adopt the same policy and not be allowed to take advantage of their monopoly of State land, or the few dumb tenants they have trapped.

I think that six percent annual rental of the original appraised

value of the land for 55 years would be a fair rental which would enhance development. This would net the State over three hundred percent more income than could be derived from the sale of the lands, plus considerable savings in State administration and litigation costs, plus the return of the land to lease again or re-evaluation of the leases at their expiration, which would be acceptable to the citizens of the State, be they present or prospective leaseholders, or non-leaseholders who none-the-less derive benefits from the money collected.

Regardless of the formula used - whether it be a percentage of the reappraised value every five years, a comparison to private leases, the number of quills on a porcupine divided by pi, or the number of moose in the Mat-Su Valley times the square root, if the total monetary figure exceeds 300 percent of the appraised value of the land at the time of lease, it will not be a fair rental that will enhance development and be acceptable to future leasees.

The problem as I see it, is not the few leasees who now hold State leases. They are insignificant. It is restoring the credibility of the State as a monopolistic landlord, and creating a workable policy of developing and utilizing a portion of Alaska's millions of acres of land, whether by leasing or selling. The people of this State cannot afford, and will not allow this, or any other administration, to lock up their 100 million acres of land in a non-productive policy. A percentage of it must be made productive to support the parks, animal habitats, scenic lands, wild rivers, and so forth.

Senator Stevens newsletter is attached, informing us of an amendment signed by President Ford with regard to Federal leasing in Alaska. The law will allow individuals to gain a right to and an interest in federal lands by actively working to develop and use the land productively. I intend to find out what their lease policy is.

Addressing the 30 day default clause of the lease; I, and other leaseholders have paid our lease rentals for about 20 years and have invested millions of dollars in improvements and have borrowed large sums from banks for development of our leases. Surely our credit has been established beyond thirty days! There are many justified occasions for not being able to meet this 30 day default clause in a 55 year lease. Death, mental or physical health difficulties, temporary memory loss, temporary or permanent financial ability, lack of communication, or the States unfair interpretation of the fair rental value, to name a few. I would recommend that the 30 day default be changed to the same rules the banks or the public comply with. Foreclosure through legal procedures, then sale of the lease and improvements with the balance of the money derived from such sales, minus state expenses, reverting to the leasee.

With regard to the adjustment of rents, the State method this time was an April 1 notice of future re-appraisal and a retroactive bill dated June 7th, that I owed \$15,403.00 by August 1st. This not only made it improbable that the leasee could comply, but also locked the State into a figure they will not easily recind. I think the State would be more justified if they gave six months notice and explained why, and the method used, to increase rentals, and accepted input,

and in general considered their leasees ability to comply. Many years ago I anticipated some difficulty in meeting my obligations to the bank, and consulted them on this. I was told not to worry, if necessary I could make interest payments only for a period of time, or make lesser payments over an extended period of time. Fortunately I did not have to do either. But I feel both the leaseholder and the State would benefit from a negotiation clause, similar in principal, written into each lease. The land policy of the State, if not changed or altered, has been and will be, more devastating to the State and its present leasees than the 1964 earthquake. High prices are caused by the scarcity of land, which is caused by the State.

In closing, I would like to state that I have been an Alaskan since 1941 with continual residence except for my years in service from 1943 to 1946. The last 20 years I've worked to improve this leased land and now have several substantial buildings, tho I owe the bank over \$400,000.00 in personal guaranteed loans. I've worked hard. I've provided for increases such as inflation and taxes, but who of us can afford 850 percent increases? We who have paid many times the original value, held it, and improved it, should be entitled to justice. It seems impossible that 20 years of work and investment can be wiped out with one stroke of a pen - in this country! Particularly so, when it does not appear beneficial to the State government, or her resident Alaskans.

Ask yourself if the present land rental is fair and will enhance development. If the answer is yes, I am quite sure all leases in Section 16 are available for a "steal". If the answer is no, will you help us change it?

Thank you.

Joe Wilhour
Box 740
Wasilla, Alaska 99687
Phone 376-5601



THE FIRST NATIONAL BANK OF ANCHORAGE

June 18, 1976

Mr. Joe Wilhour
Anchorage, Alaska

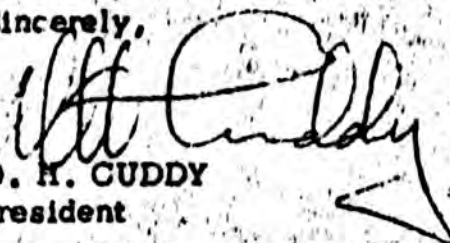
Dear Mr. Wilhour:

We have reviewed your informal request to consider financing a new building on Commercial Row, the loan to be secured by an assignment of the State land lease and the building placed on the lease.

At this time it is impossible for us to give you a commitment for construction until we can confirm what the future rental on the building will be. We have reviewed the other financing that we have done for you on your property and find that the quarterly rent has been raised from \$996.00 to \$8,200.00, an increase of 850%. A further review of the lease indicates that every five years it can be similarly raised.

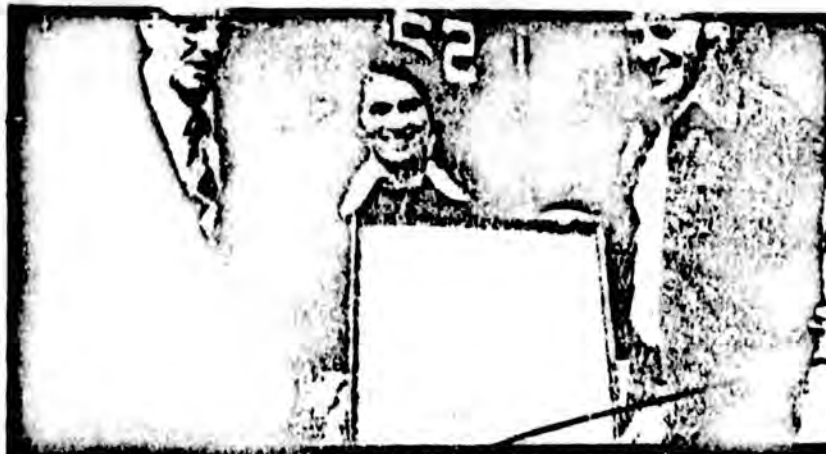
Under these circumstances, it is impossible for us to guess what the future land rentals will be, and therefore, unless you are able to secure a lease of an equal term to the mortgage wherein the tenant agrees to pay the increased land rental, it will be impossible for us to advance the credit requested.

Sincerely,


D. H. CUDDY
President

DHC:mh

STEVENS FOR ALASKA
SENATOR STEVENS



SON
Steve
New
Letter

TIONAL PARK -- Claudia Louis, a member of the Washington, D.C. staff, presents the ceremonial pen used by President Ford to sign S. 98, the Klondike Park bill, into law to Mayor John Edwards (right) of Skagway and Ward A. Hisman (left), Superintendent of the White Pass & Yukon Route Railway.

BLM Bill

President Ford has signed a bill which will allow Alaskans to continue to use public lands to build homes, farms, or trade or manufacturing concerns, under provisions added to the bill in the Senate by Senator Stevens.

The amendment allows the Secretary of the Interior to grant long term leases for habitation, cultivation, trade or manufacturing on the lands.

The National Resource Lands Management Act, S. 507, also known as the BLM Organic Act, repeals homesteading in 10 years and this amendment was needed to enable individuals to continue to use and develop public lands, despite the repeal of homesteading laws.

The authority of the new law -- designed to provide for the management, protection and development of public domain lands not committed to other uses -- extends to the unreserved federal land in Alaska remaining after Alaska Native Claims Settlement Act and Statehood Act withdrawals are made.

It was pointed out that the passage of this law with this amendment will provide some type of incentive for people to come in and carve a livelihood out of the wilderness. The law will allow individuals to gain a right to and an interest in federal lands by actively working to develop and use the land productively.

The leases could be used to build new communities, farms, small saw mills and small manufacturing plants needed in isolated rural areas.

Mid-Decade Census Law

A bill which could mean substantially increased federal funding for Alaska from programs based on population has been signed into law by President Ford.

The bill, cosponsored by Senator Stevens, authorizes a national census and July 1, 1975, Alaska's population increased by 16.3 percent. An official census every five years would allow this rapid change to be reflected in federal funding and programs.

The Office of Management and Budget estimates that about \$39 billion in federal funds are distributed every year to the states according to formulas based on population.

Wonder what the Lease policy is?

IN SUPPORT OF THE LEASEHOLDERS BILL

In support of the 6% annual rental rate, I would like to request you re-read the Hearing Panel Proposed Decision and Recommendations, page 12, ¶4, which quite clearly defines our position.

The total lease rental for the 55 year period proposed in our bill would amount to \$379,411.00. This is 5.78 times the 1975 appraised value, or 75.88 times the 1958 appraised value. Under SB#159, the total lease rental for the 55 yr. period would amount to over three million dollars. This is 45 times the 1975 appraised value, or approximately 600 times the 1958 appraised value.

In my opinion, our bill provides the maximum rental to be beneficial to all concerned; an excellent return to the State, a fair settlement to the existing State leaseholders, a fair opportunity for future leaseholders, as well as the maximum rental allowable to encourage development and bank financing. Whereas SB#159 is not beneficial to all concerned. It is a maximum return to the State from current leaseholders with existing improvements, from 10 to maybe 15 years when they will be forced to give up their leases, it is not a fair settlement to the existing leaseholders, it is not a fair opportunity to future leaseholders, it will not encourage development, and it is not acceptable to the banks for financing.

I would also suggest the elimination of the floating easement be added to SB#159, as recommended by the Hearing Panel on page 19, ¶5 of their report.

Joe Wilhour

ALASKA INDUSTRIAL SUBDIVISION LEASEHOLDERS ASSOCIATION

EFFECT OF ALASKA LEASEHOLDERS ASSOCIATION PROPOSED BILL ON MY PROPERTY
 LOCATED BLOCK 3, LOT 7A, ALASKA INDUSTRIAL SUBDIVISION. LOT SIZE
 APPROXIMATELY 64,000 S. FT. APPRAISED AT \$65,640.00 TO BE REAPPRAISED
 1978.

<u>TERM</u>	<u>1 INC TERM</u>	<u>3 ORIG VALUE</u>	<u>NEW APPRAISED VALUE</u>	<u>LEASE PAYMENTS</u>	<u>ACCUMULATED COST TO LEASEE</u>
1-25	0%	100%	\$ 65,640.00	\$ 19,700.	\$ 98,500.00
25-35	50%	150%	98,660.00	59,196.	157,696.00
35-45	50%	225%	147,990.00	88,794.	246,490.00
45-55	50%	337.5%	221,535.00	132,921.	379,411.00

1. Above is MAXIMUM
2. Rates are compounded
3. When lease finished, leasee will have paid 5.78 times value
 (379,411 ÷ 65,640)

TO: Senator Croft

FR: Jamie Love

RE: SB 159

2/22/77

As promised, I am providing you with comments on SB 159, which would change the state's leasing policies with regard to the methods of determining annual rents. As you are surely aware, rental readjustments on state leased lands have become quite a controversial subject. This first manifested itself in highly publicized transactions such as the Teamster's Mall lease and the Penney lease near Merrill field. In both cases leaseholders had obtained choice properties at rents substantially below market prices. One key provision of both leases was the state's waiver of rental increases for a period of forty years.

In response to these and other transactions, the legislature amended Title 38 last year to restrict the discretion of the Department of Natural Resources to give such waivers, except on properties developed for residential purposes. Also enacted was legislation which established a formal trust for all school lands, and gave the State Board of Education independent authority over the Division of Lands to insure that leasing policies protected the interests of the School Trust Fund. The State Board of Education and its chairwoman, Katie Hurley, have taken their new responsibilities very seriously and have educated themselves about the land leasing business thoroughly.

At the same time the Teamster and Penney leases were being addressed, it became clear that the state's entire leasing program was in serious trouble. Not only were those two transactions providing less than adequate rents to the state, but the Division of Lands was discovered to have been routinely under-appraising its properties and using out-of-date percentages on its rental readjustments. In 1975, the Division of Lands was leasing lands for a readjusted rental figure of six percent of the appraised value of the land, while most leases in the private market had been using eight percent and higher for some time. When asked to account for the six percent figure, Division of Lands officials could not explain why it was being used. Most thought that six percent was called for either in the lease or the regulations, but it appeared neither there nor anywhere else. The combination of the six percent figure and the underappraisal for old and new leases alike resulted in returns vastly below market values.

Because the rents were so low, potential leaseholders were willing to pay substantial bonuses to take over leases from previous leaseholders. In one transaction, a party paid the

old leaseholder more than \$250,000. for an assignment of a 20 acre tract of school land near downtown Anchorage. Bonus payments of this type were not uncommon, since the ADL practice of collecting low rents was well established under the Kennan administration.

After the Hammond administration cancelled the Teamster lease, and renegotiated the Penney lease, it undertook an overhaul of rent readjustment practices. Lease properties were appraised at market value and rents were adjusted to eight percent of the appraised value of the land. At that point in time land values all over Alaska were skyrocketing. Properties in Kenai, Wassila and Anchorage were appreciating anywhere from 300%-1000% during the period 1971-1976. Consequently, the combination of raising rental rates from six to eight percent, which represented a 33% increase, and more realistic appraisals, which increased the basis on which the eight percent was applied, resulted in rental increases of 400%-1000% for some leaseholders.

Such a dramatic change in the lease rents brought cries of outrage from the leaseholders, who had analyzed the viability of the state's leasing program more in terms of its past history than in terms of the leases themselves. Despite the hardships and problems that the sudden increase in rents caused, ADL maintained that the division was without legal authority to offer relief since the higher rents were just the result of the ADL staff applying the actual terms of the leases and obeying state statutes.

Many of the problems cited by the leaseholders were valid. Thinking that the state would continue as it had in the past, many leaseholders found the investments they made in buying old leases effectively wiped out, since the bonus represented the discounted cash value of below market rents. Other leaseholders had not developed their properties to the extent necessary to pay the new rents in anticipation of further subsidies by the state. Leaseholders found that financial institutions were leery of bankrolling projects on state leased lands in light of the large increases, which the bankers perceived as an indication of instability in the management of the leasing program. This "hands off" policy by bankers made it doubly hard for leaseholders to develop their properties to higher uses which would support the new rents.

As a result of these developments, the leaseholders began petitioning the ADL and the legislature for some relief. For several months ADL did not deal with the problem, which only added to the outrage felt by the leaseholders. The angier they got, the more extreme their "reform" proposals became, including some suggestions for blanket level term rents for all existing leaseholders and other major changes in leaseholder's obligations.

In the fall of 1976, the Hammond administration responded to the growing crisis by appointing an Ad Hoc task force for land disposition practices. Appointed to this committee were various representatives from the business, banking and professional communities, a representative from the leaseholders, and a public interest representative (myself). Meeting weekly for five months, the Ad Hoc committee heard countless hours of testimony from the leaseholders, the ADL staff, professional appraisers and the public at large. At this time, the committee is nearing its goal of recommending to the legislature and the Division of Lands proposed changes in its leasing policies, with provisions for relief for existing leaseholders.

In doing its work, the Ad Hoc committee sought to:

- 1) recommend leasing terms as closely parallel to the private leasing market as possible;
- 2) determine if the state had a moral responsibility to negotiate new terms for old leaseholders; and
- 3) to protect the interests of the state's taxpayers.

On the first goal, the committee reviewed the terms of approximately fifteen private leases currently let in the Anchorage area. The committee analyzed not only the rent readjustment periods and percentages, but also looked at right of way and condemnation clauses, subordination and security assignment and many other elements of both private and state lease instruments.

In the process of its work, it became apparent to the committee that different types of land use dictated different lease terms. For example, where it is common for a commercial or industrial lease to provide for five year reappraisal periods, residential properties are often leased for flat terms. Also, recreational and agricultural properties seemed to call for different treatment than commercial/industrial properties. To deal with this problem, the committee recommends four different lease forms, one for each different use. Since the commercial/industrial leases seemed to present the most pressing problems, the committee addressed that area first, and has finalized a recommended leasing form.

The major changes which the committee recommends, insofar as your legislation is concerned, is the establishment of fixed rent readjustment percentages in the lease document, and limitations on rent increases. Looking at the first issue, the committee found that leases in the private market use the figure of eight percent for properties leased recently. But the leases

do not say eight percent today and whatever the going rate is in five years. In other words, although eight may be the market today, and ten could be the market tomorrow, the lease would still charge only eight percent for the entire term of the lease. This is an important difference from the state lease form, which allows the percentage to be varied at each reappraisal period. The committee could find no examples of leases in the private market which used the states system. Hence, the committee recommendation is for a fixed percent in the lease document itself.

Based upon the committee's analysis of actual lease documents in the private market, and in particular recent leases which may be more sophisticated, the committee recommends limitations on rent increases of 100 percent every five years. This, the committee felt, was the closest parallel to the terms of private market leases, and, in the opinion of the committee, provided enough certainty to allow for longterm financing on leasehold properties.

The committee also decided that the state did have a moral obligation to offer the existing leaseholders the opportunity to exchange existing leases for the new one. The committee felt this could be justified on the basis of the hardships created for leaseholders by the vague and outdated language of the old forms (unchanged since statehood), and by virtue of the benefits which would accrue to the state through renewed confidence in the state's leasing program.

To put it simply, the committee will recommend this: All current leaseholders will be give a period of time to swap their old leases for the new ones. As a condition of the exchange, the leaseholders would have their properties reappraised, except for leases which had been reappraised within the past two years. The percentage of the appraised value of the lease would be the percent which represented the market at the time the lease was entered into. For example, a lease entered into around 1965 might have the rent readjusted to six percent of the appraised value of the land, while a lease entered into in 1974 might use the eight percent figure. Whichever figure was used would then be written into the lease. As mentioned earlier, leases would have ceilings on prospective rent increases of no more than 100 percent every five years during the lease term.

A suggestion was made to go back to the original beginning of each lease and apply the limits forward to current rents, but this was rejected by the committee. First of all, there was no evidence that current appraised values would create unfair hardships, if the fixed percentages and ceilings were applied as explained above. Second, and more important, the committee found persuasive evidence that it would be grossly unfair to the state's taxpayers if the ceilings were applied retroactively.

The reason such a practice would be unfair is the state's historic failure to charge realistic rents on its lands, leasing decisions which placed land on the market before it had more than a nominal value, and mismanagement by previous administrations. For example, in 1974, the same month as the capitol move vote, ADL leased 2400 acres of land five miles from the proposed site of the new capitol, at rents established in a 1971 appraisal. The old appraisal had set the rents at \$6-\$14 per year, per acre. To retroactively apply rent ceilings would be tantamount to just giving away 2400 acres of University trust lands. This is only one of many examples of gross mismanagement by the state which has provided windfalls in the past. To retroactively apply the rent ceilings would be to indiscriminately give away legitimate state interests in thousands of acres of university, school and mental health trust lands.

SB 159 is similar to the Ad Hoc Committee's approach in many ways, but there are a few areas that should be examined. The bill establishes a figure of 8 per cent, as the maximum rate for readjusting rents. First of all, as previously stated, the terms of commercial and industrial leases might be substantially different than the terms of residential or agricultural leases. But more important, by using a figure which represents today's market of 8 per cent for most commercial leases, the act would lock the state into an inflexible system. 8 per cent may be alright today, but it might be considerably out of touch with market values in the future. Likewise, although 8 per cent may represent a market figure for Anchorage or Fairbanks, or other areas of long term sustained growth, the state might be better off using a figure of 10 to 14 per cent for leases in some area undergoing a short term boom. The higher rate might represent the market in an area that offers a short term economic life for the lease. Under the Committee's proposal, the rate would be fixed in the lease form itself, at the rate the market would bear at the time the lease was entered into.

The simplest approach would be to examine the recommendations of the Ad Hoc Committee, and if satisfactory, enact legislation which would permit ADL to offer an election to leaseholders, to enter into the new lease forms, similar to the mechanism established in Sec. 4 of SB 159, except providing that all appraisals should be current within two years, and in the absence of a current appraisal, the election could be made at the next reappraisal period.

114

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TO: CINDY, JNU
FROM: APRIL, FBX

PLEASE DELIVER THE FOLLOWING MESSAGE TO SENATORS BUTROVICH
AND HUBER:

MESSAGE: JUST RECIEVED A COPY OF SB 159 RE: LEASING OF
STATE LAND. TRUST LANDS ARE NOT SPECIFICALLY MENTIONED BUT
MUST ASSUME THE BILL APPLIES TO THEM. THE STATE BOARD OF
EDUCATION, AS THE TRUSTEE OF SCHOOL TRUST LANDS, HAS SOME CONCERNS
ABOUT CURRENT LEASING POLICIES AND WOULD LIKE TO REACT TO ANY
BILLS DEALING WITH LEASING OF STATE LANDS, ESPECIALLY THE SCHOOL TRUST
LANDS. WE WILL COMMENT ON SB 159 IN THE NEAR FUTURE.

DARWIN HEINE
VICE CHRMAN, STATE BD OF EDUCATION
1506 DENALI WAY, FBX 99701
PH: 456-5722

PLEASE ACK WHEN MESSAGE DELIVERED. THANKS. /A/ EOM

February 22, 1977

Jay S. Hammond, Governor
Pouch A
Juneau, AK 99811

Dear Governor Hammond: .

The Ad Hoc Committee on land policies and procedures has met on a weekly schedule since late October. We have addressed many problems dealing with the administration of the state's land patrimony. Many of these problems need resolution through the legislative process. Accordingly we are submitting these following recommendations as an interim report of the Committee, in the hope that the legislature may act during its current session.

Recommendation #1

The committee recommends that the State adopt a system of level payments in place of declining payments in its sales contracts. The system of level payments is in common use in the business world, and the payment figures are easily set forth in a contract. The disadvantage of the present method is that interest must be recalculated every year and the payments decrease each year. From both the State's and the buyers' viewpoints, the level payment method would be preferred. The State would receive slightly more in interest payments over the contract terms and the buyer would not have to make as high initial payments.

Section 2 & 3 of the attached draft bill would accomplish this.

Recommendation #2

The committee recommends that the State charge a market rate of interest in its sales contracts. The interest rate, at present 6%, is below market levels and may have contributed to inflated prices at state land sales. By setting interest rates at market levels, the State would help prevent inflated land prices and at the same time return more income to the State. To provide for a market rate of interest in sales contracts, no change in AS 38.05.065 would be required. The addition of a statement of market rate in this statute would be desirable, however.

Section 3 of the attached draft bill would accomplish this.

Recommendation #3

The Committee recommends that all sales contracts over \$400.00 per year have the option of paying in quarterly installments instead of annual installments. It is the committee's belief that this would ease the financial strain on the buyer and yet not add significantly to the State's administrative costs.

Section 3 of the attached draft bill would accomplish this.

The committee recommends that the Director be given the authority to set the payment period from one to twenty years. This type of flexibility would allow the State and buyers greater market possibilities.

Section 3 of the attached draft bill would accomplish this.

Recommendation #5

The committee believes that the word "primarily" may imply special consideration to some lessees. In order to treat all lessees fairly and equitably the committee recommends that the word primarily be stricken. Deleting "primarily" would clarify the basis for reappraisal. This recommendation is also made by the hearing panel on the Alaska Industrial Subdivision leasing protest.

Section 8 of the attached bill will accomplish this.

Recommendation #6

Since public notice is covered in AS 38.05.345 the change to "appraisal" for AS 38.05.310 is warranted by its present content. The committee recommends that land may be appraised 120 days in advance of a sale or lease. The change from 90 to 120 days would be desirable in that minimum bid information could be given to the public well in advance of the actual sale or lease auction.

Section 10 of the attached draft bill will accomplish this.

Recommendation #7

The committee recommends that land offered over the counter be reviewed at 90 to 120 day intervals to determine if an increase in value has occurred. This review is desired so that parcels are not undervalued by progressive changes in the market.

Section 10 of the attached draft bill would accomplish this.

Recommendation #8

The committee recommends that in Title 38.05 of the statutes the terms "fair market value" be used in place of "fair appraised market value" and "market value." The meaning is meant to be the same in all cases. The committee would like to see one standard term used to avoid confusion and misunderstanding.

Sections 4, 5, 7, & 13 of the attached draft bill would accomplish this.

Recommendation #9

The duration of a lease and the economic life of substantial improvements, such as stores or factories may not coincide. In order to see that state leased land is used in a rational economically productive manner the committee recommends that lessees of long-term leases be given a renewal option for up to fifteen years. This type of option would grant the lessee more flexibility in maximizing

would also increase the lessee's planning possibilities for use of the leased ground. This action would also soften the impact of termination of the lease. Specifically, this would permit a lessee to work substantial repairs to a building when the remaining term of the lease would not otherwise justify it.

Section 6 of the attached draft bill would accomplish this.

Recommendation #10

In order to provide a uniform 55 year limit for all long-term leases the committee recommends deletion of the 99 year provision found in 33.05.070(c) for school lands.

Section 6 of the attached bill would accomplish this.

Recommendation #11

The committee believes that state trust lands (school, mental health, and university) are now and have been managed at a low intensity. These lands may be returning only a fraction of their potential value that could be realized by a small full time management staff. The Division manages, these lands at no charge to the various trust funds and receives no reimbursement for its services. Therefore, it has traditionally placed low priority on management of these lands. This committee recommends that the State Legislature authorize each trust board the authority to freely contract with any agency or private firm for the management of its lands for revenue production in accordance with the state's land act.

Section 1 of the attached draft bill would accomplish this.

Recommendation #12

To provide the lessee insurance against a land boom or unexpected increase the committee recommends that rental increases at the five-year reappraisal periods not exceed 100% of the prior existing annual rental rate. This action would increase the predictability of the lessee's payments. The stability thus created would add significant borrowing power for the lessee to finance improvements on the leased ground. Mr. Mack of this committee does not concur and believes that 100% is too high a ceiling.

Section 8 of the attached draft bill would accomplish this.

Recommendation #13

The Division of Lands has had many protests from private parties over the past few years leading the committee to believe that a board of appeals is highly desirable and needed, at this time. At present there exists no arbitration board or board of appeals to handle appeals allowed by Division of Lands regulations. The creation of a board of appeals would effect a responsive mechanism for solving most problem cases arising out of Division of Lands transactions that affect private parties. The board of appeals would be faster and less costly to private parties than legal recourse, which would still be available. The board is structured to maintain adequate expertise while attempting to eliminate bias in favor of the

Division of Lands. The appeal would be handled
the present appeal process.

Section 14 of the attached draft bill would accomplish this.

Recommendation #14

The current procedures for informing the public of state lands transactions are covered in AS 38.05.305 and AS 38.05.345. The two procedures do not mesh in a clear manner. The committee recommends that the procedures be clarified in a manner that will be flexible enough to inform the public fully and yet not require multiple advertising for minor negotiated transactions.

Section 11 of the attached draft will accomplish this.

Recommendation #15

To implement the new lease provisions recommended by this committee new lease forms for various types of leases will be required. It is the committee's recommendation that the Division draft new lease forms to comply with the statutes adopted, and that the new forms be reviewed by this committee.

Recommendation #16

At present many lessees are suffering hardship due to rent increases of several hundred percent. To provide for this relief and as a curative for such future increases the statutory provisions found in section nine are recommended. Provision for optional conversion of present leases to ones that will place a ceiling of 100% on rental increases every five years will largely prevent future hardship cases and resolve satisfactorily the present cases. With a rent ceiling lease rental increases will be more predictable resulting in more financial stability for the lessee. Mr. Mack does not concur with the limitation of 100%.

Section 8 & 9 of the attached draft bill will accomplish the above recommendations.

Recommendation #17

The committee recommends that the Legislature apply the provisions found in Title 38 to those in Title 3 and Title 19. The rationale would be to make land laws uniform between the Division of Aviation, Department of Highways and Division of Lands.

Recommendation #18

To comply with new statutes the committee recommends a major overhaul of Division of Lands regulations. The committee has found many of the regulations now in effect to be outdated and superseded by statutes.

Recommendation #19

The committee recommends that the State be given more flexibility to resolve contract of sale violations. This is necessary to prevent foreclosure as the

only remedy for minor contract violations.

Section 3 of the attached bill will accomplish this.

The committee wishes to note that in the course of public testimony it was apparent that Division of Aviation lessees had significant problems with their current leases. This subject was not within the scope of the committee's deliberations and, therefore, not addressed.

The committee wishes to emphasize that this is an interim report and will be followed by additional recommendations not necessarily involving legislative actions.



THEODORE G. SMITH
Co-chairman

Committee Members:

Hugh Gellert, Co-chairman
William Mack
John Norman
Lidia Selkregg
Janie Love
Carl Marrs
Clark Gruening
Mike Colletta
Herb Lang
David McCabe

IN THE

BY RULES COMMITTEE BY REQUEST
OF THE GOVERNOR

BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to state lands and providing for
an effective date."

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

* Section 1. AS 38.05.030 is amended by adding a new subsection to read:

Section 38.05.030 (f). Notwithstanding the provisions of (a) and (e) above and 38.05.035 (a)(13), the trustees of state trust lands may manage or contract with any agency, public or private, for the management of trust lands pursuant to the provisions of this chapter. Costs of such management shall be borne by the respective trusts.

* Section 2. AS 38.05.055 is amended to read:

Section 38.05.055. SALE PROCEDURES. Except as provided in Section 315(d) of this chapter, the sale shall be made at public auction to the highest qualified bidder as determined by the director. An aggrieved bidder may appeal to the commissioner within five days after the sale for a review of the director's determination. The sale shall be conducted by the director or his representative, and at the time of sale the successful bidder shall deposit an amount determined by the director but not less than 5% (EQUAL TO ONE-TENTH) of the purchase price. The director or his representative shall immediately issue a receipt containing a description of the land or property purchased, the price bid, and the terms of sale, which receipt shall be acknowledged in writing by the bidder. A contract of sale on a form approved by the attorney general shall be signed by the purchaser and, after approval of the commissioner, the contract shall also be signed by the director on behalf of the state.

* Section 3. AS 38.05.065 is amended to read:

Section 38.05.065. TERMS OF CONTRACT OF SALE. The contract of sale shall require the remainder of the purchase price to be paid over a period

of not more than 20 years, which shall be set for each sale by the director.
Installment payments plus interest will be set on the level payment basis
over the payment period. The interest rate charged on installment payments
shall be the prevailing rate on similar land transactions at the time the contract
is signed, as determined by the director, but in no case shall it be below
5% per year or above the current usury rate as set by AS 45.45.010(b) and (d).
(IN ANNUAL INSTALLMENTS OF NOT LESS THAN 10 PER CENT OF THE PURCHASE PRICE,
WITH INTEREST AT THE RATE OF NOT LESS THAN FIVE PER CENT A YEAR.) The
director, with the consent of the commissioner, may also impose conditions,
limitations, and terms which he considers necessary and proper to protect
the interest of the state. Violations of any provision of this chapter or
the terms of the contract of sale subject the purchaser to appropriate
administrative and legal action, including but not limited to specific
performance, foreclosure, ejectment, or other legal remedies in accordance
with applicable state law. (LEGAL ACTION, INCLUDING A FORECLOSURE ACTION
IN ACCORDANCE WITH APPLICABLE STATE LAW.)

* Section 4. AS 38.05.067(b) is amended to read:

Section 38.05.067(b). The director shall not sell the lands under this
section at less than their fair (APPRAISED) market value. The director shall
make regulations necessary to ensure that lands sold under this section are
for bona fide residential use and not for speculation.

* Section 5. AS 38.05.068(a) is amended to read:

Section 38.05.068(a). FOREST SERVICE PERMITTEES' SALES PREFERENCE.
Before offering to the public any land which is subject to a valid existing
United States Forest Service permit in effect in a state-selected area at
the time the area was patented to the state, or which is subject to a lease
issued under Section 87 of this chapter, the director shall offer the land
for sale to the permittee or his successor in title, if he can be found, at
not less than its fair (APPRAISED) market value before offering to the
general public.

* Section 6. AS 38.05.070(c) is amended to read:

Section 38.05.070(c). A lease may be issued for a period of up to 55
years, if it appears to be in the best interest of the state and if the
commissioner approves. A lease for a period in excess of 25 years shall grant
the lessee an option entitling him to extend the term of the lease for up to
3 consecutive five year periods in addition to the original term. If the Commissioner
determines that the land or a part of it which is the subject of a grazing

lease is not being used for the purpose issued, the lease may be declared void. (HOWEVER, A NONRENEWABLE LEASE FOR SCHOOL LANDS MAY BE ISSUED FOR A PERIOD NOT TO EXCEED 99 YEARS.)

* Section 7. AS 38.05.087(a) is amended to read:

Section 38.05.087(a). FOREST SERVICE PERMITTEES' LEASING PREFERENCE.

Before offering to the public any land for lease which is subject to a valid existing United States Forest Service permit in effect in a state-selected area at the time the area was patented to the state, the director shall offer the land for leasing to the permittee at not less than its fair (APPRAISED) market value before offering it to the general public.

* Section 8. AS 38.05.105 is amended to read:

Section 38.05.105. Each lease shall stipulate that the annual rental payment is subject to adjustment at five year intervals and shall be based (PRIMARILY) on a reappraised annual rental value. Any increase due to reappraisal may not exceed 100% of the annual rental for the preceding 5 year period. However, if the director of the division of lands determines that residential development is the best use for the land, the reappraisal period may be lengthened or the readjustment waived in accordance with regulations adopted by the commissioner. Before a waiver of rental readjustment is issued, the land shall have a current reappraisal. A waiver is valid only if residential development actually occurs, and only if it is necessary for obtaining primary long-term financing. The regulations adopted under this section shall ensure that the state receives a fair return from the land.

* Section 9. AS 38.05 is amended by adding a new paragraph to read:

Section 38.05.106. CONVERSION OF LEASES. (a) Any person holding a valid lease as lessee of lands from the State under provisions of AS 38.05.070 - .105, or as an approved assignee of such lessee under the terms of such lease, may, at his option, convert his lease so as to obtain certain benefits, enumerated in subparagraph (b) below, which were not available to him at the date his lease was originally entered, if the lessee at the time of conversion makes all payments due under the conversion rate and is not in violation of any other lease provision.

(b) Those lease benefits which shall be made available to a lessee qualifying under subsection (a) of this section shall be all of those lease provisions authorized or made applicable by this act to new leases entered into by the State after the effective date of such statutes.

(c) The effective annual rental value at conversion shall be based on the most recent reappraisal provided that such reappraisal was within 2 years of the effective date of this act. In all other cases, the conversion shall be based on the next reappraisal.

(d) Any conversion as to trust lands shall be effective only if approved by the appropriate board of trustees.

(e) Applications for conversion must be made within 3 years of the effective date of this act.

* Section 10. AS 38.05.310 is amended to read:

Section 38.05.310 (NOTICE AND) APPRAISAL. (a) No land may be sold or leased, or a renewal lease issued (WITHOUT PUBLIC NOTICE) except in the case of an oil or gas or mineral lease, unless it has been appraised within 120 (90) days before the date of (FIXED FOR THE) sale or lease. (WHEN LAND IS OFFERED AT PUBLIC SALE BUT IS NOT SOLD AND IS AVAILABLE) For over the counter sale (AT THE PRIVATE SALE, NO) an (RE)appraisal is required unless the director finds (CONSIDERS) that a change in value of the lands has not (MAY HAVE) occurred. A grazing lease may be granted to a lessee of federal grazing lands without prior appraisal, if his federal lease was cancelled to allow the state to select the lands under lease. No land may be sold or leased for less than fair (THE APPROVED, APPRAISED) market value, except as provided in .315 and .320 of this chapter and .75 - .85 of this chapter. No land or interest in land may be sold, leased, or otherwise disposed of without public notice.

(b) When land is offered at public sale but is not sold, it may be available for sale over the counter. The director shall review the list

of lands available on a quarterly basis and shall certify that there has been no change in value since the last reappraisal. If an increase in value occurs in any parcel, the director shall withdraw that parcel from sale over the counter.

* Section 11. AS 38.05.345(a) is amended to read:

Section 38.05.345(a). Public notice of an auction sale (LEASE OR OTHER DISPOSAL) of land or interest in it shall be substantially as follows.

* Section 12. AS 38.05.345(e) is amended by adding a new subparagraph to read:

Section 38.05.345(e) Public notice of an action other than as specified in paragraph (a) above shall conform to the requirements of AS 38.05.305 and this paragraph. Such notice shall, when given pursuant to AS 38.05.305(c), be published at least once in a newspaper of general circulation in the vicinity in which the land affected by the proposed activities is located.

* Section 13. AS 38.05.365 is amended by adding a new subparagraph to read:

Section 38.05.365. "Market Value" or "Fair Market Value" means the highest prices, estimated in terms of money, which the property would bring if exposed for a sale for a reasonable time in the open market, with a seller, willing but not forced to sell, and a buyer, willing but not forced to buy, both being fully informed of all the purposes for which the property is best adapted or could be used.

* Section 14. AS 38.05 is amended by adding a new paragraph to read:

Section 38.05.380. STATE BOARD OF LAND APPEALS. (a) The State Board of Land Appeals shall consist of five members, one of whom shall be the Commissioner of Natural Resources or his designated representative. The other members of the board shall be appointed by the governor from the general public, with due regard for the desirability of prior legal, natural resource or real estate training and experience as criteria for selection of public members. All board members are subject to confirmation by a majority of the members of the legislature in joint session.

(b) The director of the division of lands shall provide administrative support for the board.

(c) The governor shall appoint the public members of the board for terms of three years each, except that the initial terms of one of the members first appointed under this chapter shall be for one year and one member for two years. The public members are entitled to compensation

in the amount of \$50.00 per day for each day or portion of a day spent in actual meeting or on authorized official business incident to their duties, and to all other transportation and per diem expenses as provided by law.

(d) Jurisdiction of the board shall extend to all matters arising under the Alaska Land Act (AS 38.05) and the Water Act (AS 46.15) from which an appeal may be taken under statute or regulation to the commissioner from a decision of the director, division of lands. The board in all appeals filed after the effective date of this chapter, shall have the appellate authority formally vested in the commissioner by provisions of the Alaska Land Act. An appeal from a decision of the board, if taken, shall be to the Superior Court.

of a quorum shall be able to render a decision. The board shall adopt regulations governing its procedures, and may adopt other regulations which may be necessary or convenient in carrying out the purposes of this chapter.

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 159

Title Leasing of State land other than for extraction of Natural resources

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Natural Resources

Program Category Affected NRMEC

Budget Request Unit(s) Affected Land and Water Management

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GPANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

There would be no change in cost of administration due to this bill.

Revenues would be reduced substantially, especially trust fund revenues (see attached).

IV. DATE February 23, 1977 PREPARED BY Ted Smith

AGENCY Land and Water Management

PHONE 279-5577

Original: Legislative Finance

cc. Budget and Management

Prime Sponsor (First Legislator Named)

LEASE METHOD COMPARISONS

	LEASE (1)	LEASE (2)	LEASE (3)	LEASE (4)
Rent Per Present Law and State Appraisal	(a) \$5,691	\$5,232	\$1,300	\$1,650
Rent Per Lessess Appraisal	(b) \$4,552	\$4,160	N/A	N/A
Rent Per Ad Hoc Committee	a or b	a or b	\$1,300	\$1,650
Rent Per S.B. 159	\$ 930	\$ 800	\$ 120	\$ 270
Lease Commencement	1961	1961	1969	1969
Lease Term	55 yrs.	55 yrs.	55 yrs.	55 yrs.
Location	Anchorage	Anchorage	Susitna Valley	Susitna Valley
Size	14,782 S.F.	18,012 S.F.	40 Ac.	80 Ac.

LEASE NO. 1

Term	(a) Rent By S.B. 159	(b) Economic Rent Per Lessee's Appraisal	(c) Rent Savings (Per Period)	(d) Economic Rent Per State's Appraisal	(e) Rent Savings (Per Period)
76-81	\$ 930	\$4,552	\$18,110	\$5,691	\$23,805
81-86	930	4,552	18,110	5,691	23,805
86-91	1,395	4,552	15,785	5,691	21,480
91-96	2,092	4,552	12,300	5,691	17,995
96-2001	3,138	4,552	7,070	5,691	12,765

Assume: (1) Land value does not rise beyond present value
(2) Economic lease rate does not rise

Column:

- (a) Annual rent for each year under S.B. 159
- (b) Present economic rent as determined by lessees appraisers
- (c) Period rent savings under S.B. 159 (difference between column (a) and column (b)).
- (d) Present economic rent as determined by states appraiser
- (e) Period rent savings under S.B. 159 (difference between column (a) and column (d))

LEASE NO. 3

Term	(a) Rent By S.B. 159	(b) Economic Rent Per State's Appraisal	(c) Rent Savings (Per Period)
76-81	\$120	\$1,300	\$5,900
81-86	120	1,300	5,900
86-91	180	1,300	5,600
91-96	270	1,300	5,150
96-2001	405	1,300	4,475
2001-2006	607	1,300	3,465
2006-2011	911	1,300	1,945

Assume:

- (1) Land value does not rise beyond present value
- (2) Economic lease rate does not rise

Column:

- (a) Annual rent for each year under S.B. 159
- (b) Present economic rent as determined by states appraisal
- (c) Period rent savings under S.B. 159

1) Assume property is valued at
@ \$1000

@ 8% rent for 1st 10 yrs = $\$80/\text{yr}$ or $\$800/10\text{yr}$

2) Assume the property has increased in
value to \$1500

then @ 8% rent for next 5 yrs = $120/\text{yr}$ or $600/5$

~~Rent for 5 yrs~~ which is the maximum
under this bill -

I.e.:

Bill assumes 50% increase in value each 5 yrs -

February 22, 1977

Jay S. Hammond, Governor
Pouch A
Juneau. AK 99811

Dear Governor Hammond:

The Ad Hoc Committee on land policies and procedures has met on a weekly schedule since late October. We have addressed many problems dealing with the administration of the state's land patrimony. Many of these problems need resolution through the legislative process. Accordingly we are submitting these following recommendations as an interim report of the Committee, in the hope that the legislature may act during its current session.

Recommendation #1

The committee recommends that the State adopt a system of level payments in place of declining payments in its sales contracts. The system of level payments is in common use in the business world, and the payment figures are easily set forth in a contract. The disadvantage of the present method is that interest must be recalculated every year and the payments decrease each year. From both the State's and the buyers' viewpoints, the level payment method would be preferred. The State would receive slightly more in interest payments over the contract terms and the buyer would not have to make as high initial payments.

Section 2 & 3 of the attached draft bill would accomplish this.

Recommendation #2

The committee recommends that the State charge a market rate of interest in its sales contracts. The interest rate, at present 6%, is below market levels and may have contributed to inflated prices at state land sales. By setting interest rates at market levels, the State would help prevent inflated land prices and at the same time return more income to the State. To provide for a market rate of interest in sales contracts, no change in AS 38.05.065 would be required. The addition of a statement of market rate in this statute would be desirable, however.

Section 3 of the attached draft bill would accomplish this.

Recommendation #3

The Committee recommends that all sales contracts over \$400.00 per year have the option of paying in quarterly installments instead of annual installments. It is the committee's belief that this would ease the financial strain on the buyer and yet not add significantly to the State's administrative costs.

Section 3 of the attached draft bill would accomplish this.

Recommendation #4

The committee recommends that the Director be given the authority to set the payment period from one to twenty years. This type of flexibility would allow the State and buyers greater market possibilities.

Section 3 of the attached draft bill would accomplish this.

Recommendation #5

The committee believes that the word "primarily" may imply special consideration to some lessees. In order to treat all lessees fairly and equitably the committee recommends that the word primarily be stricken. Deleting "primarily" would clarify the basis for reappraisal. This recommendation is also made by the hearing panel on the Alaska Industrial Subdivision leasing protest.

Section 8 of the attached bill will accomplish this.

Recommendation #6

Since public notice is covered in AS 38.05.345 the change to "appraisal" for AS 38.05.310 is warranted by its present content. The committee recommends that land may be appraised 120 days in advance of a sale or lease. The change from 90 to 120 days would be desirable in that minimum bid information could be given to the public well in advance of the actual sale or lease auction.

Section 10 of the attached draft bill will accomplish this.

Recommendation #7

The committee recommends that land offered over the counter be reviewed at 90 to 120 day intervals to determine if an increase in value has occurred. This review is desired so that parcels are not undervalued by progressive changes in the market.

Section 10 of the attached draft bill would accomplish this.

Recommendation #8

The committee recommends that in Title 38.05 of the statutes the terms "fair market value" be used in place of "fair appraised market value" and "market value." The meaning is meant to be the same in all cases. The committee would like to see one standard term used to avoid confusion and misunderstanding.

Sections 4, 5, 7, & 13 of the attached draft bill would accomplish this.

Recommendation #9

The duration of a lease and the economic life of substantial improvements, such as stores or factories may not coincide. In order to see that state leased land is used in a rational economically productive manner the committee recommends that lessees of long-term leases be given a renewal option for up to fifteen years. This type of option would grant the lessee more flexibility in maximizing

his investment returns, especially during the term of the lease. This would also increase the lessee's planning possibilities for use of the leased ground. This action would also soften the impact of termination of the lease. Specifically, this would permit a lessee to work substantial repairs to a building when the remaining term of the lease would not otherwise justify it.

Section 6 of the attached draft bill would accomplish this.

Recommendation #10

In order to provide a uniform 55 year limit for all long-term leases the committee recommends deletion of the 99 year provision found in 38.05.070(c) for school lands.

Section 6 of the attached bill would accomplish this.

Recommendation #11

The committee believes that state trust lands (school, mental health, and university) are now and have been managed at a low intensity. These lands may be returning only a fraction of their potential value that could be realized by a small full time management staff. The Division manages, these lands at no charge to the various trust funds and receives no reimbursement for its services. Therefore, it has traditionally placed low priority on management of these lands. This committee recommends that the State Legislature authorize each trust board the authority to freely contract with any agency or private firm for the management of its lands for revenue production in accordance with the state's land act.

Section 1 of the attached draft bill would accomplish this.

Recommendation #12

To provide the lessee insurance against a land boom or unexpected increase the committee recommends that rental increases at the five-year reappraisal periods not exceed 100% of the prior existing annual rental rate. This action would increase the predictability of the lessee's payments. The stability thus created would add significant borrowing power for the lessee to finance improvements on the leased ground. Mr. Mack of this committee does not concur and believes that 100% is too high a ceiling.

Section 8 of the attached draft bill would accomplish this.

Recommendation #13

The Division of Lands has had many protests from private parties over the past few years leading the committee to believe that a board of appeals is highly desirable and needed, at this time. At present there exists no arbitration board or board of appeals to handle appeals allowed by Division of Lands regulations. The creation of a board of appeals would effect a responsive mechanism for solving most problem cases arising out of Division of Lands transactions that affect private parties. The board of appeals would be faster and less costly to private parties than legal recourse, which would still be available. The board is structured to maintain adequate expertise while attempting to eliminate bias in favor of the

Division of Lands. The appeal board would substitute for the Commissioner in the present appeal process.

Section 14 of the attached draft bill would accomplish this.

Recommendation #14

The current procedures for informing the public of state lands transactions are covered in AS 38.05.305 and AS 38.05.345. The two procedures do not mesh in a clear manner. The committee recommends that the procedures be clarified in a manner that will be flexible enough to inform the public fully and yet not require multiple advertising for minor negotiated transactions.

Section 11 of the attached draft will accomplish this.

Recommendation #15

To implement the new lease provisions recommended by this committee new lease forms for various types of leases will be required. It is the committee's recommendation that the Division draft new lease forms to comply with the statutes adopted, and that the new forms be reviewed by this committee.

Recommendation #16

At present many lessees are suffering hardship due to rent increases of several hundred percent. To provide for this relief and as a curative for such future increases the statutory provisions found in section nine are recommended. Provision for optional conversion of present leases to ones that will place a ceiling of 100% on rental increases every five years will largely prevent future hardship cases and resolve satisfactorily the present cases. With a rent ceiling lease rental increases will be more predictable resulting in more financial stability for the lessee. Mr. Mack does not concur with the limitation of 100%.

Section 8 & 9 of the attached draft bill will accomplish the above recommendations.

Recommendation #17

The committee recommends that the Legislature apply the provisions found in Title 38 to those in Title 3 and Title 19. The rationale would be to make land laws uniform between the Division of Aviation, Department of Highways and Division of Lands.

Recommendation #18

To comply with new statutes the committee recommends a major overhaul of Division of Lands regulations. The committee has found many of the regulations now in effect to be outdated and superseded by statutes.

Recommendation #19

The committee recommends that the State be given more flexibility to resolve contract of sale violations. This is necessary to prevent foreclosure as the

only remedy for minor contract violations.

Section 3 of the attached bill will accomplish this.

The committee wishes to note that in the course of public testimony it was apparent that Division of Aviation lessees had significant problems with their current leases. This subject was not within the scope of the committees deliberations and, therefore, not addressed.

The committee wishes to emphasize that this is an interim report and will be followed by additional recommendations not necessarily involving legislative actions.



THEODORE G. SMITH
Co-chairman

Committee Members:

Hugh Gellert, Co-chairman
William Mack
John Norman
Lidia Selkregg
Jamie Love
Carl Marrs
Clark Gruening
Mike Colletta
Herb Lang
David McCabe

IN THE

BY RULES COMMITTEE BY REQUEST
OF THE GOVERNOR

BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to state lands and providing for
an effective date."

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

* Section 1. AS 38.05.030 is amended by adding a new subsection to read:

Section 38.05.030 (f). Notwithstanding the provisions of (a) and (e)
above and 38.05.035 (a)(13), the trustees of state trust lands may manage or
contract with any agency, public or private, for the management of trust
lands pursuant to the provisions of this chapter. Costs of such management
shall be borne by the respective trusts.

* Section 2. AS 38.05.055 is amended to read:

Section 38.05.055. SALE PROCEDURES. Except as provided in Section
315(d) of this chapter, the sale shall be made at public auction to the
highest qualified bidder as determined by the director. An aggrieved bidder
may appeal to the commissioner within five days after the sale for a review
of the director's determination. The sale shall be conducted by the director
or his representative, and at the time of sale the successful bidder shall
deposit an amount determined by the director but not less than 5% (EQUAL TO
ONE-TENTH) of the purchase price. The director or his representative shall
immediately issue a receipt containing a description of the land or property
purchased, the price bid, and the terms of sale, which receipt shall be
acknowledged in writing by the bidder. A contract of sale on a form approved
by the attorney general shall be signed by the purchaser and, after approval of
the commissioner, the contract shall also be signed by the director on
behalf of the state.

* Section 3. AS 38.05.065 is amended to read:

Section 38.05.065. TERMS OF CONTRACT OF SALE. The contract of sale
shall require the remainder of the purchase price to be paid over a period

of not more than 20 years, which shall be set for each sale by the director.
Installment payments plus interest will be set on the level payment basis
over the payment period. The interest rate charged on installment payments
shall be the prevailing rate on similar land transactions at the time the contract
is signed, as determined by the director, but in no case shall it be below
5% per year or above the current usury rate as set by AS 45.45.010(b) and (d).

(IN ANNUAL INSTALLMENTS OF NOT LESS THAN 10 PER CENT OF THE PURCHASE PRICE,
WITH INTEREST AT THE RATE OF NOT LESS THAN FIVE PER CENT A YEAR.) The
director, with the consent of the commissioner, may also impose conditions,
limitations, and terms which he considers necessary and proper to protect
the interest of the state. Violations of any provision of this chapter or
the terms of the contract of sale subject the purchaser to appropriate
administrative and legal action, including but not limited to specific
performance, foreclosure, ejectment, or other legal remedies in accordance
with applicable state law. (LEGAL ACTION, INCLUDING A FORECLOSURE ACTION
IN ACCORDANCE WITH APPLICABLE STATE LAW.)

* Section 4. AS 38.05.067(b) is amended to read:

Section 38.05.067(b). The director shall not sell the lands under this
section at less than their fair (APPRAISED) market value. The director shall
make regulations necessary to ensure that lands sold under this section are
for bona fide residential use and not for speculation.

* Section 5. AS 38.05.068(a) is amended to read:

Section 38.05.068(a). FOREST SERVICE PERMITTEES' SALES PREFERENCE.
Before offering to the public any land which is subject to a valid existing
United States Forest Service permit in effect in a state-selected area at
the time the area was patented to the state, or which is subject to a lease
issued under Section 87 of this chapter, the director shall offer the land
for sale to the permittee or his successor in title, if he can be found, at
not less than its fair (APPRAISED) market value before offering to the
general public.

* Section 6. AS 38.05.070(c) is amended to read:

Section 38.05.070(c). A lease may be issued for a period of up to 55
years, if it appears to be in the best interest of the state and if the
commissioner approves. A lease for a period in excess of 25 years shall grant
the lessee an option entitling him to extend the term of the lease for up to
3 consecutive five year periods in addition to the original term. If the Commissioner
determines that the land or a part of it which is the subject of a grazing

lease is not being used for the purpose issued, the lease may be declared void. (HOWEVER, A NONRENEWABLE LEASE FOR SCHOOL LANDS MAY BE ISSUED FOR A PERIOD NOT TO EXCEED 99 YEARS.)

* Section 7. AS 38.05.087(a) is amended to read:

Section 38.05.087(a). FOREST SERVICE PERMITTEES' LEASING PREFERENCE. Before offering to the public any land for lease which is subject to a valid existing United States Forest Service permit in effect in a state-selected area at the time the area was patented to the state, the director shall offer the land for leasing to the permittee at not less than its fair (APPRAISED) market value before offering it to the general public.

* Section 8. AS 38.05.105 is amended to read:

Section 38.05.105. Each lease shall stipulate that the annual rental payment is subject to adjustment at five year intervals and shall be based (PRIMARILY) on a reappraised annual rental value. Any increase due to reappraisal may not exceed 100% of the annual rental for the preceding 5 year period. However, if the director of the division of lands determines that residential development is the best use for the land, the reappraisal period may be lengthened or the readjustment waived in accordance with regulations adopted by the commissioner. Before a waiver of rental readjustment is issued, the land shall have a current reappraisal. A waiver is valid only if residential development actually occurs, and only if it is necessary for obtaining primary long-term financing. The regulations adopted under this section shall ensure that the state receives a fair return from the land.

* Section 9. AS 38.05 is amended by adding a new paragraph to read:

Section 38.05.106. CONVERSION OF LEASES. (a) Any person holding a valid lease as lessee of lands from the State under provisions of AS 38.05.070 - .105, or as an approved assignee of such lessee under the terms of such lease, may, at his option, convert his lease so as to obtain certain benefits, enumerated in subparagraph (b) below, which were not available to him at the date his lease was originally entered, if the lessee at the time of conversion makes all payments due under the conversion rate and is not in violation of any other lease provision.

(b) Those lease benefits which shall be made available to a lessee qualifying under subsection (a) of this section shall be all of those lease provisions authorized or made applicable by this act to new leases entered into by the State after the effective date of such statutes.

(c) The effective annual rental value at conversion shall be based on the most recent reappraisal provided that such reappraisal was within 2 years of the effective date of this act. In all other cases, the conversion shall be based on the next reappraisal.

(d) Any conversion as to trust lands shall be effective only if approved by the appropriate board of trustees.

(e) Applications for conversion must be made within 3 years of the effective date of this act.

* Section 10. AS 38.05.310 is amended to read:

Section 38.05.310 (NOTICE AND) APPRAISAL. (a) No land may be sold or leased, or a renewal lease issued (WITHOUT PUBLIC NOTICE) except in the case of an oil or gas or mineral lease, unless it has been appraised within 120 (90) days before the date of (FIXED FOR THE) sale or lease. (WHEN LAND IS OFFERED AT PUBLIC SALE BUT IS NOT SOLD AND IS AVAILABLE) For over the counter sale (AT THE PRIVATE SALE, NO) an (RE)appraisal is required unless the director finds (CONSIDERS) that a change in value of the lands has not (MAY HAVE) occurred. A grazing lease may be granted to a lessee of federal grazing lands without prior appraisal, if his federal lease was cancelled to allow the state to select the lands under lease. No land may be sold or leased for less than fair (THE APPROVED, APPRAISED) market value, except as provided in .315 and .320 of this chapter and .75 - .85 of this chapter. No land or interest in land may be sold, leased, or otherwise disposed of without public notice.

(b) When land is offered at public sale but is not sold, it may be available for sale over the counter. The director shall review the list

of lands available on a quarterly basis and shall certify that there has been no change in value since the last reappraisal. If an increase in value occurs in any parcel, the director shall withdraw that parcel from sale over the counter.

* Section 11. AS 38.05.345(a) is amended to read:

Section 38.05.345(a). Public notice of an auction sale (LEASE OR OTHER DISPOSAL) of land or interest in it shall be substantially as follows.

* Section 12. AS 38.05.345(e) is amended by adding a new subparagraph to read:

Section 38.05.345(e) Public notice of an action other than as specified in paragraph (a) above shall conform to the requirements of AS 38.05.305 and this paragraph. Such notice shall, when given pursuant to AS 38.05.305(c), be published at least once in a newspaper of general circulation in the vicinity in which the land affected by the proposed activities is located.

* Section 13. AS 38.05.365 is amended by adding a new subparagraph to read:

Section 38.05.365. "Market Value" or "Fair Market Value" means the highest prices, estimated in terms of money, which the property would bring if exposed for a sale for a reasonable time in the open market, with a seller, willing but not forced to sell, and a buyer, willing but not forced to buy, both being fully informed of all the purposes for which the property is best adapted or could be used.

* Section 14. AS 38.05 is amended by adding a new paragraph to read:

Section 38.05.380. STATE BOARD OF LAND APPEALS. (a) The State Board of Land Appeals shall consist of five members, one of whom shall be the Commissioner of Natural Resources or his designated representative. The other members of the board shall be appointed by the governor from the general public, with due regard for the desirability of prior legal, natural resource or real estate training and experience as criteria for selection of public members. All board members are subject to confirmation by a majority of the members of the legislature in joint session.

(b) The director of the division of lands shall provide administrative support for the board.

(c) The governor shall appoint the public members of the board for terms of three years each, except that the initial terms of one of the members first appointed under this chapter shall be for one year and one member for two years. The public members are entitled to compensation

in the amount of \$50.00 per day for each day or portion of a day spent in actual meeting or on authorized official business incident to their duties, and to all other transportation and per diem expenses as provided by law.

(d) Jurisdiction of the board shall extend to all matters arising under the Alaska Land Act (AS 38.05) and the Water Act (AS 46.15) from which an appeal may be taken under statute or regulation to the commissioner from a decision of the director, division of lands. The board in all appeals filed after the effective date of this chapter, shall have the appellate authority formally vested in the commissioner by provisions of the Alaska Land Act. An appeal from a decision of the board, if taken, shall be to the Superior Court.

of a quorum shall be able to render a decision. The board shall adopt regulations governing its procedures, and may adopt other regulations which may be necessary or convenient in carrying out the purposes of this chapter.

St: 22 #

www.com

JIM REPINE

Cook Inlet

I spent a very pleasant day in Juneau recently and watched something happen that really restored the old faith. A group of folks met in what eventually became a spirit of willingness to give what it took to try and solve one of the longest arguments in all the Alaskan outdoor world. The infamous Cook Inlet commercial fishing versus sportfishing controversy.

Senator Mike Colletta called together the group consisting of interested parties from both sides in an informal and unofficial attempt to see if a potentially destructive dead-lock over the early run king salmon allocation could be circumvented. The Senator and others feel the legislature is the wrong place for these kinds of squabbles to be settled. Far better results should come from a cooperative decision between users, Fish and Game biologists and an appointed Board of Fisheries. So why hasn't that worked?

A young man from the commercial fishing side stood up and made it clear that if concessions were needed, he was willing to start the ball rolling, and he did. The gist of what he proposed was that the commercial interests would no longer oppose sportfishing for the early run king salmon in the 1978 season subject, of course, to Fish and Game evaluation of the strength of the run. That's more than concession; that's a man stepping out in good faith and putting action where his mouth is.

The problems of years are seldom solved in an afternoon and the Cook Inlet fishing problems aren't suddenly all healed but a vitally important first step was taken. There's still the matter of law suits on both sides and whether they can be stopped in time, the more important question of future

allocations, the make-up of the Fisheries Board, and a host of others. But at least once I've witnessed swords beat into fish hooks and now I know it can be done.

Assuming things go well and the sportfishers really are able to harvest some early kings, what's next?

As I see it, three main concerns not necessarily in the following order are paramount.

First we must search for some solid vehicle that will insure all user groups a reasonable share of the resource in any season that produces a harvestable surplus. Second, the numerical composition of the Board must be made more equitable and third, there is a great need for closer ties and positive dialogue between all user groups.

The problems facing all of Alaska's fisheries are not about to go away. It becomes more urgent everyday for all interested parties to get organized and prepared to meet the new challenges with the strength of unity.



Southeast Express 5/25/78



UNITED FISHERMEN OF ALASKA

MAILING ADDRESS:

P.O. BOX 1352
JUNEAU, ALASKA 99802

OFFICE:

197 S. FRANKLIN ST.
907 586-2820

✓ Shari Gross

✓ UNITED FISHERMEN OF ALASKA INC.

P.O. Box 1352

Juneau, Alaska 99802

586-2820

Rick Lauber

PACIFIC SEAFOOD PROCESSORS ASSOC.

120 West 1st Street

Juneau, Alaska 99801

586-1324

✓ Floyd Heimbuch, General Manager

✓ COOK INLET AQUACULTURE ASSOCIATION

Box 850

Soldotna, Alaska 99669

262-4441

✓ Tom Waterer, President

✓ SALAMATOF SEAFOODS INC.

~~Box 1045~~ Drawer 4220

Kenai, Alaska 99611

✓ Tom Rollman, 1st V.P., U.F.A.

✓ COOK INLET FISHERMEN'S ASSOCIATION

Box 778

Eagle River, Alaska 99577

688-2380

✓ Ivan E.

Hank Every

✓ COMMERCIAL FISHERMEN OF COOK'S INLET

Route 1, Box 970

Kenai, Alaska 99611

776-8603

The following is a list of UFA member organizations in Cook Inlet:

✓ Commercial Fishermen of Cook's Inlet

Box 2641

Kenai, Alaska 99611

✓ Cook Inlet Fishermen's Fund

Box 3

Ninilchik, Alaska 99639

North Pacific Fisheries Assoc.

Box 796

Homer, Alaska 99603

Cook Inlet Fishermen's Association

SRA Box 48T

Anchorage, Alaska 99507

Kenai Peninsula Fishermen's Coop Assoc.

Route 2, Box 752

Soldotna, Alaska 99669

Representing the Administration

Commissioner Ronald Skoog

✓ Director Carl L. Rosier

Division of Commercial Fisheries

Dept of Fish & Game

Director Rupert E. Andrews

Division of Sport Fish

*ADFG
Support Bldg., Juneau
Dept of Fish & Game*

*Support Building
Juneau 99501*

Representing Other Interests

✓ Jim Repine

① 274-3266

② 272-3456

511 W. 17th Ave

Alaska Outdoors ③ 243-8523

99501

✓ Sam McDowell

279-1923

3685 Arctic Blvd.
Ave 99503

✓ Evan Swensen 2917 W 100th Ave (Alaska Outdoors)

Mike White head

Malone

Cotten

Shari Gross
UNITED FISHERMEN OF ALASKA INC.
P.O. Box 1352
Juneau, Alaska 99802
586-2820

Rick Lauber
PACIFIC SEAFOOD PROCESSORS ASSOC.
120 West 1st Street
Juneau, Alaska 99801
586-1324

Floyd Heimbuch, General Manager
COOK INLET AQUACULTURE ASSOCIATION
Box 850
Soldotna, Alaska 99669
262-4441

Tom Waterer, President
SALAMATOF SEAFOODS INC.
Box 1045
Kenai, Alaska 99651

Tom Rollman, 1st V.P., U.F.A.
COOK INLET FISHERMEN'S ASSOCIATION
Box 778
Eagle River, Alaska 99577
688-2380

Hank Every
COMMERCIAL FISHERMEN OF COOK'S INLET
Route 1, Box 970
Kenai, Alaska 99611
776-8603

The following is a list of UFA member organizations in Cook Inlet:

Commercial Fishermen of Cook's Inlet
Box 2641
Kenai, Alaska 99611

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Homer, Alaska 99603

Cook Inlet Fishermen's Association
SRA Box 48T
Anchorage, Alaska 99507

Kenai Peninsula Fishermen's Coop Assoc.
Route 2, Box 752
Soldotna, Alaska 99669

<u>Name</u>	<u>Address</u>	<u>Representing</u>
Tom Rollman	Box 778 Eagle River AK.	Cook Inlet Fishermen's Assoc.
Tom Waterer	Drawer 4220, Kenai AK	Salamatof Seafoods Inc-Kenai
Floyd Heimbech	Box 850 Soldotna,	Cook Inlet Agvaculture
Jim REPINIE	511 W. 17 Anch	ALASKA OUTDOORS
EVAN SWENJEN	2917 W. 100TH ANCH	ALASKA OUTDOORS
Shari Grace	Box 1352 Juneau	UFA
LLOYD T. NAWARD JR.	5281 D Canon, Eielson AFB.	Observing ~~Adm~~ / AFA.
BILL WAGENER	SR Box 80312 FBKS	OBSERVING
~~Robert~~ Robert Holt	SR Box 90214 FBKS	Observing
MIKE WHITEHEAD	Governors Office	
Carl L. Rosier	ADF&G	
Ivan E. Every	Support Building, Juneau.	Dept of Fish & Game.
Malone	Route 1 Box 970	C.F.C.I. & C.L.A.A.

June 8, 1978

Evan Sevenson
Alaska Outdoors
2917 West 100th Avenue
Anchorage, Alaska 99502

Dear Evan,

I would like to take this opportunity to express my sincere appreciation for the time and expense you incurred in attending the meeting in Juneau regarding the Cook Inlet King Salmon. I firmly believe that the positive steps taken by the group of individuals in attendance will point the way for a more effective solution to the problem in the future.

Although I am disappointed that the suits could not be withdrawn, I am confident that the groups involved are aware of the good faith effort to do so, and I do not view this as a step backward. However, it will take a continued and joint effort by all concerned, in order to maintain the spirit of cooperation that developed at the meeting.

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I am hopeful that any future push for legislation dealing with the Fish & Game Board and other related matters will reflect a consensus of the groups and be a joint effort. As you know, adversary positions create a win/lose situation.

Again, thank you for attending the meeting and for your cooperation in this matter.

Best wishes,

Mike Colletta
Senate Floor Leader

ms

June 8, 1978

Sam McDowell
3685 Arctic Blvd.
Anchorage, Alaska 99503

Dear Sam,

I would like to take this opportunity to express my sincere appreciation for the time and expense you incurred in attending the meeting in Juneau regarding the Cook Inlet King Salmon. I firmly believe that the positive steps taken by the group of individuals in attendance will point the way for a more effective solution to the problem in the future.

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Mike Colletta
Senate Floor Leader

ms

June 8, 1978

Jim Repine
Alaska Outdoors
511 West 17th Avenue
Anchorage, Alaska 99501

Dear Jim,

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Best wishes,

Mike Colletta
Senate Floor Leader

ms

June 8, 1978

Ivan E. Every
Commercial Fisherman of Cook's Inlet
Route 1, Box 970
Kenai, Alaska 99611

Dear Hank,

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Best wishes,

Mike Colletta
Senate Floor Leader

ms

June 8, 1978

Tom Rollman
Cook Inlet Fishermen's Association
Box 778
Eagle River, Alaska 99577

Dear Tom,

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Best wishes,

Mike Colletta
Senate Floor Leader

ms

June 8, 1978

Tom Materer, President
Salamatof Seafoods, Inc.
Drumner 4220
Kash, Alaska 99611

Dear Tom,

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Best wishes,

Mike Colletta
Senate Floor Leader

ms

June 8, 1978

Sheri Gross
United Fishermen of Alaska Inc.
P. O. Box 1352
Juneau, Alaska 99802

Dear Sheri,

I would like to take this opportunity to express my sincere appreciation for the time you took to attend the recent meeting in Juneau regarding the Cook Inlet King Salmon. I firmly believe that the positive steps taken by the group of individuals in attendance will point the way for a more effective solution to the problem in the future.

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Again, thank you for attending the meeting and for your cooperation and assistance in this matter.

Best wishes,

Mike Colletta
Senate Floor Leader

ms

June 8, 1978

Floyd Heimbach, General Manager
Cook Inlet Aquaculture Association
Box 850
Soldotna, Alaska 99669

Dear Floyd,

I would like to take this opportunity to express my sincere appreciation for the time and expense you incurred in attending the meeting in Juneau regarding the Cook Inlet King Salmon. I firmly believe that the positive steps taken by the group of individuals in attendance will point the way for a more effective solution to the problem in the future.

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Again, thank you for attending the meeting and for your cooperation in this matter.

Best wishes,

Mike Colletta
Senate Floor Leader

ms

June 8, 1978

Carl L. Rosier, Director
Division of Commercial Fisheries
Department of Fish and Game
Support Building
Juneau, Alaska 99801

Dear Carl,

I would like to take this opportunity to express my sincere appreciation for the time you took to attend the recent meeting in Juneau regarding the Cook Inlet King Salmon. I firmly believe that the positive steps taken by the group of individuals in attendance will point the way for a more effective solution to the problem in the future.

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Again, thank you for attending the meeting and for your cooperation in this matter.

Best wishes,

Nike Colletta
Senate Floor Leader

ms

EXPEDITERS RESEARCH SUPPLY INC.

3885 ARTIC BLVD.
ANCHORAGE, ALASKA 99503
PHONE (907) 279-1923

Smith
6/2/78

Helle Mike:

If our Legislators
don't help we sports fishermen
this session, I'm convinced
we will defeat all Bond
issues this November and
get the attention of all Alaskan
Commercial fishermen!

Your assistance will
truly be appreciated.

Sam McDowell

FROM THE DESK OF ; SAM E. McDOWELL

CONFIDENTIAL COPY

CJV

02106 NL ANCHORAGE ALASKA 139 05-31 1025P ADT
PMS SEN KAY POLAND

JUN

CONFIRMING OUR PHONE CONVERSATION 5-30-78 WITH REFERENCE TO
SB346 TO RESTRUCTURE THE COMPOSITION OF THE ALASKA BOARD
OF FISHERIES.

I WISH TO GO ON RECORD AND ONCE AGAIN REQUEST YOU ALLOW THIS
EXTREMELY IMPORTANT LEGISLATION PASS OUT OF YOUR COMMITTEE
AND ASSIST IN PASSAGE DURING THIS SESSION. IN CASE OUR
LEGISLATORS DONT REALIZE IT WE 167,000 LICENSED ALASKA SPORT
FISHERMEN NO LONGER WILL SET IDLY BY AND ALLOW OUR POLITICAL
LEADERS TREAT US AS SECOND CLASS CITIZENS. YES, WE FULLY
INTEND TO OPPOSE ANY AND ALL STATEWIDE GENERAL BONDING AND OR
FUNDING FOR SALMON HATCHERIES AND ENHANCEMENT PROPOSED DURING
THIS NOVEMBER GENERAL ELECTION UNLESS OUR LEGISLATORS PASS
LEGISLATION BEFORE ADJOURNMENT TO RESOLVE THESE SERIOUS COOK
INLET ALLOCATION PROBLEMS AND RESTRUCTURING OF OUR BOARD OF
FISHERIES. WITHOUT LEGISLATIVE ACTION ITS A CLEAR CUT CASE
OF TAXATION WITHOUT REPRESENTATION.

- SAM E MCDOWELL, CHAIRMAN,
ALASKA FISHERIES RESOURCE COMMITTEE

Introduced: 5/2/77
Referred: Resources

BY BRADLEY, HACKNEY, RODEY, HUBER,
FERGUSON, ORSINI, WILLIS, BUTROVICH,
COLLETTA, HOHMAN AND SACKETT

1 IN THE SENATE

2 SENATE BILL NO. 346

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the composition of the Board of
7 Fisheries."

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

9 * Section 1. AS 16.05.221(a) is amended to read:

10 (a) For purposes of the conservation and development of the
11 fishery resources of the state, there is created the Board of Fisheries
12 composed of seven members appointed by the governor, subject to confir-
13 mation by a majority of the members of the legislature in joint session.
14 The appointed members shall be residents of the state and shall be
15 appointed without regard to political affiliation or geographical loca-
16 tion of residence. Three members shall be representative of commercial
17 fishermen, three members shall be representative of sport fishermen, and
18 one member shall be representative of subsistence fishermen. One member
19 shall be elected by the membership as chairman. No member representa-
20 tive of sport or subsistence fishermen may have held a commercial
21 fishing license or an entry permit under ch. 43 of this title before
22 taking office, and, as a condition of appointment, members representa-
23 tive of sport and subsistence fishermen shall agree not to hold such a
24 license or permit until at least three years after termination of office.

25 * Sec. 2. A board member serving on the effective date of this Act may be
26 reappointed or replaced for remainder of his term, so long as the repre-
27 sentation required by this Act is established.

Homer News 2/23/78

Two bills would limit Inlet fishing

Salmon fishing in Cook Inlet would be restricted to July 1 - August 15 under a bill introduced in the state House by Rep. Kris Lethin (R-Anchorage) and 20 co-sponsors. And in the state Senate, a bill to limit commercial fishing to ensure that 10 per cent of the total catch in Cook Inlet be reserved for sport and subsistence fishermen is before the Senate Resources Committee.

The Senate bill, introduced by Sen. Joseph Orsini (R-Anchorage), is a more refined version of his original effort, which would have halted all commercial fishing in Cook Inlet.

However, Speaker of the House Hugh Malone (D-Kenai) told the Homer News Tuesday he was "certain" that the legislature would not step into a managing role of the fisheries. According to Mr. Malone, many of the co-sponsors of Mr. Lethin's bill, HCR 105, are not committed to supporting the bill on the floor. Several of the co-sponsors are commercial fishermen, he said.

In a letter to the Homer Chamber of Commerce, Mr. Orsini defended his new bill, SB 491, arguing that the average sports fisherman in the Cook Inlet area last year spent an average of three days to catch one fish each. The 102,000 anglers spent more than \$54 million on their pastime, Mr. Orsini estimated.

Mr. Orsini said sports fishermen caught less than two per cent of the salmon run in 1977.

The Homer Chamber of Commerce recently passed a

See "Salmon," Page 3.



ts and shorts over at KBBI from the Birds with the words, here's
rite called 'Don't Give Em Money.' "

S

issions will provide a
unity that is not now
a will be appreciated

Dave Becker, Member
Board of Directors
Village Missions, Inc.

estling?

Fishing statistics

Dear Editor:

Everybody knows how people can misconstrue statistics to suit their own needs — and this is what Sam McDowell has done so cleverly, in my opinion.

It seems that he keeps saying that all they want to have is 5 per cent of the 5 per cent of the state's salmon stocks. This is a farce and has been used to mislead the public, when in reality the following is really what is happening in much of Cook Inlet and area H.

Sportsfishermen get:

100 per cent of Early Russian River Reds at the cost of the Kenai Reds which are fished by no one.

100 per cent Kings in the Anchor Point, Deep Creek and Ninilchik Rivers.

100 per cent of the Silvers in Resurrection Bay at the cost of a Red salmon run.

100 per cent of the Silvers that go into the Anchor Point River.

They get (of the Kings' run to Kenai from June 15 to Aug. 15) 1440 hours of fishing time on Kenai Kings and Reds and Silver.

They get 24 hours a day for the entire time silvers run to the west side of Cook Inlet and anything north of Anchor Point including the Kenai River.

There is not one fishery in Cook Inlet where the Commercial Fishermen get sole use of any stock of fish.

We as commercial fishermen get from 216 hours to a max. of 312 hours. We already have been cut 1296 hours of fishing time and now this man wants to cut us down to 168 hours of fishing.

The fact of the matter is this type of cutting would not get one more sports fish in the freezer. It would just cost the commercial fishermen and the state valuable commercial fish.

Last year during the time that McDowell wants closed there were 187,259 fish caught commercially, but out of this amount there were only 1612 Kings and 14,734 silvers. These are the fish that he

See "Letters," next page.

Continued from Page Four.

wants to save at the cost of reds, dogs and pink salmon that sports fishermen do not take, as they do not bite a hook. In fact it would cost us 170,913 fish at a value of well over a million dollars. That is a lot of revenue for this area. For at that time the fleet is made up of Peninsula and Anchorage residents so the loss will be felt by all fishermen and businesses alike.

Rosaleen "Snooks" Moore
Sec. North Pacific Fisheries Assn. Inc.

Intimidation?

Dear Editor and Beautiful Citizens
of this Fishing Hamlet by the Sea:

As President and Chairman of the Ad Hoc Committee on Fisheries Resources, I am very concerned with the letter from Mr. Sam E. McDowell, President of the Anchorage Chapter of the Izaak Walton League of America, that appeared in last week's Homer News:

"I highly recommend all Alaskan Commercial fishermen take a close look at these facts with reference to these very serious Cook Inlet salmon allocation conflicts before this small brush fire explodes into a statewide conflict affecting all commercial fishermen and enhancement funding!"

My concern in the last paragraph is specifically the threat of a small brush fire exploding into a state wide conflict affecting all fishermen and fisheries enhancement funding. The Ad Hoc Committee concludes this paragraph and specific statement to be an act of intimidation against the commercial fishermen of the state of Alaska as well as a threat of political harassment against our senators and legislators. This threatening implication necessitates a closer and serious view as to Chairman Sam McDowell's intent and motives regarding both commercial and sportsfishing endeavors in the state of Alaska.

The purpose of the Ad Hoc Committee on Fisheries Resources relates to Senate Bill 278 "so that greater public participation in the formation of Fish and Game regulations will be assured." Some of the principles of the Ad Hoc Committee are to assure that public input is 1) honest, 2) based on untwisted facts, 3) scientifically and economically feasible and factual, 4) free of political implications, from either commercial or sportsfishing endeavors, that could prove disastrous to the necessity of biological and scientific control of this natural resource, and 5) to work diligently to expose and challenge any organization or persons that make effort through devious and subversive methods to inhibit the efficiency and function of the management of this resource.

Brother Asaiah
Chairman of the Ad Hoc
Committee on Fisheries Resources

Letters To The Editor

King Harvest

Dear Editor:

The letter by Ronald Wild dealing with the Cook Inlet king salmon controversy and published by The Times April 27 prompts my letter.

Mr. Wild's philosophy of "let's all harvest the kings" is interesting. It is interesting because it is that same philosophy which was employed by the old Board of Fish and Game to manage the then-plentiful king salmon stocks of Cook Inlet. The end result is now history — nearly complete decimation of the runs and complete closure of king salmon fishing for five years in upper Cook Inlet and its tributaries for all user groups.

As a result of the above-mentioned closures, the once-decimated king stocks have now begun to replenish. An intense effort on the part of the Alaska Department of Fish and Game of monitoring the runs and stream census studies document this fact.

During the December 1977 meeting, the Board of Fisheries was confronted with two significant and pertinent factors regarding the management of our Cook Inlet salmon resources. The first factor is that the Anchorage area is now the home of more than 100,000 sport fishing enthusiasts representing 45 percent of the total statewide sportfish effort; state projections show over 400,000 anglers in Cook Inlet waters by 1985. The second issue is that only 5 percent of the state's commercial harvest comes from Cook Inlet waters.

The board, after careful deliberation on these two factors, adopted a new, comprehensive management policy for Cook Inlet. In brief, that policy states:

"Stocks which normally move in Cook Inlet to spawning areas prior to June 30 shall be managed primarily as a non-commercial resource."

The policy further states:

"Stocks which normally move in Cook Inlet after June 30 shall be managed primarily as a non-recreational resource until Aug. 15; however, existing recreational target fish shall only be harvested incidental to the non-recreational use."

In short, for the first time in the history of the Cook Inlet fishery, the recreational anglers were recognized and an effort was being made to accommodate them.

Consistent with the newly adopted management plan, the board ruled to open eight upper Cook Inlet drainages to four weekends of sport fishing for king salmon. In addition to this limited sport fishery, the board also opened the northern district to the two 12-hour commercial fishing periods of which Mr. Wild makes mention. This action was inconsistent with its own newly adopted policy and was opposed by

the Alaska Department of Fish and Game and its area biologist because they felt that it was premature to reopen any commercial fishery without more data on returning stocks. The resulting opposition to its actions influenced the board to reopen the issue during the April 28 meeting.

Mr. Wild refers to the attitude of two men — myself and Sam McDowell. He further refers to my influence on the other six members of the Board of Fisheries. It is a compliment to think that Mr. McDowell and myself control the destiny of fishing in Cook Inlet; however, it is absurd.

The fact that I proposed that the two 12-hour commercial fishing periods be disallowed is true. My decision for this proposal was founded on sound biological data presented by the Alaska Department of Fish and Game, the Board of Fisheries' own policy and the will of the majority of people affected by the fishery, namely the recreational user.

Mr. Wild makes mention of the fact that I am a person "who commercializes in sporting goods." I am proud to verify that fact and I can assure him that I would have sold a hell of a lot more king salmon sport fishing gear this season had I gone along with the majority of the board and voted to allow the "let's all harvest the kings" attitude.

In closing, I wish to make one comment: My first concern is the welfare of the resource; my second concern is the primary user; last, I will consider those few selfish people like Mr. Wild.

Chris F. Goll
Member
Board of Fisheries

Letters To The Editor

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Chris F. Goll
Member

**Age Breakdown of Chinook Salmon in Selected Streams
of Upper Cook Inlet: 1976-77**

<u>1976</u> <u>EAST SIDE STREAMS</u>	<u>1973</u> <u>Brood</u>	<u>1972</u> <u>Brood</u>	<u>1971</u> <u>Brood</u>	<u>1970</u> <u>Brood</u>
Prairie Creek (sample of 339 carcasses)	1.2%	26.3%	23.0%	49.5%
Willow Creek (sample of 261 carcasses)	-	1.5%	20.3%	78.2%
Montana Creek (sample of 146 carcasses)	-	4.0%	19.9%	76.1%
Chulitna River (Middle Fork)- (sample of 82 carcasses)	-	2.0%	41.8%	56.2%

WEST SIDE STREAMS

Deshka River (sample of 772 carcasses)	1.4%	9.5%	33.8%	55.3%
Alexander Creek (sample of 165 carcasses)	0.6%	22.4%	63.7%	13.3%

<u>1977</u> <u>EAST SIDE STREAMS</u>	<u>1974</u> <u>Brood</u>	<u>1973</u> <u>Brood</u>	<u>1972</u> <u>Brood</u>	<u>1971</u> <u>Brood</u>
Willow Creek (sample of 140 carcasses)	-	2.1%	9.3%	88.6%
Montana Creek (sample of 156 carcasses)	3.2%	18.6%	13.5%	64.7%
<u>WEST SIDE STREAMS</u>				
Deshka River (sample of 416 carcasses)	3.6%	9.1%	50.5%	36.8%
Alexander Creek (sample of 210 carcasses)	1.4%	8.6%	73.3%	16.7%

Table . Salmon catch, by species, Northern District Cook Inlet, 1951-1977.

Year	King	Sockeye	Coho	Pink	Chum	Total
1951 ^{1/}	56,120	176,839	113,000	4,665	63,686	414,310
1952	21,418	159,688	91,777	204,297	113,960	591,140
1953	32,086	261,795	104,002	4,904	90,591	493,378
1954	22,585	120,508	139,464	347,040	84,571	714,168
1955	20,522	52,927	46,365	3,226	40,321	163,361
1956	18,457	114,612	80,322	398,851	169,545	781,787
1957	21,422	90,431	44,416	1,678	101,454	259,401
1958	9,308	69,222	100,813	408,043	92,227	679,613
1959	13,226	135,211	41,230	2,348	50,699	242,714
1960 ^{2/}	8,218	148,247	144,377	442,185	117,739	860,766
1961	7,755	77,374	40,975	10,765	61,103	197,972
1962	9,785	133,545	172,883	280,433	144,033	740,679
1963	7,345	109,463	63,540	8,940	43,694	232,982
1964	168	160,264	167,928	586,386	126,958	1,041,704
1965	300	31,575	21,902	4,914	16,906	75,597
1966	1,422	131,105	80,568	372,667	35,637	621,399
1967	184	118,065	43,854	8,460	38,384	208,947
1968	471	140,575	156,648	534,839	58,454	890,987
1969	2,904	38,065	20,425	7,620	11,836	80,850
1970	1,460	66,419	82,529	173,694	22,493	346,595
1971	9,598	40,533	22,094	8,423	16,603	97,251
1972	4,912	85,737	19,346	90,830	19,780	220,605
1973	170	45,614	23,951	137,250	30,851	237,836
1974	169	41,563	47,038	42,876	36,490	168,136
1975 ^{3/}	129	65,526	33,051	90,953	30,787	220,446
1976 ^{3/}	401	69,565	38,523	148,618	14,297	271,404
1977 ^{3/}	515	103,415	20,083	107,661	25,397	257,071
Total	271,050	2,787,883	1,961,104	4,432,566	1,658,496	11,111,099
27-year average	10,039	103,255	72,633	164,169	61,426	411,522
Even year average	---	---	101,709	310,058	79,706	---
Odd year average	---	---	45,635	28,700	44,451	---

1/ 1951-1959 data - Fish and Wildlife Service Statistical Digest 50.

2/ 1960-1975 data - Alaska Department of Fish and Game fish ticket summary.

3/ 1976-1977 data - Preliminary from Alaska Department of Fish and Game fish tickets.

Table . Salmon catch by species, Central District Cook Inlet, 1951-1977.

Year	King	Sockeye	Coho	Pink	Chum	Total
1951 ^{1/}	124,108	1,936,952	133,671	25,134	144,132	2,363,997
1952	51,739	1,289,880	124,719	1,055,428	192,617	2,714,383
1953	55,734	1,173,857	111,724	28,103	345,386	1,714,804
1954	41,195	1,086,538	182,061	1,842,267	425,497	3,577,558
1955	25,404	974,601	124,412	98,454	208,022	1,430,893
1956	46,518	1,144,177	117,867	1,196,524	612,506	3,117,592
1957	20,831	553,281	81,018	19,550	900,016	1,574,696
1958	13,419	408,170	138,952	1,240,505	379,470	2,180,516
1959	19,425	477,465	65,082	10,179	249,620	821,771
1960 ^{2/}	19,294	775,067	167,084	969,420	536,183	2,467,048
1961	11,982	1,084,929	76,803	23,252	288,525	1,485,491
1962	10,425	1,013,993	177,036	2,422,505	826,549	4,450,508
1963	10,191	833,470	133,600	21,496	343,333	1,342,090
1964	4,363	809,723	284,726	2,646,041	952,126	4,696,979
1965	9,441	1,380,775	131,717	19,049	299,538	1,840,520
1966	8,118	1,720,885	209,122	1,633,224	496,979	4,068,328
1967	7,675	1,261,997	133,875	23,769	258,453	1,685,769
1968	4,065	964,329	313,802	1,743,358	1,060,660	4,086,214
1969	9,494	654,189	80,527	25,802	258,019	1,028,031
1970	6,887	664,795	192,644	640,201	752,674	2,257,201
1971	10,167	595,770	78,542	27,201	310,426	1,022,106
1972	11,174	794,087	61,587	537,750	610,368	2,014,966
1973	5,024	624,411	80,469	188,934	636,722	1,535,560
1974	6,427	455,622	153,087	440,854	360,350	1,416,340
1975 ^{3/}	4,661	619,292	194,321	245,406	921,009	1,984,689
1976 ^{3/}	10,220	1,573,524	178,447	1,110,092	457,450	3,329,733
1977 ^{3/}	12,857	1,921,828	166,907	438,314	1,223,575	3,763,481
Total	560,838	26,793,607	3,893,802	18,672,812	14,050,205	63,971,264
27 year average	20,772	992,356	144,215	691,586	520,377	2,369,306
Even year average	---	---	177,010	1,344,474	589,494	---
Odd year average	---	---	113,762	85,332	456,198	---

1/ 1951-1959 data - Fish and Wildlife Service Statistical Digest 50.

2/ 1960-1975 data - Alaska Department of Fish and Game fish ticket summary.

3/ 1976-1977 data - Preliminary from Alaska Department of Fish and Game fish tickets.

King Salmon Escapement Counts, Northern District Cook Inlet, 1966 - 1977.

	<u>1966</u>	<u>1967</u>	<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>
Deshka	933	1,535	3,318	4,836	4,441	<u>161</u> ^{1/}	1,780	2,381	5,279	4,737	21,693	39,642
Alexander Creek	248	388	563	663	491	<u>—</u> ^{2/}	202	875	2,193	1,878	5,412	13,385
Lake Creek	147	723	653	770	189	119	920	761	535	281	3,375	7,391
Chuit	-	-	-	13	54	-	417	149	171	629	1,984	1,891 ^{4/}
Lewis	-	-	-	-	12	-	7	173	135	75	380	454
Theodore Creek	11	-	-	8	36	-	79	205	205	95	1,032	2,263
Ship Creek	50	200	500	710	1,746	221	121	165	146	120	806	1,011
Campbell Creek	15	300	125	<u>—</u> ^{3/}	63	102	37	201	79	<u>—</u> ^{3/}	210	349
S.F. Eagle River	49	50	28	<u>—</u> ^{3/}	81	<u>—</u> ^{3/}	<u>—</u> ^{3/}	61	<u>—</u> ^{3/}	<u>—</u> ^{3/}	81	313

1/ Count made only on East Fork Deshka

2/ No count made due to poor water conditions

3/ No count available

4/ Incomplete count--poor water conditions

Return to Dept of
70

**COMPREHENSIVE MANAGEMENT POLICY
FOR THE UPPER COOK INLET**

The dramatically increasing population of the Cook Inlet area has resulted in increasing competition between recreational and commercial fishermen for the Cook Inlet salmon stocks. Concurrently, urbanization and associated road construction has increased recreational angler effort and may adversely affect fisheries habitat. As a result the Board of Fisheries has determined that a policy must now be determined for the long-term management of the Cook Inlet salmon stocks. This policy should rest upon the following considerations:

1. The ultimate management goal for the Cook Inlet stocks must be their protection and, where feasible, rehabilitation and enhancement. To achieve this biological goal, priorities must be set among beneficial uses of the resource.
2. The commercial fishing industry in Cook Inlet is a valuable long-term asset of this state and must be protected, while recognizing the legitimate claims of the non-commercial user.
3. Of the salmon stocks in Cook Inlet, the king and silver salmon are the target species for recreational anglers while the chum, pink, and red salmon are the predominant commercial fishery.
4. User groups should know what the management plan for salmon stocks will be in order that they can plan their use consistent with that plan. Thus, commercial fishermen must know if they are harvesting stocks which in the long-term will be managed primarily for recreational consumption so that they may plan appropriately. Conversely, as recreational demands increase the recreational user must be aware of what stocks will be managed primarily for commercial harvest in order that he not become overly dependent on these fish for recreational purposes.
5. Various agencies should be aware of the long-term management plan so that salmon management needs will be considered when making decisions in areas such as land use planning and highway construction.
6. It is imperative that the Department of Fish and Game receive long-range direction in management of these stocks rather than being called upon to respond to annually changing Board directives. Within the Department, divisions such as F.R.E.D., must receive such long-term direction.

stocks north of Anchor Point. In so doing it is not the Board's intent to establish exclusive uses of salmon stocks; rather its purpose is to define the primary beneficial use of the stock while permitting secondary uses of the stock to the extent it is consistent with the requirements of the primary user group.

1. Stocks which normally move in Cook Inlet to spawning areas prior to June 30, shall be managed primarily as a non-commercial resource.
2. Stocks which normally move in Cook Inlet after June 30, shall be managed primarily as a non-recreational resource until August 15; however, existing recreational target fish shall only be harvested incidental to the non-recreational use; thereafter stocks moving to spawning areas on the Kenai Peninsula shall be managed primarily as a non-commercial resource. Other stocks shall continue to be managed primarily as a non-recreational resource.
3. The Susitna coho, the Kenai king, and the Kenai coho runs cannot be separated from other stocks which are being managed primarily as non-recreational resources; however, efforts shall be made, consistent with the primary management goal, to minimize the non-recreational catch of these stocks.


Nicholas G. Szabo, Chairman
Alaska Board of Fisheries

ADOPTED: December 13, 1977

VOTED: 5-0

APR 27 1978

JAY S. HAMMOND, GOVERNOR

BOARD OF FISHeries
C/O DEPARTMENT OF FISH AND GAME
SOUTHERN BUILDING, JUNEAU 99801

P.O. Box 1633
Kodiak, Alaska 98615
April 20, 1978

The Honorable Jay S. Hammond
Governor of Alaska
Pouch A
Juneau, Alaska 99801

Dear Governor Hammond:

This is in reply to your letter of April 14 asking for the specific reasoning and rationale the Board used in making its decisions on the Cook Inlet king salmon seasons.

Several new pieces of information emerged from both the four hours of public testimony on April 11 and the staff reports on April 12.

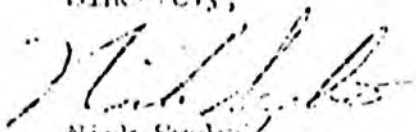
1. Average catch statistics of previous years indicate the possibility of a milling area in the lower portion of the Northern district which may contain king salmon bound for other systems. Having a commercial fishery in this area would compound the management problem in that it would be extremely difficult to know which systems were being exploited.
2. Anyone with a Cook Inlet set net permit may fish in the Northern district. The high commercial value of king salmon indicates a probable influx of set net gear of considerably greater numbers into the Northern district than those that usually fish in this area for other species. Even after all of the beach is used, it appears that those unable to locate on the beach will be staking their nets offshore.
3. Apparently the sport fishermen will be mounting an effort considerably greater than has been experienced in past years. Easier access has been provided to many of the Situkna River tributaries and the prospect of a renewed fishery season to have generated substantial interest in participating as much as possible.

April 20, 1978

4. While it intended to monitor the catch and escapement of the Susitna streams, the Sport Fish Division appears to be taxed beyond its present capability to monitor both the new areas and the existing fisheries that would be occurring simultaneously.
5. The Susitna King salmon stocks are still in a rebuilding phase. Only the last two years have shown a significant increase in numbers of fish returning to the upper Inlet. These returns were attributed to abnormal survival rates which produced better than average returns per spawner. There is no reliable forecast for the number of fish returning in 1978. Neither is there good information on the escapement needs for the system. There was much concern expressed by ADWG staff, commercial fishermen and sports fishermen on the ability of the 1978 returns to support a harvest. Sen McDowell stated during the public hearing that because of the uncertainty of the 1978 returns, he would rather see the whole system closed for another year than to have the commercial fishery occur.

It appeared to the Board that the prospect of increased effort both by commercial and sports fishermen coupled with the uncertainty of the size of the run, that the most prudent course would be to wait another year before any harvest is allowed on the Susitna system. I would be happy to discuss these points in more detail with you on the phone when your schedule permits. In addition Carl Rosier, who was in attendance at the meeting, is available in Juneau to elaborate on the management problems of upper Cook Inlet.

Sincerely,


Nick Szabo
Chairman

cc: Commissioner Skoog
Board Members

1172

20 April 1978

1172

Original sponsor: Malone

Referred: Finance

IN THE HOUSE

BY THE RESOURCES COMMITTEE

CS FOR HOUSE BILL NO. 807

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Fish and Game, division of sport fish; and providing for an effective date."

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

* Section 1. The sum of \$200,000 is appropriated from the general fund to the Department of Fish and Game, division of sport fish, for the management of the Cook Inlet king salmon sport fishery.

* Sec. 2. The unexpended and unobligated portion of this appropriation lapses into the general fund June 30, 1979.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Introduced: 2/10/78
Referred: Resources and
Finance

IN THE HOUSE

BY MALONE

HOUSE BILL NO. 807

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to a fee punch card system for king
salmon sport fishing."

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

* Section 1. AS 16.05.251 is amended by adding a new paragraph to read:

(13) establishment of a fee punch card system, using the fee
schedule established in sec. 340 of this chapter, to be used in place of
the license issuance system for king salmon sport fishing.

* Sec. 2. AS 16.05.940 is amended by adding a new paragraph to read:

(26) "license" includes fee punch cards issued and punched for
the current fishing season by the Board of Fisheries for king salmon
sport fishing.