

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

1531.1 SCOMM 56A: JNT. SPEC. MENTAL HEALTH TRUST LAND, 1987 383



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original documents after microfilm reproductions have been made.

A handwritten signature in cursive script, appearing to read "John D. ...", written over a horizontal line.

Signature of Camera Operator

12/5/2001

Date

SCOMM 56A: JOINT SPECIAL COMMITTEE ON MENTAL HEALTH TRUST LAND,
1987

MEMBERSHIP:

REPRESENTATIVE PAT POURCHOT, CO-CHAIR
REPRESENTATIVE MAX GRUENBERG
REPRESENTATIVE MARCO PIGNALBERI
SENATOR RICK HALFORD, CO-CHAIR
SENATOR BETTYE FAHRENKAMP
SENATOR PAUL FISCHER
(plus 2 public members & 2 public alternates)

Established by Legislative Resolve 53, 1986 (SCR 36)

Contents: 2 files. 5 cassettes are also available of meetings held 1/15 - 1/16/87/92.

LIST OF FILES (PAGE 1)

MICROFICHE #

1. REPORT, JANUARY 1987
2. LETTERS & MISCELLANEOUS
3. "MENTAL HEALTH LAND REFERENCE": BINDER OF INFORMATION COMPILED BY DEPARTMENT OF NATURAL RESOURCES

SCOMM

56A:1

730
FILE COPY

**JOINT SPECIAL COMMITTEE ON MENTAL HEALTH TRUST LAND
SECOND SESSION
14TH ALASKA STATE LEGISLATURE**

Representative Pat Pourchot, Co-Chairman

Senator Rick Halford, Co-Chairman

**Representative Max Gruenberg
Representative Marco Pignalberi**

**Senator Bettye Fahrenkamp
Senator Paul Fischer**

**Pat Ryan-Clasby, Public Member
Clifford Groh, Public Member
Janet Baird, Public Alternate
Jerry Schrader, Public Alternate**

Report to the Legislature

January 1987

This report is issued pursuant to Legislative Resolve 53, 1986.



Official Business

Alaska State Legislature

Pouch V
State Capitol
Juneau, Alaska 99811

January 1987

Passage of SCR 36 by the 1986 Legislature established the Joint Special Committee on Mental Health Trust Land and charged the committee with the following:

- development of a proposal to resolve the mental health trust litigation,
- recommendation of a level of appropriation adequate to provide sufficient funding for mental health programs in the future, and
- a report to the Legislature on the committee's findings and recommendations.

We are happy to report that the committee unanimously agreed on a settlement proposal that avoids many of the complex land issues involved in attempting to reconstitute a one million acre land trust. We would like to call your attention to page 14 of the report, which contains the committee's recommended settlement proposal.


We would also like to call your attention to page 22 of the report, which contains recommendations on a level of funding for mental health programs in FY 88. Legislation to implement the committee's settlement proposal and legislation that addresses the mental health program will be introduced by the committee.

In our study of the mental health issue this past year it soon became clear that this complex legal land issue is not going to go away. It is vital that the public and the Legislature realize the extreme importance of settling this matter in a fair and permanent manner. It is the committee's unanimous belief that such a settlement requires action by the Legislature.


If prompt legislative action is not taken a likely result will be continued court action by the litigants, forcing a freeze on all transactions involving mental health lands and possibly involving all state lands. Current and former mental health lands total one million acres, many of which are in and around the state's urban areas. The disruption and conflicts with existing and proposed

land management regimes and land uses that a land freeze would cause are tremendous. While our proposal involves a significant commitment by the legislature, it was determined by the committee to be far preferable to either reestablishment of a land trust or continued litigation.

During the course of our discussions and deliberations, the committee enjoyed full participation and cooperation by the plaintiffs, intervenors, and defendants in the lands lawsuit and by organizations and persons concerned with mental health issues in Alaska. We would like to especially thank our public members, Ms. Pat Ryan-Clasby and Mr. Clifford Groh, and our public alternates, Ms. Janet Baird and Dr. Jerry Schrader, for their many hours of effort and their invaluable input to this report. Thanks are also extended to Sandra Schubert and David Finkelstein who served as staff to the committee in the drafting of the report.



Senator Rick Halford
Co-Chairman, Joint Special
Committee on Mental Health
Trust Land



Representative Pat Pourchot
Co-Chairman, Joint Special
Committee on Mental Health
Trust Land

TABLE OF CONTENTS

Background	1
Settlement Proposal	3
Lands to be in Trust	4
Compensation for Land Removed From Trust	5
Land Management	7
Use of Generated Funds	8
Fund Management	9
Legislative Intent	10
Recommended Alternative	12
Funding Level	17
Definition of Mental Illness	17
Scope of Program	18
Program Funding	19
Funding Recommendations	22
Appendix	24
Committee Membership	24
SCR 36 (Committee's Enabling Legislation)	25
Alaska Mental Health Enabling Act	27
Summary of the Supreme Court's Decision in <u>Weiss</u> ..	31
Attorney General's Opinion on Recommended Alternative	41

BACKGROUND

In 1956, the United States Congress passed Public Law 84-830, "An Act to confer upon Alaska autonomy in the field of mental health, transfer from the Federal Government to the Territory the fiscal and functional responsibility for the hospitalization of committed mental patients, and for other purposes." To ensure that the territory had adequate financial resources to discharge the responsibilities attending its assumption of mental health authority, the Act granted one million acres of land to Alaska as a public trust. The law, commonly known as the Alaska Mental Health Enabling Act, reads in part:

Sec. 202(a) "The Territory of Alaska is hereby granted and shall be entitled to select, within ten years from the effective date of this Act, not to exceed one million acres from the public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection...."

Sec. 202(e) "All lands granted to the Territory of Alaska under this section, together with the income therefrom and the proceeds from any dispositions thereof, shall be administered by the Territory of Alaska as a public trust and such proceeds and income shall first be applied to meet the necessary expenses of the mental health program of Alaska. Such lands, income, and proceeds shall be managed and utilized in such manner as the Legislature of Alaska may provide. Such lands, together with any property acquired in exchange therefor or acquired out of the income or proceeds therefrom, may be sold, leased, mortgaged, exchanged, or otherwise disposed of in such manner as the Legislature of Alaska may provide, in order to obtain funds or other property to be invested, expended, or used by the Territory of Alaska...."

Land selections were made between 1956 and 1966. Since their selection the lands have been administered by the State Department of Natural Resources. Management has been for the general public good without specific reference to supporting a mental health program. Land proceeds have been deposited in the state's general fund.

In 1978 the legislature passed a law (Chapters 181-182, SLA 1978) redesignating mental health trust lands as general grant lands. The law established a trust fund for mental health programs and called on the legislature to appropriate 1.5% of the annual receipts from all state land to the fund. No appropriations were ever made.

In 1982 the Alaska Mental Health Association filed a class action lawsuit in Fairbanks Superior Court on behalf of Carl Weiss, a seven year old boy from Nenana, and Earl Hilliker, a Fairbanks resident. Weiss v. State of Alaska contended that the plaintiffs were in need of mental health services which were not available in

Alaska and questioned the constitutionality of the 1978 redesignation law. The court's judgment, entered in 1984, stated that the one million acres of land were for the exclusive benefit of the mentally ill, that the redesignation law violated the trust established by Congress, and that the trust was to be reimbursed for the fair market value of the lands with a credit for state appropriations made for mental health purposes. The state appealed the decision to the Alaska Supreme Court.

In October 1985 the Supreme Court issued its opinion in the Weiss case. It declared the redesignation act invalid and required that the trust be reconstituted as nearly as possible to its 1978 status, the date it was redesignated as general grant land. As part of the reconstitution, the court required that the trust be reimbursed for lands sold since 1978 with a credit for mental health expenditures made by the state during the same period.

The executive branch responded to the Court ruling by issuing Department Order 121, "Mental Health Land Interim Management". The order suspends and restricts certain actions on mental health lands based on receipt of fair market value or reimbursement to the trust in land or money for all transactions. In addition, it sets up a special account within the state's general fund to receive income obtained from the management of mental health land.

The legislative branch responded to the Court ruling by creating a mechanism to resolve the litigation. The Joint Special Committee on Mental Health Trust Land was established and charged with developing a proposal to resolve the litigation. The Interim Mental Health Trust Commission was established and charged with protecting the land trust from further diminution pending final resolution of the litigation, and overseeing the land appraisals and mental health audit necessary for reconstituting the trust.

SETTLEMENT PROPOSAL

The State Supreme Court, in deciding Weiss v. Alaska, ordered that the mental health trust be reconstituted to match as nearly as possible the holdings which comprised the trust when the mental health lands were redesignated as general grant lands in 1978. The order provided for the trust to be reimbursed for lands that have been sold since the redesignation, with a credit, or "set-off", to the state for mental health expenditures made since 1978. How to interpret whether lands have been sold or merely transferred, how to determine the value of the lands, and what constitutes a mental health expenditure were not addressed by the court. Who should manage the land, what management practices should be followed, and how trust earnings should be managed and spent were also not addressed.

The committee has been advised by the Attorney General that either a strict reconstitution of the trust or development of a negotiated settlement may be pursued. If reconstitution of the trust is sought the legislature has discretion in answering the questions left unanswered by the court, subject to judicial review if requested by the parties. Should a negotiated settlement be sought, the approval of both parties in the lawsuit is needed. As standard procedure in class action suits, the court would review the settlement for fairness before entering judgment in the case.

In the committee's view, a strict reconstitution of the trust is not desirable, primarily for the following reasons.

1. There are difficulties involved in reconstituting the trust to its 1978 status. Nearly half of the original acreage has been conveyed to third parties or designated by the legislature for limited use. Return of land conveyed to private parties is probably not legally possible; return of land conveyed to municipalities is vigorously opposed by the municipalities and legally uncertain; return of land in parks, refuges, and forests is likely to meet with stiff public opposition. Replacement acreage of like value would be difficult to secure, and it would take many years for cash payments in lieu of land to build a significant trust fund in light of the state's current revenue picture.

2. There is no guarantee that reconstituting the trust will enhance mental health programs. Managing the land, even under a policy of maximum revenue generation, may not generate enough revenue to fund the mental health program. More to the point, the enabling act provides that revenue from the trust land is not necessarily intended for the exclusive use of mental health programs. Similarly, the Weiss decision did not specify that additional state revenues must be committed to mental health program funding.

With this in mind, the committee has sought development of a settlement proposal that recognizes the many competing uses of the land and promises enhancement of mental health programs. A range

of alternative settlement proposals has been reviewed, from a strict reconstitution of the land trust to a statutory dedication of a percentage of state general fund revenues. In reviewing the proposals the committee considered the following: A) lands to be returned to the trust, B) compensation for lands not returned, C) how the trust land would be managed, D) how trust earnings would be spent, E) how a monetary trust would be managed, and F) legislative intent.

A) Lands to be in trust

As of August 1986, 829,250 acres of the State's one million acre mental health entitlement had been patented to the state by the federal government. An additional 176,634 acres had been approved for patent. The acreage can be roughly broken into the following status categories. Acreages are approximate and were provided by the Department of Natural Resources.

Unencumbered land 207,225 acres
This is land which reverted to trust status upon the Supreme Court's ruling that the trust must be reconstituted, and on which no encumbrances currently exist.

Less-than-fee disposals 286,562 acres
This includes land with residential leases, oil and gas leases, coal leases, timber sales, mining claims, materials sales, and rights-of-way. Proceeds from activity on these lands are currently being credited to a special mental health account within the state's general fund.

Limited use designations 368,241 acres
This includes parks and recreation areas (150,576 acres), game refuges and habitat areas (85,710 acres), state forests (131,955 acres), and interagency land management assignments (4,473 acres). Current use of these lands is incompatible with management for maximizing revenue.

Municipal conveyances 43,087 acres
The Municipal Entitlement Act (AS 29.65) authorizes municipalities to select vacant, unappropriated, unreserved land from within their boundaries. Mental health lands became available for municipal selection under the 1978 law redesignating them as general grant lands. In addition, AS 29.65.060 specifically authorizes selection of mental health land if certain criteria are met. To date, 23,259 acres of mental health land have been patented to municipalities; an additional 18,968 acres have been approved for patent. Some of the lands conveyed to municipalities have in turn been transferred to third parties or have had improvements constructed on them.

The Attorney General has advised the committee that municipalities which have received title to mental health lands could be compelled to return them to the trust, under private trust law principles which address receipt of trust property. Many municipalities are on record opposing return of the lands.

Conveyed to private parties 90,412 acres
This includes land patented to or under contract for sale to individuals (45,994 acres), lands condemned (5,149 acres), and litigation settlements (39,269 acres). Enforceable third party property rights have vested in these lands, and it is probably not realistic to return them to the trust.

Approaches to establishment of a land trust considered by the committee include:

- Return of as much land as feasible.
- Return of only less-than-fee disposals and unencumbered lands.
- Return of land from within parks, refuges and forests that are not essential to the unit's purpose.
- Selection of new lands; for example, acquiring mental health over-selections under the state's general grant land entitlement and transferring them to mental health status.
- Converting all mental health land to general grant land in exchange for monetary compensation.

Findings: The Supreme Court ordered that the trust be reconstituted to its 1978 status. There is general agreement that lands in the "unencumbered" and "less-than-fee disposal" categories currently have trust status.

There is disagreement over what other lands can legally be returned or are required by the court to be returned to trust status. In addition, returning land already committed to other uses may not be in the state's best interest and may be politically unrealistic.

There is likely some "nonessential" land in state parks, refuges, and forests that could be returned to the trust.

If new acreage is sought and the goal of the trust is to generate revenue, lands that have high resource or commercial values should be pursued. The presentation to the committee by the National Conference of State Legislatures indicated that those states which have raised large amounts of money from trust land manage high value lands such as timbered or urban lands. In Alaska, such lands generally have existing claims.

B) Compensation for land removed from trust

The Supreme Court has ordered that the state compensate the mental health trust for any land sold since passage of the 1978 redesignation law. Of the land removed, all but the 86,076 acres conveyed to private parties could arguably be returned to trust status. However, since much of the land is encumbered or receives significant public use, return to the trust may be an unrealistic goal.

Unless a negotiated settlement is reached, the process of appraising land values must be completed in order to determine the

amount of compensation due. The process was begun in 1985 when the Department of Natural Resources conducted an opinion-of-value estimate of 973,033 acres of mental health land. This, together with on-the-ground appraisals of 11,272 acres, resulted in a total 1978 valuation of \$282 million (approximately \$567 million in today's values).

Dissatisfaction among the parties over the opinion-of-value estimates resulted in the Interim Mental Health Trust Commission being statutorially charged with developing valuation procedures and overseeing valuation of all or part of the mental health lands. Fiscal year 1987 funding to the Commission falls far short of the millions of dollars needed to pay for on-the-ground appraisals of all parcels. The commission has focused the available valuation funds on municipal lands that were originally mental health lands. All municipal parcels are being valued using the opinion-of-value method, while a representative set of parcels will receive on-the-ground appraisals. The results are expected to be available in early 1987.

In determining the amount of compensation, the court has ordered that the state be allowed a credit, or set-off, for mental health expenditures made from 1978 to 1985. An audit of past program expenditures was recently conducted by the Legislative Budget and Audit Division with oversight by the Interim Mental Health Trust Commission. By legislative direction, a broad range of programs was audited and resulted in an expenditure total of \$512.3 million. The Commission reviewed LB&A's audit to identify those expenditures they felt constituted the state's mental health program and recommended that \$197.8 million be included in the set-off.

In developing its recommendation, the Commission evaluated each program offering. They looked at whether it was part of the state's 1977 comprehensive mental health plan, whether it addressed a professionally recognized mental health diagnosis, whether it was addressed in Alaska statutes, and whether its primary purpose was to provide mental health services. The major programs included in the Commission's recommendation are the Alaska Psychiatric Institute, the community mental health system, and programs for the developmentally disabled prior to 1981 at which time mental retardation was removed from Alaska's statutory definition of mental illness. Alcoholism, drug abuse, special education, and corrections programs are excluded from the Commission's recommendation except where they meet the general criteria for a mental health program.

Means of compensation considered by the committee include:

- Compensation in replacement lands and/or money, based on the fair market value of the land removed from the trust, offset by expenditures for mental health programs.
- Compensation based on a total value adequate to provide a revenue base to fund the mental health program.
- Replacement of the land trust with a direct funding source through dedication of a revenue stream (a specified percentage of

revenue from the management of all state land, designation of a percentage of state general fund income, proceeds from a specified tax, earmarking of funds from the reserve account of the Alaska Permanent Fund) or establishment of a monetary trust through a lump sum payment (use of a portion of any "windfall" revenues the state may receive from settlement of oil company lawsuits or other litigation).

Findings: Appraising land values to determine the amount of compensation owed the trust is a costly process. To date, the state has spent \$138,300 on valuations; on-the-ground appraisals of all mental health lands is estimated to cost in the millions.

The amount of the offset for mental health program expenditures is not absolute. There is not a universal or agreed on definition of mental health to guide the determination.

Negotiating a settlement based on program need rather than land values would save a significant amount of time and money that would otherwise be spent on appraisals.

The Attorney General has advised that dedication of a percentage of state income as a "mental health income stream" is permissible if its expenditure is patterned after the Mental Health Enabling Act. Specifically, the income stream would be dedicated first for mental health expenditures and then for other public purposes, and would be subject to legislative appropriation.

Relying on the reserve account of the Permanent Fund as an income stream assumes a policy of annual expenditure of the account. Although the State's current revenue picture argues for expenditure this year, expenditure of the account in future years may not be warranted.

Should a revenue stream be established, its ability to provide funds in perpetuity must match that of a trust corpus.

C) Land management

Current statutes (Title 38) provide for "maximum use of state land consistent with the public interest", and mental health lands have historically been managed according to these statutes. In December 1985, following the Weiss decision, the Department of Natural Resources issued Department Order #121, which established management principles that prevent further diminution of the trust. The order requires receipt of fair market value, or reimbursement of the trust in land or money, for all transactions. Land management oversight is being provided by the Interim Mental Health Trust Commission, which has adopted a policy of suspending any future land sales until the litigation is resolved.

Land management proposals considered by the committee include:

- By Department of Natural Resources with statutory direction to maximize revenue.
- By Department of Natural Resources under modified Title 38 provisions, with a commission having veto power.
- By a public corporation charged with maximizing revenue.

Findings: Neither the federal Mental Health Enabling Act nor the Weiss decision address how trust land should be managed. General trust law principles require management actions to be in the best interest of the trust, which would likely mean maximizing land earnings.

If lands are to be managed for maximum revenue generation, new statutory guidelines will need to be developed and a manager will need to be designated.

Management funds will be required and could come from trust land revenues. The presentation to the committee by the National Conference of State Legislatures indicated that land management costs in other states range from 5% to 25% of annual land income.

Management of the trust land in the best interests of mental health programs could be enhanced through public oversight.

D) Use of generated funds

Article IX, Section 7 of the Alaska Constitution prohibits the automatic dedication of any state tax or license to a special purpose unless required by the federal government for state participation in federal programs. The Attorney General and the Legislative Legal Division have advised that automatic dedication of the proceeds from the sale or development of mental health lands fails to meet this exception. This opinion is based upon the analysis that the federal Mental Health Enabling Act does not require dedication of trust revenues to mental health programs, but rather establishes a revenue source from which appropriations for programs are to be made. The Constitution would therefore need to be amended, with approval of the majority of the voters statewide, to allow an exclusive dedication to occur.

It should be noted that the plaintiffs disagree with the Attorney General's analysis of the dedication, maintaining that Congress intended the legislature to be able to protect the corpus of the trust. In the plaintiffs' view, protection can occur only if proceeds from land sales are dedicated to a corpus account from which only earnings are appropriated. Under this analysis, dedication of sale proceeds would not violate the Constitution.

"Earmarking" trust land income in the general fund and appropriating an amount equal to the income is permissible, but it does not ensure that income will go toward funding mental health programs. Since one legislature cannot bind future legislatures,

enactment of a law stating that income will be spent on mental health programs is subject to the will of each legislature and dependent on annual appropriation of funds.

Uses of generated funds considered by the committee include:

- Constitutional dedication to a mental health fund.
- Congressional amendment to the federal Mental Health Enabling Act to require that income be dedicated to mental health programs.
- Earmarking trust income in the general fund.

Findings: The federal Mental Health Enabling Act does not require that trust income be spent exclusively on mental health programs, but provides for income to be applied first to necessary mental health expenditures and then to other public purposes. The legislature is given discretion in determining what constitutes a necessary mental health expenditure.

Dedication of trust income would ensure its expenditure on mental health programs. However, dedication is not required by the federal Act and is therefore not allowed by the state Constitution. Achieving an amendment to the Constitution to allow dedication would be a rigorous process, requiring a 2/3 vote of each legislative body and a majority vote of the people. To be successful, a major education and information process would need to be undertaken. The amendment process is purposely rigorous as a means of protecting the original premise of the Constitution which, in regard to dedicated funds, was to provide the legislature discretion in appropriations so that the state's funding needs could be considered annually and the state's revenue spent where it was most needed.

Preservation of the trust corpus through dedication of sale proceeds would ensure the continuation of the trust, but may not be permissible under Alaska's Constitution.

Seeking a Congressional amendment to the federal Mental Health Enabling Act that would require income to be dedicated raises federalism issues and may set a poor precedent for future federal grants.

"Earmarking" trust income in the general fund and appropriating an amount equal to the income is permissible. With no legal requirement that income be spent on mental health programs, advocacy groups and other interested persons could play an important role in guiding appropriations.

E) Fund management

Since the Weiss decision, income from mental health trust lands has been deposited in a special account within the state's general fund. To date approximately \$500,000 has been deposited. The general fund is managed by the Department of Revenue along

statutory guidelines (AS 37.10.070) which outline permissible investments and emphasize preservation of principal and high liquidity. The corpus and earnings of the general fund are available for annual appropriation by the legislature. The Department of Revenue also manages other funds, including trust funds.

State funds are also managed by the Alaska Permanent Fund Corporation, a public corporation operated by a board of trustees along statutory guidelines (AS 37.13.120) which outline permissible investments and emphasize high income production under the prudent-man rule. Expenditure of the fund's corpus is prohibited by the state Constitution.

Means of fund management considered by the committee include:

- By Department of Revenue, as a separately managed "permanent" fund.
- By a public corporation as a "permanent" fund.
- As part of the state general fund.

Findings: If a major monetary trust fund is established, a specific fund management scheme would need to be adopted. Otherwise, funds could be managed as part of the general fund and appropriated annually.

Creation of a permanent fund, in which the corpus is protected and only earnings are spent, would ensure a continued source of revenue. The corpus would be afforded greatest protection through a Constitutional amendment.

If managed by a public corporation, the fund corpus would be an asset of the corporation and thus protected from expenditure.

F) Legislative intent

The Supreme Court's ruling ordering reconstitution of the trust did not address the adequacy of the state's mental health program, nor did it specify that additional revenues must be committed to program funding. The language of the federal Mental Health Enabling Act requires only that trust revenues "first be applied to meet the necessary expenses of Alaska's mental health program". If the settlement is to provide increased program funding, the intent of the legislature in regard to future appropriations is a key factor.

The original purpose of the mental health trust, which was to provide a source of funding from which appropriations for Alaska's mental health program could be made, can be achieved only if future legislatures make the necessary appropriations.

Statements of intent considered by the committee include:

- Appropriate program money in an amount equal to or in excess of the revenue generated by the trust.

- Increase program funding annually until program goals are met, irrespective of trust earnings.

Findings: Reconstituting the trust has no direct bearing on the state's mental health program. A legislative commitment to increase funding for mental health programs is essential if mentally ill Alaskans are to obtain the relief they need.

Legislative intent with a high degree of public involvement may provide assurance that funding increases will occur.

Obtaining a stipulated court judgment may lend a degree of assurance that legislative intent will be carried out.

RECOMMENDED ALTERNATIVE

A major conclusion drawn by the committee is that legislative action to resolve the litigation must be taken, and taken now, to avoid severe consequences and substantial liability. The committee's primary recommendation is that achievement of a settlement be pursued this legislative session. Toward this end, the committee has deliberated thoroughly the advantages and disadvantages of both reconstitution of a land trust and replacement of the land trust with a negotiated monetary settlement, and recommends that a monetary settlement be pursued.

While recognizing that reconstitution of a land trust would explicitly fulfill the terms of the Mental Health Enabling Act and directly respond to the Supreme Court's order, the committee has found that there are significant disadvantages to a land settlement.

A primary disadvantage is that the lack of administrative flexibility with respect to trust land prevents competing land uses and may alienate many user groups. Returning lands currently committed to other uses would create hardships for municipalities that have selected mental health trust land under the state's Municipal Entitlement Act, individuals who are third party recipients of trust land, recreationists and sportsmen who enjoy parks and game refuges, and others. Once in trust status, land must be managed according to trust principles which designate revenue generation as the goal. Such a management approach would restrict and possibly preclude mining claims, veterans' discounts, litigation settlements and exchanges with Native corporations, and other activities. This is much the situation that impelled the State in 1978 to redesignate the mental health trust land as general grant land.

There is also concern that the costs of land management are high and the potential for revenue generation uncertain at best. Testimony received from the University of Alaska in regard to management of their trust land indicated that land management costs significantly exceed revenues at this time. As mentioned, national statistics collected on long established trusts in other states show that land management costs range as high as 25% of annual land income.

Other disadvantages identified by the committee include the diversion of attention from mental health issues to land management that a land trust necessitates, and the knowledge that the feeling of security and permanence that land provides may be illusory -- even oil-rich Prudhoe Bay lands ultimately will run out of oil.

Conversely, the advantages of a monetary settlement are many. Primary is the fact that it focuses attention on the funding level for mental health programs and is capable of providing immediate financial support for the program. The other major advantage is relief from the land management concerns outlined above. A

monetary settlement may garner support from many other groups because former trust lands would be available for a variety of purposes and a possible cloud from land titles would be removed.

Recognizing that the state's revenue outlook provides little possibility for establishment of a monetary trust fund, which would require a large cash payment, the committee recommends a monetary settlement consisting of a guaranteed revenue stream.

In brief, the recommended alternative (Alternative A) replaces the land corpus with the dedication of 5% of all state revenues as the Mental Health Income Stream. The revenue stream would serve the intended purpose of the original land corpus by providing a source of money from which appropriations for the state's mental health program must first be made. Alternative A provides for a pledge of state assets which would be used to reconstitute a trust corpus should the revenue stream not be made available for appropriation. In effect, the mental health community would be empowered to have a state property sale to ensure establishment of a revenue stream.

Alternative B provides for reestablishment of a land trust by reclaiming much of the land that has been removed from the trust. Because of the numerous disadvantages discussed above, this alternative is not recommended by the committee.

Alternative C outlines the likely results should a negotiated settlement not be reached and the parties return to court. The consequence of the state's inaction will be further litigation, the ramifications of which will be felt by citizens throughout the state. It is this potential liability that has led to the committee's primary recommendation of taking action to settle the lawsuit now.

Legislation to implement Alternative A will be introduced by the committee. The committee recommends that any legislation considered for resolving the litigation contain a series of findings and purposes that outline the policy decisions reached by the legislature.

ALTERNATIVE A
SECURED REVENUE STREAM

Replaces the land trust with a guaranteed and enforceable revenue stream designed to equal the earning potential of a reconstituted trust.

Lands to be in Trust

None.

Compensation for Land Removed from the Trust

Dedication of 5% of all state revenues as the Mental Health Income Stream secured by a pledge of state assets. The pledge would be an enacted and stipulated (court-ordered) waiver of the state's immunity from execution (AS 09.50.270). This would allow the sale of certain state assets (possibly in a prioritized list) to satisfy the obligation.

Land Management

Not applicable.

Use of Generated Funds

The legislature shall first appropriate funds from the Mental Health Income Stream to meet the necessary expenses of the state's mental health program. A Mental Health Board will make recommendations on mental health needs in Alaska and report on the use and expenditure of the Mental Health Income Stream.

Fund Management

Not applicable.

ALTERNATIVE B
RECONSTITUTION OF THE TRUST

Reestablishes the mental health land trust by reclaiming much of the land that has been removed from the trust in previous years.

<u>Lands to be in Trust (approximate acreage)</u>	
Unencumbered land	207,225 ac.
Less-than-fee disposals (leases, etc.)	286,562 ac.
Post-1978 legislative designations	203,855 ac.
Patented and approved municipal selections (other patented and approved municipal selections of approx. 9,000 ac. would not be returned due to third party transfers, construction of facilities, etc.)	34,000 ac.
University, CIRI and other settlements	39,269 ac.
TOTAL	770,911 ac.
Pre-1978 legislative designations*	164,386 ac.
TOTAL	935,297 ac.

DNR and a new Mental Health Trust Corporation will review other lands to replace the value and potential revenue production of lands not able to be returned to the trust or determined to be inappropriate for inclusion in the trust.

Compensation for Land Removed from Trust

Compensation in new land and/or in cash payments to a trust fund will be determined once the land appraisal process, 1978-85 expenditure audit, and land identification (as described above) are complete.

Land Management

By the Mental Health Trust Corporation, a public corporation with a five-member board to include three members selected from names recommended by the mental health community, as well as at least two members with land management expertise. The Corporation will set land management policies based on new statutes consistent with general trust principles, and may contract with DNR or other entities for land management services.

Use of Generated Funds

Land income will be deposited in a special account within the general fund, and appropriated annually by the legislature first for land management expenses and the state's mental health program. Corpus proceeds (from sales) will be placed in a protected trust fund.

Fund Management

The trust fund will be administered by the Mental Health Trust Corporation, with management by the Permanent Fund Corporation, Department of Revenue, or other entity of the Mental Health Trust Corporation's choosing.

* The Supreme Court decision did not address designations made before 1978 which may require compensation to the trust.

ALTERNATIVE C
NO ACTION

Outlines the likely and possible results from a failure to resolve the litigation through negotiation.

Likely Results

- Significant money judgment, possibly in the billions of dollars, due immediately.
- Freeze on all land transactions and/or direct court supervision of mental health lands, with potential for a freeze on all state lands.
- Potential return to the trust of approximately 372,000 acres of state parks, refuges, and forests.
- Possible invalidation of state conveyance of approximately 86,000 acres to third parties, particularly municipalities and Native corporations, a course of action which will place a cloud on the title to those lands and may result in third parties losing title.
- Escalation of tremendously expensive and complex litigation involving, among other things, appraisals of up to 20,000 separate parcels of land and litigation of the "offset" for mental health expenditures.

Possible Results

- Liability of third parties such as municipalities, Native corporations, and others for participation in the breach of trust.
- Imposition of a management scheme for mental health land inconsistent with other state land management policies.
- Replacement of the State as trustee.

FUNDING LEVEL

The Alaska Mental Health Enabling Act, passed by Congress in 1956, specified that the income and proceeds from the mental health trust "first be applied to meet the necessary expenses of the mental health program of Alaska." No description of program and no determination of necessary expenses was provided. Rather, the Act specified that the "income and proceeds shall be managed and utilized in such manner as the Legislature of Alaska may provide", and in a manner "compatible with the conditions and requirements imposed by other provisions" of the Act.

In considering Weiss v. Alaska, the Supreme Court ruled only on the question of whether or not the state had breached the public trust by redesignating mental health land as general grant land. It did not address the adequacy of the state's mental health program nor did it specify that additional revenues must be committed to program funding. In the committee's view, the issue of funding for Alaska's mental health program is distinct from the question considered by the court, and is not an essential part of a settlement.

However, the committee is concerned that reconstituting the trust as ordered by the court may not enhance mental health programs, as neither the federal enabling act nor the Supreme Court's decision dedicate trust revenues to mental health. Recognizing that the Weiss lawsuit was filed on behalf of Alaskans whose mental health needs were not being met and who looked to the trust as a source of relief, a primary interest of the committee is to ensure that necessary funding for mental health programs is provided. This is consistent with the committee's statutory charge to recommend a level of appropriation adequate to provide sufficient funding for mental health programs in the future.

Determining the amount of funding "necessary" to provide a mental health program is dependent on the definition of mental illness and the scope of the treatment program offered.

DEFINITION OF MENTAL ILLNESS

There is no universally accepted definition of mental health or mental illness. The legislative history of the Mental Health Enabling Act is unclear as to the Congressional intent. Conflicting definitions are found throughout federal legislation and reports.

Definitions among the 50 states are inconsistent. For example, Arizona excludes mental retardation, drug abuse, and alcoholism from its definition while Connecticut includes them. Several states define mental illness as "mental disease to such an extent that a person requires care and treatment for his own welfare, or the welfare of others, or of the community." Other

states limit their programs to "individuals who, in the opinion of a licensed physician, have a psychiatric disorder".

The Diagnostic and Statistical Manual of Mental Disorders developed by the American Psychiatric Association is the professional source of standards in diagnosing mental disorders. It reads, "There is no satisfactory definition that specifies precise boundaries for the concept 'mental disorder'". Nevertheless, the manual classifies certain conditions as mental disorders and excludes others. Several states reference the manual in their definition of mental illness.

Alaska's statutory definition of mental illness has changed as the legislature has appropriated funds to develop and expand services and as treatment philosophies have changed. AS 47.30.915(12) defines mental illness as, "An organic, mental or emotional impairment that has substantial adverse effects on an individual's ability to exercise conscious control of the individual's actions or ability to perceive reality or to understand; mental retardation, epilepsy, drug addiction, and alcoholism do not per se constitute mental illness, although persons suffering from these conditions may also be suffering from mental illness."

SCOPE OF PROGRAM

In the absence of a widely accepted, established definition of mental illness, the statutes and appropriations enacted by the legislature have played a primary role in shaping the state's mental health program. As the state's policy making body, the legislature has established the scope of the state's mental health program by deciding what programs receive funding, how much funding is received, and who is responsible for administering the programs.

Prior to passage of the Mental Health Enabling Act in 1956, the only treatment and custodial care for Alaskans needing mental health services was provided by Morningside Hospital, a private institution in Portland, Oregon. With passage of the Act, Congress transferred the responsibility for Alaska's mental health program to the Territory of Alaska and provided federal funds, \$1 million annually the first two years followed by declining appropriations through 1968, to implement service delivery.

Today, Alaska's program for the mentally ill consists primarily of the Alaska Psychiatric Institute (API) and a system of community mental health centers. API was built in Anchorage in 1962. The first community mental health centers were constructed in Anchorage, Fairbanks, and Juneau soon after passage of the federal enabling act. The opening of centers in Ketchikan and Kodiak followed. All are now part of a statewide system of 27 community mental health centers established under the state's 1975 Community Mental Health Services Act.

Program growth has been a direct function of legislative appropriations. The legislature has been guided by the state's comprehensive mental health plan and by the ideas and needs of consumers, client families, advocacy groups, private providers, and others.

AS 47.30.520 mandates the development of a comprehensive mental health plan and requires that the plan provide a five-year projection of statewide needs, services and resources in the mental health system. Alaska's last comprehensive plan was developed in 1977. Its goal was a network of mental health units throughout the state that could provide comprehensive mental health services to all consumers. The plan featured API prominently and cited community based mental health services as the most apparent need.

Development of an updated comprehensive mental health plan is currently underway. Its major finding is that a tremendous need exists for increased state services for the mentally ill. The plan indicates that despite increased legislative appropriations over the years, funding has not kept pace with the need.

The major components of Alaska's service system are stretched to capacity and many needy persons are not being served. Applying national mental health data which states that 5% of the general population suffers from one or more mental disorders, Alaska's population in need of services would be approximately 25,000. Currently, about 10,000 persons are being served -- 1200 at API and 8800 through the community mental health system. Statistics for the chronically mentally ill are even more discouraging, with only 1394 of the estimated 5500 Alaskans in need receiving services.

Between 1974 and 1985, admissions to the community mental health system increased 185% above simple population growth. At the current staffing level, services have reached a practical limit and waiting lists exist at most centers.

Similarly, during fiscal year 1985 the state's population grew by 1.9%; admissions to API grew by 8%. API has accommodated the increased admissions by decreasing the length-of-stay in the treatment of patients. A documented consequence of this is a 50% re-admission rate of former API patients. What this means in terms of quality and adequacy of care can only be inferred, but the consequences cannot be favorable.

PROGRAM FUNDING

State appropriations for mental health programs have grown from slightly less than \$1.2 million in 1959 to slightly more than \$23.4 million in 1986. However, when an inflation factor is applied, actual state spending on mental health has declined over the last few years.

The draft mental health plan, released in August 1986, estimates the cost of developing a comprehensive mental health system at \$106.9 million in annual operating costs, an increase over FY 87 operating expenditures of approximately \$82.1 million. It also identifies a need for \$102.1 million in one-time capital costs. The plan places highest priority on care for acutely disturbed persons. It recommends funding a system of immediate response through community mental health centers, designated beds in local hospitals, and specialized care services at the Alaska Psychiatric Institute.

High priority is also placed on care for the chronically mentally ill. The plan recommends funding case management services, emergency services, day treatment, outpatient psychotherapy, rehabilitation services, and inpatient services. This component of the state's mental health system is recognized as being most in need of expansion.

A comprehensive care system for children and adolescents is also recommended. Prevention programs, early intervention programs, specialized outpatient services, day treatment programs, group homes, and specialized foster care programs are proposed for funding. The plan identifies specialized services for the elderly, Alaskan natives, and incarcerated persons; general clinical services; and disaster response services as essential to a comprehensive mental health system.

To fully implement the plan, the draft estimates additional state funding as follows. Costs are shown in millions of dollars.

	Annual Operating	One-Time Capital
Acute	\$ 5.3	\$16.5
Chronic (basic services only)	41.0	51.3
Children	16.3	11.3
Elderly	4.9	3.6
Alaskan natives	3.0	12.1
General clinical	2.1	0
Disaster response	.1	0

In addition, the plan identifies an annual operating cost of \$650,000 to ensure the availability of mental health professionals to provide the increased level of service.

The draft plan emphasizes that the fiscal estimates are only broad approximations and that actual expenditures would need to be determined. However, in the committee's view, the draft clearly demonstrates that Alaska's current level of mental health funding is insufficient to serve our mentally ill population. It should be noted that the Alaska Alliance for the Mentally Ill has testified that the draft falls short of the goals of an adequate program.

The committee's view is supported by testimony received from the National Conference of State Legislatures (NCSL). Their review of Alaska's mental health program led to several recommendations, primarily that our programs be expanded. NCSL cited community care, children's programs, and treatment of incarcerated persons as particularly deficient, and recommended that a formal and continuous planning process be established.

In addition, NCSL compiled 1985 data from a number of western states, and rated Alaska's mental health program in comparison to the others. Alaska's expenditures on mental health as a percentage of our total state budget were the lowest in the study group (.4%); our per capita expenditures were the highest (\$45/state resident); and the percentage of our mental health budget that came from state sources rather than from federal or local sources was high compared to the national average (88% vs. 77%). The Division of Mental Health has expressed concern that NCSL's data may not have accurately reflected all mental health program expenditures.

FUNDING RECOMMENDATIONS

1. Whether or not funds exist in a mental health trust, Alaskans' mental health needs should be met.
2. The scope of the mental health program should continue to be determined by the legislature as the state's policy making body. The comprehensive mental health plan should guide the legislature in program development and spending decisions.
3. As required by statute, the plan should be continually updated to meet the changing needs of Alaskans and to reflect changing treatment philosophies.
4. The state benefits tremendously from public involvement in the planning process, and an advocacy board should be established to recommend program needs and funding levels to the legislature, and to monitor program implementation and expenditures.
5. The existing prioritization of mental health populations should be followed to ensure that the needs of persons with the most critical mental health problems are met. 7 AAC 71.135 places highest priority on the acutely disturbed, followed by the chronically disturbed, children and adolescents, other persons requiring direct intervention, and persons requiring nondirect services. This prioritization is reinforced in the draft comprehensive state plan.
6. Funding increases should be incremental in nature, allowing response to the state's fiscal situation and the ability of the program to expand in any one year. For FY 88 the committee recommends a minimum of \$27,392,200.
 - a) Continued funding of \$22,533,200, the Department's FY 88 base budget for the Division of Mental Health and Developmental Disabilities for mental health services and administration, Community Mental Health grants, and contract services provided by native corporations. In light of the Weiss lawsuit and the unmet mental health program needs, existing mental health programs should be protected from further budget cuts.
 - b) Reinstatement of the \$4,000,000 cut by executive action in July 1986. These funds should be allocated as follows: restore \$550,000 to API; allocate \$272,000 for adult residential care for the chronically mentally ill to restore 13 beds and add 27 new ones; restore \$151,800 to the Division of Mental Health for staff to plan and deliver mental health services; restore \$223,200 to the Fairbanks community mental health program; and allocate \$2,828,500 to community services for the chronically mentally ill.

c) Restoration of the \$859,000 provided to the Department in FY 87 as legislative "add ons". This includes funds for designated beds, emergency services for the chronically mentally ill, and suicide prevention.

NOTE: The committee devoted most of its time in developing funding recommendations to those programs serving the "mentally ill" population. The committee did not attempt to define what other populations should be provided access to Alaska's mental health program or to determine funding needs for these other populations.

7. Passage of legislation establishing a service system for the chronically mentally ill should be sought. The state's existing Community Mental Health program requires recipients to bear 25% of the cost of service, thus encouraging centers to serve those clients who are able to pay. Since the chronically mentally ill are generally unemployed, uninsured, and can't afford to pay, their needs have in large part been neglected. Establishing a separate service system with 100% funding from the state would ensure that this population is served. Legislation to establish such a system will be introduced by the committee, accompanied by a fiscal note that distributes available funds to all 27 Community Mental Health Centers based on a needs formula. In addition to reprogramming \$2.8 million to chronically mentally ill services as recommended in (5)(b) above, a budget increment is needed.

8. Future year funding increases should allow continued progress toward meeting the goals of the state's comprehensive mental health plan.

JOINT SPECIAL COMMITTEE ON MENTAL HEALTH TRUST LAND

Legislative Members

Senator Rick Halford, Co-Chair
1024 W. 6th Ave., Suite 301
Anchorage, Alaska 99501
276-4999

Representative Pat Pourchot, Co-Chair
1024 W. 6th Ave., Suite 301
Anchorage, Alaska 99501
276-6818

Senator Bettye Fahrenkamp
515 7th, Suite 130
Fairbanks, Alaska 99701
452-4882

Senator Paul Fischer
P. O. Box 784
Soldotna, Alaska 99669
262-9420

Representative Max Gruenberg
1024 W. 6th Ave., Suite 201D
Anchorage, Alaska 99501
276-3240

Representative Marco Pignalberi
6712 Lunar Drive
Anchorage, Alaska 99504
333-3298

Public Members (Alternates)

Pat Ryan Clasby
1200 Fritz Cove Road
Juneau, Alaska 99801
586-5280

(Jerry Schrader
2239 North Jordan Ave.
Juneau, Alaska 99801
789-5812)

Clifford Groh
550 West 5th. Ave., Suite 1250
Anchorage, Alaska 99501
272-6474

(Janet Baird
306 Slater Street
Fairbanks, Alaska 99701
452-5070)

Offered: 5/10/86
Referred: Rules

FINAL

Original sponsors: Josephson, Sackett,
Rodey, et al

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE CONCURRENT RESOLUTION NO. 36 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 Establishing a joint special committee
6 on mental health trust land.

7 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 WHEREAS the United States Congress granted 1,000,000 acres of land to
9 the Territory of Alaska to be administered as a public trust for the neces-
10 sary expenses and support of mental health in the territory; and

11 WHEREAS in October 1985, the Alaska Supreme Court determined that the
12 1978 decision of the Alaska Legislature to redesignate mental health trust
13 land as general grant land had breached the trust established by the Con-
14 gress; and

15 WHEREAS the funding level for the mental health programs in the state
16 is one of the lowest in the nation on a per capita basis; and

17 WHEREAS the legislature, the administration, and mental health advo-
18 cates agree that the state must comply with the intent of the Congress that
19 mental health programs in the state receive sufficient funding; and

20 WHEREAS it is not in the public interest that continued litigation
21 over the mental health land trust divert attention from the underlying goal
22 of increased funding for mental health programs and care in the state; and

23 WHEREAS present state statutes do not explicitly provide for the
24 management of mental health trust land for maximum revenue production; and

25 WHEREAS the return of mental health trust land to trust status pre-
26 cludes management of mental health trust land for its highest and best use;

27 BE IT RESOLVED by the Alaska State Legislature that a Joint Special
28 Committee on Mental Health Trust Land is established under Uniform Rule 21;
29 and be it

HCS CSSCR 36(Fin)

1 FURTHER RESOLVED that the Joint Special Committee on Mental Health
2 Trust Land is composed of three members of the Senate appointed by the
3 president of the Senate, three members of the House of Representatives
4 appointed by the speaker of the House of Representatives, and two public
5 members interested in the mental health trust land issue; the public mem-
6 bers shall be selected by the other members of the Joint Special Committee
7 on Mental Health Trust Land; and be it

8 FURTHER RESOLVED that one member appointed from the House of Represen-
9 tatives be from the membership of the House Finance Committee and one
10 member appointed from the Senate be from the membership of the Senate
11 Finance Committee; and be it

12 FURTHER RESOLVED that the Joint Special Committee on Mental Health
13 Trust Land develop, after public hearings, a proposal to resolve the mental
14 health trust litigation and recommend a level of appropriations adequate to
15 provide sufficient funding for mental health programs in the future; and be
16 it

17 FURTHER RESOLVED that the committee is authorized to meet during and
18 between sessions of the legislature and is to report its recommendations
19 and findings on the first day of the First Session of the Fifteenth State
20 Legislature; and be it

21 FURTHER RESOLVED that the committee terminates on the 10th day of the
22 First Session of the Fifteenth State Legislature.

Public Law 85-508

**TITLE I—AUTHORITY OF THE TERRITORY OF ALASKA
IN THE FIELD OF MENTAL HEALTH**

POWERS OF THE TERRITORIAL GOVERNMENT

Sec. 101. For the purpose of vesting in the Territory of Alaska authority comparable in scope to that of the States and other Territories of the United States in the field of mental health, the Territorial legislature is hereby authorized to enact such laws on the subject of mental health as it may deem appropriate, and such legislation may supersede any of the Acts cited in section 301.

FUNCTIONS OF COURTS

Sec. 102. In carrying out section 101, the Territorial legislature is authorized to confer upon United States commissioners, as ex officio probate judges, and upon the United States District Court for the Territory of Alaska, such jurisdiction, functions, and duties as it may deem appropriate for such purpose.

EFFECTIVE DATE

Sec. 103. This title shall become effective on the date of enactment of this Act.

TITLE II—GRANTS

SPECIAL GRANTS TO ALASKA FOR MENTAL HEALTH

Sec. 201. Title III of the Public Health Service Act, as amended, is hereby amended by adding thereto a new part as follows:

58 Stat. 661.
42 USC 201 note.

"PART H—GRANTS TO ALASKA FOR MENTAL HEALTH

"GRANTS FOR ALASKA MENTAL HEALTH PROGRAM

"Sec. 371. (a) There are hereby authorized to be appropriated the following sums to be available to the Surgeon General of the Public Health Service for the purpose of making grants to the Territory of Alaska to assist it to carry out plans, submitted by the Governor of the Territory or his designee and approved by the Surgeon General, for an integrated mental health program for the Territory, including outpatient and inpatient care and treatment: For each of the fiscal years ending June 30, 1958, and June 30, 1959, the sum of \$1,000,000; for each of the fiscal years ending June 30, 1960, and June 30, 1961, the sum of \$800,000; for each of the fiscal years ending June 30, 1962, and June 30, 1963, the sum of \$600,000; for each of the fiscal years ending June 30, 1964, and June 30, 1965, the sum of \$400,000; and for each of the years ending June 30, 1966, and June 30, 1967, the sum of \$200,000.

Appropriations.

Estimates: pay-
ments.

"(b) The Surgeon General shall, prior to the beginning of each calendar quarter or such shorter period as the Surgeon General may find necessary, estimate the cost of carrying out the approved plan, on the basis of estimates furnished by the Territory, including estimates of the amount of contractual obligations for hospitalization, and on the basis of such further investigations as he may find necessary. From the amounts appropriated for any fiscal year, the Surgeon General shall pay to the Territory the amount requested by it but not to exceed the amount so estimated by the Surgeon General for each such period, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which he finds that the amount paid for any prior period was greater or less than the amount which should have been paid. The amount of any balance of payments made to the Territory under this section and remaining unobligated on July 1, 1967, shall be repaid to the Treasury of the United States.

"(c) Whenever the Surgeon General finds, after affording opportunity for hearing, that the Territory has failed to comply substantially with any provisions of the approved plan, he shall notify the Governor that no further payments will be made under this section (or that further payments will not be made for parts of the plan affected by such failure) until he is satisfied that there will no longer be any such failure.

"(d) For the purpose of facilitating the administration of the Territory's mental health program, the Surgeon General is authorized to enter into arrangements with the Territorial government to provide for the care and treatment, in hospitals operated by the Service, of patients requiring hospitalization. Such arrangements shall be subject to the availability of suitable facilities therefor and shall provide for charges to the Territorial government in amounts determined by the Surgeon General which shall be sufficient to cover the full cost of such care and treatment. Upon payment by the Territory the amount of such charges shall be credited to the appropriation from which such costs were incurred: *Provided*, That, during the period of grants under this section, payment may be effected by deductions from the amount of such grants otherwise payable to the Territory, with such deductions to be credited to the appropriation from which such costs were incurred.

"PAYMENTS FOR CONSTRUCTION OF HOSPITAL FACILITIES

"Sec. 372. (a) There is hereby authorized to be appropriated an amount not exceeding the total sum of \$6,500,000, to remain available until expended, to enable the Surgeon General to make payments to the Territory of Alaska as the total contribution of the Federal Government to be used in defraying the cost of construction of hospital and other facilities in Alaska needed for the carrying out of a comprehensive mental health program.

"(b) Such facilities shall be scheduled for construction in accordance with a comprehensive construction program, developed by the Territory in consultation with the Public Health Service and approved by the Surgeon General. Projects shall be constructed in accordance with such approved program and in accordance with plans and specifications for the project approved by the Surgeon General.

"(c) Upon certification by the Territory, based upon inspection by it, that work has been performed upon a project, or purchases have been made in accordance with approved plans and specifications, and that payment of an installment is due, the Surgeon General shall certify such installment for payment: *Provided, however*,

That the Surgeon General may cause the project to be inspected at any time, and if such inspection indicates that the project is not being constructed in accordance with approved plans and specifications, he may, after notice and affording opportunity for hearing, withhold further payment until he finds that adequate corrective measures have been taken.

"(d) The term 'cost of construction' means the amount found necessary by the Surgeon General for the construction of a project and includes the construction and initial equipment of buildings (including medical transportation facilities), architects' and engineering fees, the cost of land acquired specifically for the purpose of the project, and on-site improvements.

"(e) If, within twenty years from the date of completion of construction, any hospital or other medical facility constructed with the aid of grants under this section shall cease to be a publicly owned facility operated for the care or treatment of patients under the Territory's mental health program, the United States shall be entitled to recover from the Territory the then value of the hospital or other medical facility, reduced, however, proportionately to the extent to which the Territory may have contributed to the cost of construction thereof."

Recovery of
value of facility.

LAND GRANT

Sec. 22. (a) The Territory of Alaska is hereby granted and shall be entitled to select, within ten years from the effective date of this Act, not to exceed one million acres from the public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection: *Provided*, That nothing herein contained shall affect any valid existing rights. All lands duly selected by the Territory of Alaska pursuant to this section shall be patented to the Territory by the Secretary of the Interior.

(b) The lands authorized to be selected by the Territory of Alaska by subsection (a) of this section shall be selected in such manner as the laws of the Territory may provide, and in conformity with such regulations as the Secretary of the Interior may prescribe. The authority to make selections shall never be alienated or bargained away, in whole or in part, by the Territory. All selections shall be made in reasonably compact tracts, taking into account the situation and potential uses of the lands involved. Upon the revocation of any order of withdrawal in Alaska, the order of revocation shall provide for a period of not less than ninety days before the date on which it otherwise becomes effective during which period the Territory of Alaska shall have a preferred right of selection, subject to the requirements of this Act, except as against prior existing valid rights or as against equitable claims subject to allowance and confirmation. Such preferred right of selection shall have precedence over the preferred right of application created by section 4 of the Act of September 27, 1944 (58 Stat. 748; 43 U. S. C., sec. 282), as now or hereafter amended, but not over other preference rights now conferred by law. As used in this subsection, the words "equitable claims subject to allowance and confirmation" include, without limitation, claims of holders of permits issued by the Department of Agriculture on lands eliminated from national forests, whose permits have been terminated only because of such elimination and who own valuable improvements on such lands.

(c) All grants made or confirmed under this section shall include mineral deposits: *Provided, however*, That mineral deposits in lands which on January 1, 1956, were subject to public land order numbered 52 of January 22, 1943, shall not be included in said grants, but shall continue to be reserved to the United States.

Mineral deposits.

Leases sales.

(d) Following the selection of lands by the Territory pursuant to subsection (b), but prior to the issuance of final patent, the Territory shall be authorized to lease and to make conditional sales of such selected lands.

(e) All lands granted to the Territory of Alaska under this section, together with the income therefrom and the proceeds from any dispositions thereof, shall be administered by the Territory of Alaska as a public trust and such proceeds and income shall first be applied to meet the necessary expenses of the mental health program of Alaska. Such lands, income, and proceeds shall be managed and utilized in such manner as the Legislature of Alaska may provide. Such lands, together with any property acquired in exchange therefor or acquired out of the income or proceeds therefrom, may be sold, leased, mortgaged, exchanged, or otherwise disposed of in such manner as the Legislature of Alaska may provide, in order to obtain funds or other property to be invested, expended, or used by the Territory of Alaska. The authority of the Legislature of Alaska under this subsection shall be exercised in a manner compatible with the conditions and requirements imposed by other provisions of this Act.

EFFECTIVE DATE

Sec. 203. This title shall become effective on the date of enactment of this Act.

TITLE III—TRANSITIONAL AND GENERAL PROVISIONS

AMENDMENTS AND REPEALS

Sec. 301. (a) Such of the following Acts or parts thereof as the Governor by proclamation shall declare to be superseded by a law or laws hereafter enacted by the Territorial legislature are repealed as of the effective date (specified in such proclamation) of such superseding law or laws, or as of the two hundred and tenth day after the date of enactment of this Act, whichever is later:

(1) Section 8 of the Act of January 27, 1905 (33 Stat. 616, 619; 48 U. S. C. 47);

(2) The first sentence of section 7 of the Act of February 6, 1909 (35 Stat. 600, 601), as amended by section 2 of the Act of October 14, 1942 (56 Stat. 782; 48 U. S. C. 46);

(3) The Act of June 25, 1910 (36 Stat. 852; see 48 U. S. C. 46b);

(4) The Act of April 24, 1926 (44 Stat. 222), as amended by sections 4 and 5 of the Act of October 14, 1942 (56 Stat. 782, 783; 48 U. S. C. 50, 50a); and

48 USC 46a, 47a,
47b, 47c, 48, 48a.

(5) Sections 1, 3, 6, 7, 8, and 9 of the Act of October 14, 1942 (56 Stat. 782, 783-785; 48 U. S. C. 46c, 47a, 47b, 47c, 48, 48a).

(b) (1) The Acts and parts of Acts listed in subsection (a), except the Act of June 25, 1910, are, pending their repeal as provided in subsection (a), amended (A) by striking out the words "Secretary", "United States", "Congress", and "Department of the Interior" wherever these words appear, and inserting in lieu thereof the words "Governor of Alaska or his designee", "Territory of Alaska", "the Legislature of Alaska", and "Territory of Alaska", respectively; (B) by inserting immediately before the word "Treasury", wherever it appears, the word "Territorial"; (C) by striking out the word "Federal"; and (D) by amending section 1 (a) of the Act of October 14, 1942, to read as follows: "'Governor' means the Governor of Alaska or his designee;": *Provided*, That the words "United States" where

NOTICE: This opinion is subject to formal correction before publication in the Pacific Reporter. Readers are requested to bring typographical or other formal errors to the attention of the Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501, in order that corrections may be made prior to permanent publication.

THE SUPREME COURT OF THE STATE OF ALASKA

STATE OF ALASKA,)	
)	
Appellant/Cross-Appellee,)	File Nos. S-653/678
)	
v.)	<u>O P I N I O N</u>
)	
VERN T. WEISS, et al.,)	
)	
Appellee/Cross-Appellant.))	[No. 2987 - October 4, 1985]

Appeal from the Superior Court of the State of Alaska, Fourth Judicial District, Fairbanks, Warren W. Taylor, Judge.

Appearances: G. Thomas Koester, Assistant Attorney General, Norman C. Gorsuch, Attorney General, Juneau, for Appellant/Cross-Appellee. Stephen C. Cowper, Fairbanks, for Appellee/Cross-Appellant. Russ Winner, McGrath & Associates, Anchorage, for Amicus Curiae Cook Inlet Region, Inc.

Before: Rabinowitz, Chief Justice, Burke, Matthews and Compton, Justices. [Moore, Justice, not participating]

COMPTON, Justice.

The State of Alaska ("state") appeals from a judgment of the superior court holding that the state breached its duty as trustee of federal mental health grant lands when the legislature redesignated the property as "general grant land." For the reasons set forth below, we

affirm the holding to this extent, but reverse the superior court's conclusion that the redesignation legislation was valid.

I. FACTUAL AND PROCEDURAL BACKGROUND

In 1956 the United States Congress passed the Alaska Mental Health Enabling Act (AMHEA) which, insofar as it concerns this case, granted the Territory of Alaska one million acres of federal land to be held in public trust to help effectuate the creation and operation of mental health care facilities in Alaska. Pub. L. No. 84-830, 70 Stat. 709 (1956). Section 202(e) of the Act specifically provides:

All lands granted to the Territory of Alaska under this section, together with the income therefrom and the proceeds from any dispositions thereof, shall be administered by the Territory of Alaska as a public trust and such proceeds and income shall first be applied to meet the necessary expenses of the mental health program of Alaska. Such lands, income and proceeds shall be managed and utilized in such manner as the Legislature of Alaska may provide. Such lands, together with any property acquired in exchange therefor or acquired out of the income or proceeds therefrom, may be sold, leased, mortgaged, exchanged, or otherwise disposed of in such manner as the Legislature of Alaska may provide in order to obtain funds or other property to be invested, expended or used by the Territory of Alaska. The authority of the Legislature of Alaska under this subsection shall be exercised in a manner compatible with the conditions and requirements imposed by other provisions of this Act. (emphasis added)

The state managed these lands without maintaining a separate account until 1978. The Alaska State Legislature made its practice law in 1978 when it passed the following statutory provision:

REDESIGNATION AND DISPOSAL OF MENTAL HEALTH LAND

(a) Land granted to the state under the Mental Health Enabling Act of 1956, 70 Stat. 709, and patented to or approved for patent to the state on July 1, 1978 and land designated as mental health land which was received by the state in exchange for land granted under that federal land grant is redesignated as general grant land and shall be managed and disposed of by the Department of Natural Resources under applicable provisions of law.

Ch. 181, § 3(a), SLA (1978).

Alaska has provided continuous mental health care since statehood. The record indicates that between 1959 and 1982 the state spent over \$222,000,000 on mental health care. Generally speaking, there has been a constant increase from 1959 to the present in mental health expenditures: slightly less than \$1,200,000 was expended in 1959, and slightly more than \$29,000,000 was expended in 1982. The record does not indicate how much of the trust land at issue has been disposed of, nor the total value of such disposed land. In the state's answer to the complaint, it alleges that "state expenditures for mental health purposes exceeded revenues from mental health grant lands in all years for which revenues from those lands were tabulated

separately." The record does indicate that as of 1973, total revenues from these mental health trust lands amounted to \$19,555,582. The state's total expenditures to that point amounted to \$66,726,176.

Weiss et al. filed a class action in 1982 alleging that the state breached the public trust by 1) failing to account for revenues realized, 2) using revenues for purposes other than mental health care and 3) passing legislation redesignating the property "general grant land." Plaintiffs sought declaratory relief invalidating the redesignation legislation; injunctive relief compelling the state to administer the trust according to the law; general relief establishing a trust account "for the receipt of funds generated from all lands selected by the State of Alaska under the aforesaid mental health land grant"

The superior court ruled that invalidation of the redesignation legislation was not an available remedy, based on State v. University of Alaska, 624 P.2d 807, 815 (Alaska 1981). However, the court did hold that the state breached its duties as trustee by removing the federal grant lands from the trust. As a remedy, the court ordered that

[t]he public trust established by P. L. 84-830, 70 Stat. 709, shall recover from the defendant State of Alaska an amount equal to the fair market value of all lands conveyed from the trust as of the date of conveyance, plus prejudgment interest from the date of each conveyance. For the purposes of this judgment, all lands remaining in the trust as of July 19, 1978, shall be considered

as having been removed from trust status
by the State of Alaska on that date . . .

The court also ordered a set-off for all monies spent by the state on mental health care.

The state appeals from the judgment, except the holding that the redesignation legislation was valid. Weiss et al. cross-appealed the trial court's failure to rule the legislation invalid.

II. DID THE STATE BREACH THE PUBLIC TRUST
CREATED BY CONGRESS WHEN IT REDESIGNATED
PROPERTY IN THE TRUST AS "GENERAL
GRANT LAND?"

A. Nature of the Trust.

The state argues, essentially, that the redesignation is of no legal consequence because the state has always provided public mental health programs in the past and, implicitly, will provide them in the future. The state maintains that providing such programs fulfills its obligations according to AMHEA, freeing the grant lands for other public purposes. Textual support for this position comes from the portion of Section 202(e) which states that "proceeds and income shall first be applied to meet the necessary expenses of the mental health program of Alaska." It is suggested that this language means Congress intended that the land grant serve as a revenue base guarantee. Great emphasis is placed on the legislative history of AMHEA.

which establishes that Congress did not wish to limit the use of grant lands exclusively to mental health programs.¹

Despite these observations, we think it irrefutable that Congress intended to create a trust, to be based on a corpus of one million acres of federal land. It is a commonplace of the law that without trust property there can be no trust. Restatement (Second) of Trusts § 74 (1959).² When the state, through the legislature, altered the status of the property grant the trust was thereby effectively terminated. The state, as trustee, had no power to do this

1. The debates in the House and Senate are too lengthy to reproduce in their entirety here, but certain remarks are representative of the discussions. Senator Jackson commented that "[t]he income from sales or leases will be used to support the mental health program in Alaska. The income will be held in trust for that purpose. Any money received over and above the need for the mental health program may be used for other public purposes." He further noted that the language change was not of a fundamental nature, and thus said that, "[t]he purpose of granting 1 million acres is the same as in all other similar grants, such as the public school land-grant program." 102 Cong. Rec. 9761 (June 7, 1956).

We note that the language in the federal grant was changed from designating the proceeds of the land grant to be used as a public trust for Alaska's mental health program, to saying that the proceeds "shall first be applied to meet the necessary expenses of the mental health program" only because of worry among members of Congress that the land may actually have a value far in excess of the necessary health care expenses. The record in this case shows that income from the land grant was actually less than state expenditures for mental health programs.

2. Section 74 provides: "A trust cannot be created unless there is trust property."

and consequently breached its duty to preserve the corpus.³ The fact that the state has provided mental health care in the past and will most likely do so in the future is no justification for termination of the trust. Whether a beneficiary can rely on the bona fides of a trustee to continue voluntarily to uphold the terms of a defunct trust is quite beside the point. We decline the opportunity to encourage the state, or any trustee for that matter, to determine unilaterally when to terminate a trust without specific authority to do so.

B. Remedy.

Having concluded that the state breached the trust, we find it necessary on the facts of this case to invalidate the redesignation statute, Ch. 181, § 3(a), SLA (1978). State v. University of Alaska, 624 P.2d 807, 815 (Alaska 1981) does not compel a different result. In that case, the federal government had granted 100,000 acres to the state "for the exclusive use and benefit" of the

3. Our reliance upon basic trust law principles finds ample support in the precedents of this court and the United States Supreme Court. See Lassen v. Arizona, 385 U.S. 458, 17 L.Ed.2d 515 (1967); State v. University of Alaska, 624 P.2d 807 (Alaska 1981). Both Lassen and University of Alaska involved federal grants to be used by states for school purposes. Those cases stand for the proposition "that the same private trust law principles are to apply to federal land granted to the states for school purposes." University of Alaska, 624 P.2d at 813. There is no reason to treat federal lands granted for mental health purposes differently.

University. Id. at 811. Years after the grant, the state included 5,040 acres of the trust land in a state park. This action was not in itself a breach of the trust so long as the University was paid fair market value for the land. We inferred that the legislature intended to pay the University for this disposition, stating:

It is also logical to assume that the legislature intended to compensate the University for the loss of its land. This view gives the statute creating [the park] a reading that is in accord with the well recognized canon of statutory construction that, when possible, legislation should be construed in a way that upholds its validity.

524 P.2d at 816.

Unlike the situation in University of Alaska, the present case does not involve a disposition of a portion of trust lands for a specific use. Instead, the entire corpus of the trust is intermingled with the general grant lands of the state. No particular use of the trust lands is specified and it may be years before much of the land is used. While it was reasonable to infer a legislative intent to pay for 5,040 acres for which there was a present park land use in University of Alaska, it is not reasonable to infer that the legislature meant to pay for a quantity of trust land approaching one million acres for which in large part there is no present use. Thus, the payment remedy imposed in University of Alaska is not appropriate here. Because the state in passing the redesignation act went

beyond the power which had been granted it with respect to the trust lands by Congress, the redesignation act must be declared invalid.

It follows from our conclusion that the redesignation legislation is invalid that the trust must be reconstituted to match as nearly as possible the holdings which comprised the trust when the 1978 law became effective. The case is remanded so that requisite findings can be made. We take this opportunity to provide some guidance to the trial court to simplify its task.

Those general grant lands which were once mental health lands will return to their former trust status. In the event exchanges have been made, those properties which can be traced to an exchange involving mental health lands will also be included in the trust. To the extent that former mental health lands have been sold since the date of the conveyance the trust must be reimbursed for the fair market value at the time of sale. In calculating the total amount owed, the trial court should grant a set-off for mental health expenditures made by the state during the same period. In the event that expenditures exceeded the value of lands sold, the state need not furnish cash as part of the reconstitution. The goal is to restore the trust to its

position just prior to the conveyance effected by the redesignation legislation.⁴

AFFIRMED in part, REVERSED in part and REMANDED for further proceedings consistent with this opinion.

DELIVER TO: <u>Sally Slaughter</u>	LOCATION <u>LWU</u>
FROM: <u>Mike Vediner</u>	LOCATION <u>C.O. - I.W.</u>
TELEPHONE/TELECOPIER # _____	TOTAL NUMBER OF PAGES <u>10</u>
TRANSMITTING ON/SPEED <u>5</u>	DATE <u>10-9</u> TIME <u>3:10</u>
PHONE FOR PROBLEMS: NAME/NUMBER <u>465-2500, Lori</u>	
COMMENTS _____	

1,000.00
Oppeller
Oppeller
DATE 10-14-85
by direction of Clerk
Signed 10-2-85
Compton
Sudlow

4. Amicus raises questions regarding the title held by conveyancees and bona fide purchasers of mental health lands. In view of our disposition of this case, we deem it unnecessary to address those issues at the present time.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

P.O. BOX K-STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

January 23, 1987

The Honorable Pat Pourchot
The Honorable Rick Halford
Co-Chairmen
Joint Special Legislative
Committee on Mental Health
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Re: Dedication of mental health income
stream (our file 663-87-0319)

Dear Representative Pourchot and Senator Halford:

Sandra Schubert indicated that you would like a short memorandum outlining the legal analysis I presented at the committee's last meeting to the effect that dedicating a portion of state general funds annually as a "mental health income stream" would not violate the dedicated fund prohibition in article IX, section 7, of the Alaska Constitution. In pertinent part, that provision provides: "The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs." (Emphasis added.)

In section 202(e) of the Alaska Mental Health Enabling Act, P.L. 84-830, Congress required that the income and proceeds from the one million acre land grant "shall first be applied to meet the necessary expenses of the mental health program of Alaska." We believe this requires, as a condition of the state's receipt of the one million acre land grant, that the portion of state revenues attributable to the mental health trust be separately identified, segregated out of the general budget process and made available first for funding the state's mental health program. Accordingly, the identification and establishment of a mental health trust income stream does not violate the prohibition on dedicated funds because it falls within the exception for dedications required for participation in federal programs. We believe this is true whether the revenues constituting

The Honorable Pat Pourchot
The Honorable Rick Halford
Our File No. 663-87-0319

January 23, 1987
Page 2

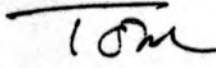
the income stream are actually generated from administration of mental health lands or are simply a portion of general fund revenues constituting compensation to the trust for lands removed from trust status.

It should be noted that the federal Act does not require that the entire income stream be dedicated to the state's mental health program. Instead, it requires that it first be made available to fund the state's mental health program; any remaining funds in the income stream may thereafter be used for other public purposes.

We hope this brief analysis satisfies your requirements. If we can be of further assistance, please contact us at your convenience.

Sincerely yours,

RONALD W. LORENSEN
ACTING ATTORNEY GENERAL

By: 
G. Thomas Koester
Assistant Attorney General

GTK/dlm

cc: Interim Mental Health Trust Commission

David T. Walker, Esq.

James G. Gottstein, Esq.

Dick Bradley, Legislative Affairs

Gary Gustafson, DNR

Tony Braden, DNR

SCOMM

56A:2

✓

**Agenda
Meeting of the
Interim Mental Health Trust Commission
and the
Joint Special Committee on Mental Health Trust Land
October 3, 1986
Loussac Library
3600 Denali, Public Conference Room
Level I
Anchorage, Alaska**

- I. Committee vs. Commission Functions
 - A. Commission Duties - Commissioner Rogers
 - B. Committee Charge - Senator Halford

- II. Threshold Issues
 - A. Definition of Mental Health - Purposes of Definition (settlement/funding)
 - B. Active vs. Passive Trust Management
 - 1. Legislation
 - 2. Administrative Costs

- III. Eventual Settlement
 - A. Issues
 - 1. Past offset
 - 2. Appraisals
 - 3. Municipal lands
 - 4. Interagency Land Management Transfers (ILMA's) (e.g. Highland Correctional, API) and Public and Charitable Use sales and leases
 - 5. Past court settlements (e.g. CIRI)
 - 6. Legislative designations (parks, forests, fish and game refuges)
 - 7. Other
 - B. Mechanics (e.g. court, legislation)

- IV. Dedicated funds - Tamara Cook, Legislative Legal
Tom Koester, AGO

- V. Future combined meetings and/or subcommittees on issues affecting both groups.

December 1, 1986

Dear

~~Committee~~ Members of the Special Joint Committee on Mental Health Trust Lands, at our November 22 meeting in Anchorage, were advised to contact staff members with specific suggestions regarding the various settlement alternatives presented to the committee.

After reviewing all the materials I present the following recommendations, and reasons, for your consideration. Since the proposals are very fluid and interchangeable, it is not productive to address each one separately. My comments are organized in the same general format with the additional of one new component: "Public Input".

I have placed great emphasis on public participation in every aspect of the issue before us. Mental illness strikes all levels of skills, professions, income and family backgrounds. Have no fear that persons and groups interested in services for the mentally ill have the intelligence and the varied resources necessary to act in their own best interest, and the best interests of their loved ones.

PUBLIC INPUT

The Interim Mental Health Trust Commission should be continued for a minimum of three years, and adequately funded for staff, travel and research. If the settlement includes necessity for appraisals, funds must be made available to do the appraisals.

The Governor's Mental Health Advisory Council should be restructured with representation from advocacy groups, clients, municipalities and public members, and the word "advisory" deleted from the title. The Council should be responsible for review and approval of the state comprehensive mental health plan, annual updating and setting required funding levels, for monitoring the implementation and effectiveness of the plan and for recommending facility needs. The Council should have authority to act that matches assigned responsibility.

Processes for public input should be structured into all legislation that sets up trust management, land or fund management, comprehensive plan approval and program monitoring. These processes to include notification, advertising, public hearings, testimony, access to information, liaison with persons most affected: the mentally ill and their families.

Funding for all mental health facilities (capital construction, rentals, leases, contracts) to include 1% for public information expenditures. A brief listing of possible projects could be distribution of books and publications explaining mental illness and how to cope with it, public service anti-stigma media spots, dissemination of latest research findings, maintenance of hot lines for individuals and families needing emergency help, training workshops and conferences.

LANDS TO BE IN TRUST

The goal should be to return as much land as possible to the trust, substituting, where necessary, replacement lands of equal value and of equal income producing potential.

I believe the committee should reach a consensus on a desired acreage goal for reconstituting the trust. I would support 750,000 acres as such a goal.

COMPENSATION FOR LAND REMOVED FROM TRUST

Revenues from lands not returnable should be subject to diversion for mental health program expenditures.

Any existing leases on lands not returnable should be subject to re-negotiation of lease fees, with revenues going to mental health program expenditures.

Lands not returnable should be available for use, if appropriate, for mental health facility sites.

Boroughs and municipalities could be encouraged, or mandated, to provide mental health services. A local share contribution can be set as a trade off for continuing to hold and/or to select mental health lands.

The amount and method of payment of the cash settlement to be paid by the state to be determined by negotiation, with the proviso that time payments be subject to interest.

Settlement negotiations should be conducted so as to reduce or eliminate appraisal costs, to disregard offset for state mental health program expenditures, and to minimize blame or liability for past errors.

I believe the committee should have a recommendation on a cash settlement, but does not now have enough statistical data to make a decision.

LAND MANAGEMENT

By a public corporation whose board of directors includes a minimum 1/3 membership of mental health program advocates. Board to have authority commensurate with the responsibility of the trust and to control management expenses.

Management policies to be based generally on maximum revenue production with enough flexibility to act in the best long term interest of the mentally ill (for example: to use land directly for facility sites.)

Policies to include specific required process of public input and review of management decisions, regulations and actions; meetings to be open to the public.

An alternate management option would be to make the interim mental health trust Commission, as presently constituted, a permanent management board to carry out the policies stated above.

I also have no objection to DNR management provided it is under the direction of a board as described above. I see no big problem with dual systems of land management within the State. Competition in land management systems might give land users a choice of more flexible, more efficient, individualized and speedy decisions. The veto provision in Nov. 22 Alternative A & B is not satisfactory. The public needs to affect positive actions, not merely take a negative position on someone else's decision.

USE OF GENERATED FUNDS

(None of the alternatives adequately address the real issue which is the quality of the program, not how the money is appropriated.)

The state comprehensive mental health plan should be approved by the public and by family advocacy groups (perhaps through the vehicle of the Governor's Mental Health Council as previously proposed in this letter) in a mandated, structured process with provision for annual updating and mandatory three year review; followed by state funded monitoring of the program effectiveness by the same advocacy groups.

Monitoring of the state mental health program to be funded by income from the trust in the same way management costs would be met out of the trust. Monitoring contracts would be handled on a regional basis, by bids or by assignment to advocacy groups. The Division of Mental Health to use present evaluation funds to provide liaison with monitoring advocates.

Funding for regional and state advocacy groups to be underwritten by the state with a minimum \$100,000.00 annual addition to present federal Community Support Program.

Consider establishment of a separate section for chronically mentally ill within the Division of Mental Health. A separate section would set the proper priority for service to those most in need and would provide direct accountability for performance of those services.

FUND MANAGEMENT

By a corporate board with 50% of its members selected from mental health program advocates.

A standard management principle is that authority to act must match responsibility assigned. In a Sept. 25, 1986 communication, G. Thomas Koester, Assistant Attorney General, State of Alaska, stated that an "active constituency" could effectively prevent legislative reappropriation for other purposes of mental health trust land revenues, even if those revenues were not in a dedicated fund. His letter closes with this sentence: "At the same time, experience has shown that it is politically difficult -- particularly in light of a well-informed and vocal constituency -- to affect significant changes." My point is if the monkey is to be put on the backs of the mentally ill and their families to preserve funding for their own services, then those families must have access to information, power and decision making.

LEGISLATIVE INTENT

Earnings from mental health trust lands will be spent on mental health programs. The legislature will provide additional (as needed) increased funding annually by a pro-rated amount that will enable the 3 year goals of the comprehensive mental health plan to be met.

The legislature will also pledge annual appropriations, plus interest, to meet any cash settlement to the trust agreed on and approved by the court.

The legislature will make a statement of intent similar to that stated on page 2 of Sept. 25, 1986 letter from G. Thomas Koester to George Rogers: "It is the intent of the Legislature that the income from the fund shall first be used to meet the necessary expenses of the mental health program of Alaska."

Pledges of % of state revenue, or % of state lands revenues, or fixed % increases in budget allocations such as proposed in Nov. 22 alternative B or Nov. 14 alternatives A, B & C are not useful because they base appropriation calculations on factors other than treatment goals for the mentally ill.

Thank you for consideration of these suggestins.. I would be happy to discuss any of the ideas in greater detail, or to work with you on procedure to achieve the goals. I have met with The Fairbanks Alliance for the Mentally Ill and the general tenor of my presentation represents their views as well as my own.

Sincerely,

Janet Baird, alternate member
Special Joint Committee on Mental
Health Trust Lands

Would like you to share this
with Janet Baird, if appropriate,
before the Oct. 3 joint meeting.
→ She got a copy.

TO: **Bettye**
FROM: Sandra
RE: Al George's Mental Health Lands Settlement Proposal
DATE: September 16, 1986

1. Return "less than fee disposal" lands to trust (oil and gas leases, mining claims, timber sales, coal leases, land leases, material sales, rights of way).

224,499.07 acres

2. Return "legislatively designated" lands to trust (parks, refuges, state forests).

368,241.02 acres

3. Require each borough/city to return "a few acres" of their municipal entitlement to the trust "as penalty for the pressure they put on the legislature to break the trust".

10,000.00 acres

TOTAL RETURN TO THE TRUST

602,740.09 acres

GEORGE FEELS THIS IS A FAIR RECONSTITUTION OF THE TRUST; THAT "ANYTHING DONE TO RESTORE ABOUT 400,000 ACRES SHOULD GET THE PARTIES TOGETHER".

4. Other lands removed from the trust would be assigned a dollar value that the state would have to pay into the trust (patented to individuals, municipal entitlements, etc.).

118,330.47 acres

5. Lands currently in the trust would remain there.

149,097.00 acres

NOTE: Federal funds used for park or refuge development may need to be reimbursed if the park/refuge designation is removed.

Sept 3 '86
FHS Ok

The following comments are my personal observations and have not been cleared or discussed with FNSB or any other organization.

Before the proposed joint meeting between the legislative MH land committee and the Governor's Mental Health land settlement commission it might be interesting to try on a few options dealing with land (not what is mental health) on the chance that the commission would be polite and ask the ^{legislative} committee what they thought.

The court in simple terms said "restore the trust." With so many parcels & individuals now holding what was assumed to be good title probably not all of the trust can be restored with just returning land. A \$ dollar value of the "impossible" parcels will have to be declared and the state hope it will result in a figure that can be reasonably attained in a acceptable period of time. To start the process will have to be some assumptions that have a "faint of logic" to them. Several rather large acreage categories come to mind right away, the first being the less than Sec 224, 499.07 acres that contain leases, timber sales, material sales etc. The transfer of those acreages and income back to the trust will not affect the completion of the terms of the transaction unless they were granted at less than fair market value.

Next, lets look at the category retained in state ownership: Park Legislative units 150,576.41 acres and Fish and Game legislative units 85,709.61 acres

both of these units do not earn income and what the legislature gives it can take away. ~~the~~
④ 131,955.00 acres of Forest legislative unit only need to be given ~~without~~ ^{simple} instruction that all income goes to the MH Trust fund. There may be a few acres of the Interagency Land Management parcels that could be returned to help temper the affect of the dollar settlement.

Lets look at what this totals numbers wise

①	224,499.07 *	less than fee
②	150,576.41	Parks
③	85,709.61	wildlife
④	<u>131,955.00</u>	Forests

592,740.09 acres

For talking purposes lets call that 500,000 acres if another 10,000 was picked up from the Municipal Entitlement area I see no reason why the suit litigants should hold back from the negotiation table. * when one uses this figure plus the figure Acres remaining in the trust on the two page sheet from DNR (August 1986) the arithmetic falls apart, however, anything done to restore about 400,000 acres should get the parties together.

local affect of MH Trust case

Lets look at the figures that are contained in the DNR (Joe Sullivan) 3 page tally sheet 4/18/86. Fairbanks North Star Borough has applied for 25 parcels 19 of which have been patented to the Borough and 6 have been T'd ed and the borough is doing work on at least one of these T'd ed parcels for the cost of \$70000 in survey and effects

The FNSB arithmetic look like this,

19 parcels patented = 9235.04 acres

6 parcels TAded = 7096. —

Total MH 16,331.04 acres FNSB.

The above is 14.58% of the 112,000 acres of municipal entitlement allowed the F.N.S.B. Unfortunately the parcel 400227 in TIN RHE sec. 19-23 for 2880 acres is where the 70,000 has been spent and it is in the TAded only list.

Personally I feel that each Borough and/or city should have to give up a few acres of their Municipal entitlement MH lands as a penalty for the pressure they applied on the legislature to break the Trust.

Another area of interest to look at is the Blue Book for Alaska write up for Mental Health to show the growth and expansion, ~~and~~ and see what was called mental health in the year the Blue book was published.

[Signature]

[Some of the expenditures for capital improvements to Parks and possibly wildlife may need close scrutinyst as there may be Federal or special matching funds involved that if violated may require reimbursement to the originating agency or fund.]

Rec 8/5/86

Department of Natural Resources
Current Land Status Estimates
Mental Health Grant Land
August, 1986

The figures in section I are subject to further negotiation between federal and state land title auditors. At question are the chargeability of navigable and meanderable water bodies. Further deductions are expected from reconveyance of such things as erroneously conveyed native allotments.

I. Land Base:

A. Total grant:	1,000,000 acres
B. Patented to the State:	829,250 acres
C. Approved for patent to the State: (subject to survey)	176,634 acres
D. Possible remaining entitlement (see F below)	0 - 21,737 acres
E. Land under Mental Health grant selection:	146,503 acres
F. Estimated reconveyance liability (e.g. erroneously conveyed Native allotments, meanderable waters)	27,621 acres x

The figures in sections II are subject only to minor revisions unless otherwise noted.

II. Conveyed out of state ownership:

A. Full conveyance (excluding subsurface)	
1) Patented to individuals	20,751.43
2) Under contract for sale to individuals	25,936.33
3) Municipal Conveyances	
Patented	23,286.16
Approved for patent	18,967.79
4) Litigation Settlements	5,605.66
5) PL 94-204 CIRI Term and Conditions	33,783.01
6) Other exchanges	<u>unknown *</u>
Total Conveyed	128,330.47

B. Less than fee disposals	
1) Land Leases	4,012.22
2) Oil and Gas Leases	107,882.08
3) Coal leases	54,563.22
4) Timber Sales	1,751.72
5) Mining Claims	55,064.09
6) Material Sales	1,219.74
7) Rights-of-way	<u>unknown *</u>
Total less than fee disposal	224,499.07

immediate transfer all
future income to fund
Negotiate ~~past~~ past
funds as an outstanding
obligations

*Accurate figures will not be available until a full audit of mental health land for these actions is complete.

III. Retained in state ownership with encumbrances:

A. Interagency Land Management Assignment	3,761.90 X
B. Park Legislative Units	150,576.41 X
C. Fish and Game Legislative Units	85,709.61 X
D. Forest Legislative Units	131,955.00 X
TOTAL	372,002.92

verify if cap. imp. or how used.

Request list of each legislative ac the created the above acreage involved.

The Department believes that the items above may not have to return to the trust but instead are a part of the state's liability to the trust under the authority of State v. University.

IV. Summary:

Total land conveyed to the state:	978,262 - 1,005,884
Total land conveyed from the state:	- 128,330
Total land encumbered not returned to the trust:	- 372,003
Acreage remaining in the trust	609,885 - 505,551
Encumbrances (Less than Fee)	- 356,454
Acreage remaining in the Trust unencumbered	149,097

???

- X Probably transfer back. But list out and see how could be handled in the future.
- X on an individual basis (list out)

MENTAL HEALTH LANDS - MUNICIPAL ENTITLEMENTS

MUNICIPAL SELECTIONS APPROVED,
PATENTS

FAIRBANKS NORTH STAR BOROUGH

MTRS	USS #/SEC	ADL NUMR	ACREAGE MH	CITY/BOROUGH	APPROVAL DATE	CONVEYANCE DATE	PATENT #	MH #	COMMENTS
1N, 1E	SEC 12, 13	400725	520.0	FNSB	7/27/80	4-28-81*	5302	26	
1N, 1E	SEC 11	400725	160.0	FNSB	7/27/80*	4-28-81	5303	26	
1N, 4E	SEC 24, 27-30	400727	1780.0	FNSB	6/23/80	7/13/81*	5372	27	
1N, 4E	SEC 19-23	400727	2880.0	FNSB	6/23/80*	—	—	27	
2N, 8E	SEC 1-3	403933	1720.0	FNSB	6-27-80*	—	—	117	sec 3 - 6-27-80 sec 1-2 - 6-27-80
3N, 8E	SEC 26-27, 22 34-36	403933	2331	FNSB	6/27/80*	—	—	118	
1S, 4E	SEC 10	26538	5	FNSB	6/13/79*	—	—	28	
5S, 4E	SEC 10-11, 15	400774	1720.0	FNSB	6-27-80	4-30-81*	5452	44	7096 acres 1 Aed 9235.04 ac Patented
6S, 4E	SEC 13, 14, 24	400760	500.0	FNSB	6-27-80	6-8-81*	5397	44	16351.04 ac MH in the Fairbanks North Star Borough Municipal Entitlement draw.
6S, 4E	SEC 13, 24, 25	400760	640.0	FNSB	6-27-80	9-23-81*	5396	44	
6S, 4E	SEC 10	400756	235.0	FNSB	6-27-80	7/12/84*	7698	44	
6S, 5E	SEC 18	400760	497.49	FNSB	6-27-80	9-3-81*	5454	44	
7S, 5E	SEC 13	400758	1.54	FNSB	6-27-80*	4-30-81	5357	73	
7S, 5E	SEC 13	400778	65.94	FNSB	6-27-80	4-30-81*	5357	73	

MENTAL HEALTH LANDS - MUNICIPAL ENTITLEMENTS

APPROVED SELECTIONS/PATENT

FAIRBANKS NORTH STAR BOROUGH

THed

RA, PA

276-3052

MTRS	USS #/SEC	ADL NIMRER	ACREAGE MH	CITY/BOROUGH	APPROVAL DATE	CONVEYANCE DATE	PATENT #	MH #	COMMENTS
1N,1W	sec 6	400705	88.0	FNSB	6-27-1980 *	4-27-1981	5272	26	
1N,2W	sec 1	400705	80.0	FNSB	6-27-1980 *	4-27-1981	5300	136	
1N,3W	sec 9	400712 400705	160.0	FNSB	6-27-1980 *	-	-	126	
1S,1W	sec 25	400711	120.0	FNSB	6-27-1980	6-8-81 *	5750	74	
1S,2W	secs 19,30	400707	309.08	FNSB	06-27-1980	04-27-1981 *	5340	26	
1S,2W	sec 31	400707	30.11	FNSB	06-27-1980 *	(6-5-85)	8155	126	← called in by Mazone 6/27/85
1S,3W	sec 2	400770	297.42	FNSB	6-27-80 *	4-27-81	5456	126	
1S,3W	sec 24,25,36	400707	1867.59	FNSB	06-27-1980	04-27-1981 *	5455	9	
1S,3W	sec 17	400706	320.0	FNSB	06-27-1980	04-27-1981 *	5455	9	
1N1W	sec 6 Lot 1	400705	34.		6-27-80	—			

JAMES B. GOTTSTEIN

ATTORNEY AT LAW

406 G STREET, SUITE 206
ANCHORAGE, ALASKA 99501
(907) 274-7686

October 16, 1986

Dr. Melbourne Henry
Director, Division of Mental Health
and Developmental Disabilities
Pouch H
Juneau, Alaska 99801

Re: August 22, 1986 Draft Comprehensive Mental Health Plan

Dear Dr. Henry:

Thank you for providing me with a copy of the above referenced draft plan. We know you and your staff have devoted a lot of time and effort in the draft plan and we commend you for your efforts. There are a lot of good things in the draft plan and we no doubt will not be mentioning anywhere nearly all of them in this letter. As you know, when people comment on agency actions, they tend to focus on the things they don't like rather than the things they do. We, no doubt, are guilty of the same thing, but wanted to let you know that we do appreciate the Division's work and have tried to recognize the good aspects of the draft plan.

As you know, I am the attorney for the Alaska Mental Health Association (AMHA), Mary C. Nanuwak and John Martin on behalf of themselves and all others similarly situated, in the Mental Health Lands litigation, Weiss et al. v Alaska, 4FA 82-2208 Civ., as well as being a member of the board of directors of the AMHA.

I. REQUEST FOR INFORMATION

(a) Public Testimony and Written Comments on the Draft Plan.

We would appreciate it very much if you would provide us with a copy of all public input you have received regarding the draft plan. With respect to oral testimony, I understand that notes were taken, and copies of the notes will be fine. You will recall that at the public testimony in Anchorage, I expressed the goal of trying to bring the various groups interested in the Mental Health Plan together to try and develop a consensus. You indicated the Division would be unable to attempt such a task, particularly in light of your desire to have a final plan by January. However, Sharron Lobaugh and I agreed after the meeting that it might prove quite useful for the Alaska Mental Health Association and the Alaska Alliance for the Mentally Ill (AAMI) to undertake such consensus building.

Of course, in order to do so, we will need the requested information. We do understand that the Division has a severe budget shortfall, and are quite willing to have someone come in to do the copying.

(b) Senate Bill 520 Blue Ribbon Committee Report

Please provide us with a copy of the Senate Bill 520 Blue Ribbon Committee Report on the need for mental health services in Fairbanks and the Northern Region that is referenced at page 10 of the draft plan.

(c) Annual Mental Health Statistical Report.

At the end of Table 5, on page 23, the above referenced Annual Mental Health Statistical Report is mentioned. We would appreciate it if you would send us a copy.

II. GENERAL COMMENTS

(a) Integration/coordination Between Different Sections of The Plan.

In our view, the plan does not have sufficient coordination or integration between the various components. For example, Chapter 3 regarding acute care does not provide very clearly how a person is tracked and cared for when he or she moves from Alaska Psychiatric Institute (API), the acute care facility, to a less intensive treatment. The Alaska Mental Health Association has always felt the goal of treatment should be to continually strive for moving the patients into a more productive level of functioning and if this is to be accomplished, there must be integration between the various categories, ie. Acute, Serious, and Clinical Services. In this regard, it seems to us that having the receiving agency participate in discharge planning would be a very beneficial addition to the process. Otherwise, the discharge planning may often be "pro forma" with no realistic expectation that it will be followed.

Chapter 5, regarding the Seriously Mentally Ill, describes some very good concepts, such as Case Management, Continuum of Care, Point of Entry, and Community Support Services, such as housing. However, it seems to us that such concepts apply across all categories of treatment. Thus, we feel these treatment paradigms should be applied throughout the plan, and not just to one segment of the mentally ill population. The same is true with the concept of community oriented development of the mental health program that is contained in Chapter 7, on Natives. While we strongly support the concept of local involvement in the development of programs for Natives, we feel the concept is good for the Non-Native population as well. In other words, community based development of local programs should apply across the board, not just for Native communities.

The problem of of integrtion & coordination also applies generally to Chapter 7, regarding Alaska Natives, because the plan does not fully discuss how treatment in the other categories

relates to services to Natives. For example, we know that approximately 30% of the population of API is Native, while the state's Native population generally is only half of that. While Goal C of Chapter 7 includes cultural sensitivity at API, the objectives do not adequately address the issue. For the Native chronic population, how is case treatment and management going to be culturally sensitive? What about the large segment of urban mentally ill Natives?

(b) Description of Programs or Services

In our view, the plan is quite vague as to exactly what the programs or services described entail. We understand that an annual "Implementation Plan" will flesh out the description of the programs/services, but if that is so, it is not possible to really evaluate the draft plan without reviewing the Implementation Plan. From a review of the draft plan only, it is quite difficult - even impossible - to determine the scope of the program. Thus, the Implementation Plan, at least for the first couple of years, should be available to review at the same time.

(c) Delineation of Priorities.

The draft plan describes with some particularity the categories of services that are desired, but does not describe where the Division feels resources (funding) should be applied based upon different availability levels. In other words, if only \$25,000,000 per year is going to be available where would the Division spend it, as opposed to where the Division would spend \$50,000,000? We believe it is imperative that prioritization be made in the plan, with emphasis on high risk populations.

(d) Level of Services

This issue is actually related to all three prior general issues. As an example "Basic", "Minimum", and "Optimum" levels of services is sometimes used in the body of the draft plan. On page 36, in the "Additional Fiscal Impact" portion of the Services for the Severely Mentally Ill, Chapter 4, "Basic", "Adaptive" "Promotive" levels of service are defined and costs estimated for a "Basic" system. The balance of the draft plan, however, does not describe at what level the goals and objectives are addressed.

In our view, the plan should describe in each instance what funding it requires for "Basic", "Minimum", and "Optimum" or "Basic", "Adaptive" and "Promotive" levels of services, and also, as set forth in (c) above describe when funding should be applied to the different programs as funding increases.

(e) Fiscal Estimates.

We understand it was difficult or impossible to be very precise in the various cost estimates, but we believe it is imperative that more information on the basis for the estimates

be provided. Otherwise it is not possible to evaluate them. This also relates to (b) above, in that the description of the services to be provided are not very clearly set out. It seems that if the description of the services was more clearly set forth, more detailed and verifiable cost estimates could be developed.

Having made all these comments, please don't misunderstand us to be opposed to trying new programs and techniques. On the contrary, we are very supportive of trying new things as more knowledge is gained by the mental health professions.

(f) Definitions.

We were somewhat confused by the terminology used at various points and believe having all the relevant terms clearly defined and consistently applied throughout the plan would be useful. Probably the best example is the use of "Basic", "Minimal", and "Optimal" in some places, and "Basic", "Adaptive", and "Promotive" in another. Terms should be defined in the appropriate place, preferably prior to their use, and consistently used throughout the plan.

(g) The Process.

We are quite pleased that you have decided to bring the draft plan before the public for review, even though you don't believe it to be required. We know that you would not have done so if you also did not have the intention of carefully reviewing the comments and attempting to incorporate them into the Plan. We, of course, would like to have the public input process formally required for the future. We are somewhat concerned with your stated desire to adopt a final plan by January 1987. We do recognize that the Legislature is clamoring for the plan, but feel it is more important to have as good a plan as we can, since it should be operative for 5 years. For that reason, we feel it would be better to spend a little more time on it to get it as good as it can be.

(i) Periodic Review.

We believe that the Plan, once adopted should be reviewed annually both to "fine tune" it, and to review progress under it.

(j) Most Therapeutic Treatment.

The current statutory scheme for treatment of patients is on a "least restrictive" basis. We believe, a change to the "most therapeutic" would be beneficial. We would therefore like to see this added in the plan as a legislative goal.

III. SPECIFIC COMMENTS.

In addition to the general comments previously made, we have a number of comments regarding the specific language of the draft plan. In going through the draft plan from front to back, we attempted to incorporate our general comments where they apply.

(a) Chapter One - Introduction and Background

1. It seems like the "Population" section, starting on page 1, would benefit by using more current statistics.
2. The first full paragraph on page two is good in recognizing the need for considering the differences in age and sex populations in Alaska on Alaska's Mental Health Program.
3. The last sentence of the last full paragraph on page two is good in recognizing the great differences between the various Native groups.
4. It would be nice if the Plan could describe some of the reasons for the large incidence of mental illness in the Native population.
5. Again, the carry-over paragraph on page 3-4 and the description of Alaska's population throughout pages 4 & 5 is good in recognizing the differences in Alaska's demography which impacts its Mental Health Program. The carry-over paragraph on pages 4-5 relating to unemployment's impact on mental health is important and it's good it is recognized. Perhaps a citation to the 1985 National Mental Health Association's published research into unemployment and mental illness would be helpful.
6. Again, it seems it would be useful if Table 2 on page 5 could be updated with more current data on unemployment.
7. The first full paragraph on page six does not appear quite accurate in that the administrative office of the Division of Mental Health (and not "of Developmental Disabilities" at that time) was established in the then Alaska Department of Health (and not "& Social Services") in 1952 (and not 1957).
8. Perhaps a final sentence to the second full paragraph on page 6 should be added, recognizing that 14 API patients were moved to Harborview earlier this year as a new unit. Actually, this move by the Division exemplifies two of our comments to be made about acute care, which is that it is not necessarily "short term" and that alternatives to API should be made available.
9. In the last paragraph of page 6, the Alaska Mental Health Association was established in 1955, not "the early '60's".

10. The sentence in the first paragraph on page 7, referring to the passage of the Community Mental Health Services Act, as follows:

This act was passed only after more than 85 years of identifying mental health problems in Alaska.

should be explained, we believe.

11. With respect to the second paragraph on page 7, relating to designated beds, we believe it would be useful to describe what progress has been made in this area.

12. We believe it would be useful to provide statistics on CMHC growth and API admissions as compared to the general population growth in the last paragraph on page 7.

13. The description of the Weiss case is not quite accurate on page 8. We will be happy to work with you on it if you like. Otherwise, (a) it seems it would be useful to indicate that the Alaska Supreme Court's decision was specifically to invalidate the 1978 legislation purporting to "redesignate" Mental Health Trust Lands as general grant lands, and (b) to clarify that the deduction allowed is only for state money that was spent on mental health, not funds from the federal government or other sources.

14. With respect to the last paragraph on page 8, it was actually CSSB 472 that was passed, although HB 128 was the original legislation in the House. In addition, it seems it would be more useful to use Chapter 132 SLA 1986 as the citation rather than the bill number. Also, the sentence that "The commission will have an executive director and staff" is simply incorrect. At this point, there is no executive director, and no realistic prospects for one, due to the grossly inadequate funding for the commission. It does appear the commission will hire an editor/coordinator for its report to the legislature however. Perhaps changing "will" to "may" is all that needs to be done.

15. With respect to the third full paragraph on page 9, it might be helpful to summarize the Battelle Study's findings.

16. It is unclear to us what role the 12 regional Native corporations have as described in the carry-over paragraph on page 9. Are you referring to the for-profit corporations such as NANA, Doyon, and the like, or the non-profits such as Maniilaq and the Tanana Chiefs Conference? If the latter, which seems reasonable, they are normally referred to specifically as non-profits to distinguish them from the profit corporations.

17. The last sentence in the paragraph on page 10 under the heading "THE MENTAL HEALTH PLAN" states:

If even a small percentage of the total funds needed become available, this plan will serve as a blueprint for development of the mental health system.

We certainly agree that this should be the case, but as mentioned in Section II(c), above, we believe the priorities and programs/services should be more clearly delineated in order to accomplish this.

18. Our comments in Section II(c), above, relating to cost estimates applies to the section on page 11 under the heading "Fiscal Impact Estimates".

19. Again the discussion of cultural and geographic differences in the last paragraph on page 11 is good in recognizing "the mental health service system must address these differences by promoting a flexible, culturally sensitive approach to service delivery," and that "professional staff must be specially trained in the diverse needs of Alaska citizens, particularly when working in remote areas."

20. With respect to the first paragraph on page 12, we believe it would be beneficial to describe how the statutory priority populations are being unserved despite the statutory mandate because of inadequate funding. The second sentence in the second paragraph on page 12, stating that the acutely disturbed population would be brought up to basic level before basic services in other areas were addressed, and that acute services would be brought up to a minimal level before the chronically severely disturbed population would be brought up to the minimal level is an example of needing definitions, consistently used. While "basic" and "minimal" levels are defined elsewhere, we don't think they were defined prior to this discussion. This is also an example of defining the priorities and method for determining allocation of funding discussed in Section II(c), above. We believe it is imperative the plan, as a whole, describe the priorities for funding in this manner.

(b) Chapter Two - The Mental Health System

1. It seems that the word "development" might be changed to "behavior" on page 14 in the carry-over sentence from page 13. We recognize "development" is probably alright, but we believe the focus in the plan is behavior.

2. With respect to the third full paragraph on page 14, it seems that the failure to receive adequate funds for the comprehensive program for hospital development for the mentally ill contemplated in AS 47.30.350 has precluded being able to meet the statutory mandate and this should be mentioned.

3. As in Section II(a)(8), the placement of API patients in Harborview should be mentioned in the fourth paragraph on page 15.

4. Of course, there is no "Appendix 2", as mentioned in the fifth paragraph on page 15.

5. The statement of philosophy beginning on page 15 is very good and we agree wholeheartedly with it. As mentioned in Section II(a), we would like to see this philosophy more comprehensively incorporated into the specifics of the plan.

6. It seems to us that the signature block on page 17 should be eliminated, leaving the effective date.

7. With respect to "(5)" on page 19, regarding Central Office purposes, it is not at all clear why one of the purposes is to "establish a uniform ratio of local and state government responsibility for financing mental health services;". Moreover, it does not appear to us that this is actually the case in any respect. Indeed, it appears exactly the opposite.

8. With respect to the personnel chart on page 19, it seems more appropriate to leave out all names.

9. The statistics in the first paragraph after table 4 on page 21 were confusing to us. It would be helpful, to us at least, to clarify what they mean.

10. The statistic in the last paragraph of page 21 that 30.4% of commitments to API during 1984, were "pending judicial review" seems unbelievable. Almost certainly, most of this category eventually received judicial determination or were converted to voluntary commitments sometime during the year.

11. The note at the end of Table 5, on page 23, references a blank for a page number.

12. It seems that the Annual Mental Health Statistical Report, DMHDD, undated, referenced as the source for Table 5, on page 23, should be dated.

13. Appendix 3, referenced in the first full paragraph of page 26, is not provided.

14. With respect to the third full paragraph on page 26, under the heading "CURRENT ADMINISTRATIVE ISSUES", it does not appear to us why additional funding "will call for regionalization of programs and services." While we vigorously agree that local input and control, to a degree, particularly in rural

Alaska, is critical for a successful program, we do not necessarily agree that "regionalization" per se, is a component of this. If regionalization simply means that the end result is another layer before the central office, we are opposed. If it results in staffing that works with local entities to foster creative solutions, we would be in favor.

(c) Chapter Three - Specialized Services to the Acutely Mentally Ill.

1. It does not appear to us that defining acute as of "short duration" in the first paragraph on page 27, is accurate, particularly when it becomes clear that the acute population is functionally defined as the people who are in API. Obviously, patients at API often are there for a long period of time. Since treatment of the acutely mentally ill is often not short term, it should not be defined as short term.

2. The description in the second paragraph of page 27 regarding ongoing aftercare, residential services, monitoring, etc., in regarding continuum of care is good.

3. The first full paragraph on page 28, describing the comprehensive care system for the acutely mentally ill is good. In addition to those areas mentioned, we would like the continuum of care elements also explicitly mentioned, such as residential services, monitoring, including follow-up review, etc., as well as such things as case management, outpatient services, prevention and early intervention.

4. We would like to see a Goal and/or Objective(s) for alternatives to API.

5. With respect to Goal A, perhaps objectives of having
(i) a 24 hour statewide on call telephone service, and
(ii) mental health training of village health aides
would be beneficial.

6. With respect to the entire Fiscal Impact section, it seems to us that the plan should describe (i) what services are being provided, and (ii) how the estimates are arrived at. This comment relates to all of the fiscal impact sections for the balance of the draft plan.

(d) Chapter Four - Specialized Services For the Severely Mentally Ill

1. The first paragraph in this chapter, on page 31, is good in recognizing the benefits of continuity of care, and treatment plans for reducing hospitalization and increasing self-sufficiency.

2. It seems to us that "not yet been fully realized" appearing in the sixth line of the third paragraph, on page 31 should be changed to "barely been touched".

3. We would find it useful for the plan to summarize the standards for services mentioned in the first full paragraph on page 32, following # 2 of the definition of Seriously Mentally Ill.

4. With respect to the first paragraph on page 33, it seems it would good to state what the unmet need is for supervised apartments, halfway houses, crisis respite beds, residential care facilities, etc.

5. With respect to the second paragraph on page 33, again, it seems it would be good to describe the needs, waiting lists, etc.

6. In Objective 1, of Goal A, on page 33, 2nd line, "of" should be inserted between "development" and "an".

7. With respect to Objective 5, of Goal A, on page 34, it seems overreaching to "require" contacts at the clients residence. Perhaps other phraseology should be used.

8. With respect to Objective 6, of Goal A, on page 34, it seems to us that the patient's family, when available, is probably the best source of observation on the client's behavior and should be used.

9. We would like to see an additional Objective for the provision of the housing component of the Community Support Program.

10. With respect to Objective 1, Goal B, on page 34, it seems to us that one of the elements is that the services be provided in a location(s) that are readily accessible to the population concerned.

11. With respect to Objective 2, Goal C, on page 35, we believe job placement, with follow-up counseling, is the most important component of vocational rehabilitation (which in many instances might be considered "vocational habilitation" since many patients have never been capable of holding a job). It seems to us that vocational training alone, without job placement, just makes things worse by raising hopes for employment without any realistic expectation of obtaining a job.

12. With respect to Objective 1, of Goal D, on page 35, we are sure you also mean to provide support to the patient themselves. With respect to the actual language of the Objective, we are not sure what it means.

13. With respect to Objective 2, Goal E, on page 35, is the provision of legal services meant to be for the patients themselves? If so, it would appear there is the very real danger of a conflict of interest between the patient and the Division, in that the Division may want someone involuntarily committed. The federal government recently enacted a Public Advocacy Program

for the Mentally Ill, which includes the provision of legal services to certain qualified individual mentally ill persons. It seems that coordination with this program would be beneficial.

14. Objectives 3 & 4, of Goal D, on page 35, relating to the provision of recreation and transportation are good.

15. Again, as with Section 9 above, there is a housing component that needs to be addressed.

16. With respect to Objective 1, of Goal E, on page 35, we would hate to see the addition of administrative staff for its sake alone. We would want to see a clear delineation of the tasks and results expected out of the additional person(s) contemplated to be added to the central office staff.

17. In the "Additional Fiscal Impact" section, page 36, the draft plan identifies the costs are for a "basic" level of services, after defining "Basic", "Adaptive", and "Promotive" levels of services. We believe this is the only place the fiscal impacts clearly show at what level the services are to be provided. As we mentioned in Section II(d), above, we believe not only should this be identified in all cases, but the costs for the "Adaptive" and "Promotive" levels of service should also be provided.

Moreover, in other parts of the plan the terms "basic", "minimal", and possibly "optimum" levels or service are discussed, but without definition. As we said in Section II(f), we believe these terms should be defined early in the plan and applied consistently throughout it.

(e) Chapter Five - Specialized Services to Children and Adolescents.

1. This chapter deals with this population without describing how it interrelates to other portions of the plan. While we recognize the special considerations and treatment necessary for children and adolescents, it is clear that some portion are or end up being chronically, severely and/or acutely mentally ill. Thus, the plan should integrate this segment with the other segments of the plan. This is an example of general comment II(a).

2. With respect to the second paragraph on page 37, there are interesting statistics, but it seems to us that the implications or impacts on the need for mental health services should be made specific with estimates of the increased needs because of the divorce and alcoholism rates in Alaska.

3. The third paragraph on page 37, is good in identifying the "gap" in the mental health system for the severely disturbed adolescent.

4. With respect to the second full paragraph on page 38, fourth line, again, it does not appear to us that API is solely a "short-term facility. Also the standard for admission to API seems to be based upon the Civil Involuntary Commitment Standard. We question if this is actually the case, because it appears that children and adolescents who do not meet this standard are cared for in API.

5. With respect to the definition of a "severely emotionally disturbed" child or adolescent", starting with "A." on page 38, and continuing through "E." on page 39, there needs to be disjunctive and/or conjunctive connection(s). In other words do "A" through "E" all have to be present or just "A" and one of "B" through "E" or some combination. I suppose this is a classic lawyer's comment, but it is impossible to tell what the definition is without it.

6. With respect to Objectives 1 & 2 of Goal C, on page 40, it seems to us that they do not quite mesh. We would suggest that "who are at high risk or are experiencing mental health problems" be inserted after "children" in the fourth line of Objective 2, in order to make this whole Goal consistent.

(f) Chapter Six - Specialized Services To The Elderly

1. This section of the draft plan could also benefit from a fuller discussion of how it integrates with the other elements, as discussed in Section II(a), above.

2. In the second paragraph on page 44, the draft plan states that "74% of those over 60 have no nearby relatives". Depending on the definition of "nearby" we believe this statement is either not credible, or perhaps, not useful. It seems to us that a large number of the people over 60 in Alaska have children in the state, certainly Natives over 60. If nearby is defined to exclude these children, then we do not believe the figure is altogether that useful. On the other hand, perhaps the figure is simply a mistake. Or on the third hand, perhaps we are completely off base with our questioning this figure. In any event, we would like to know the basis of this statement.

3. The first paragraph on page 45 is good, pertaining to the interdisciplinary approach to the organization, development, and delivery of specialized mental health services to the elderly.

4. With respect to Goal A, on page 46, as discussed in Section(s) II(a) and III(c)(3), the concepts of continuum of care, case management, and the like should also be addressed here. However, in light of the separate housing assistance the state provides for seniors, any housing support should be considered as being provided under that program and not under the mental health program.

5. With respect to Objective 1, Goal A, on page 46, we believe a mobile component of the services makes a lot of sense. Oftentimes, seniors have a very difficult time getting around, and it may be cost effective to have some services come to the patients, particularly where there are groups of seniors receiving services. Indeed, it seems that seniors needing mental health services could be placed together to a certain extent.

6. With respect to Object 2, Goal B, it is not clear to us that only day treatment should be provided.

7. With respect to Objective 1, Goal C, providing for the addition of a central office administrator, as with Section III(d)(16), above, we would want to make sure the person would be productive.

(g) Chapter Seven - Specialized Services to Alaskan Natives

1. First off, this section is entirely oriented to rural Natives. However, as demonstrated by the over representation of Natives at API and as "street people" in the cities, there is a huge urban Native component. As you know, oftentimes the village mentally ill person(s) is transferred by the mental health system, or community pressure, to the cities. The plan should address these urban mentally ill Natives. Many of the same issues apply, such as culturally sensitive treatment, Native service providers and Native participation in program development, but the application has to be in the urban areas because that is where these particular Natives are located.

2. With respect to the statement in the first paragraph on page 48 that no epidemiological studies of Natives as a group exist, we believe this is simply incorrect. We understand that both the Indian Health Service and the Alaska Native Health Board have helpful information. These sources should be utilized. In addition, Dr. Robert Alberts, recently appointed to the Governor's Mental Health Advisory Board has assembled over the years, we believe, very valuable information. To the extent that information is already available, (i) it is unnecessary to spend the time and money to re-obtain it, and (ii) it will be unfortunate to delay program/service development.

3. The second and third paragraphs on page 48 are quite good, in describing the problem of service provision in the bush. We believe the real key is in the development of Native service providers. Not only is the local Native much more likely to remain, but while it takes a non-Native a lifetime to understand the Native culture, it takes the Native only three years or so to obtain the requisite training. We do not believe any level of realistic compensation and/or other incentives significantly change the high turnover of non-Native personnel in the bush.

4. With respect to item "1.", beginning page 49, we can not emphasize enough the importance of local involvement in the design, staffing and pace of implementation of mental

health programs. We do not have the space here to develop the reasons for the incredibly high incidence of mental illness and indicia of mental illness for Natives, such as suicide, other than to say that it is the product of the displacement of Native culture by the non-Native culture in the last 50 years. From what we have observed, the only viable way to heal the Native community(ies), and it is often the entire community(ies) which are mentally ill, is to have the people themselves fully involved in the process. If non-Natives, even non-local Natives, to a lesser extent, come into communities and tell them what the problem is and what the solutions are, this is actually just another example of the problem.

5. With respect to the description of the goals and objectives at the bottom of page 49, just above Goal A, it seems that "community based natural helpers" has been forgotten.

6. With respect to Objective 1, Goal A, on page 49, any study of Natives' perceptions of the nature and prevalence of mental health needs and preferred manner of delivering services, needs to be performed by Natives, as well as being about them.

7. With respect to Goal B, page 50, we believe the objectives should go even farther with Native involvement in both the design of programs and the delivery of services..

8. With respect to Goal C, page 50, we believe, in addition to cultural sensitivity, physical sensitivity should also be provided. An example, is diet. For a Native from a truly remote village, the diet at API could be completely unpalatable.

9. With respect to Goal D, on page 51, regarding suicide education, while we think this is good for Natives because the suicide rate is unbelievably high in this population, we believe suicide education would be beneficial for the general population as well. This applies to Objective 2, regarding suicide prevention and intervention as well.

10. With respect to Objective 1, Goal D, page 51, we suggest changing "itinerate" to "travel".

11. "Curriculum" is misspelled in Objective 1, Goal E, on page 51.

12. Objective 3, Goal E, on page 51, regarding providing financial incentives for natives to obtain education, certification, etc., is good.

13. With respect to B, on page 52 regarding fiscal impact, how is the Division going to ensure cultural sensitivity and appropriateness of services without any fiscal impact?

(h) Chapter Eight - General Mental Health Clinical Services.

1. On page 55, third paragraph, Copper River is mentioned as a community. Of course there is a Copper River, but it seems the most likely communities the plan may be referring to is Copper Center, while the largest community in the area is Glenallen.

2. With respect to Objective 2, Goal A, on page 56, as we stated in Section III(g)(3), we do not believe higher wages, longevity bonuses, sabbaticals, or the like can significantly reduce turnover in the bush. In our view, local Natives must be trained to provide services in these communities.

3. Objective 1, Goal B, on page 56, pertaining to a centrally located training workshop to orient new clinicians to culturally diverse needs is good. The only thing we would add is the participation of Natives.

4. With respect to Goal E, on page 57, we believe phrasing the issue as:

Universal mental health coverage in all health insurance policies at the same level of benefits for general medical coverage

is preferable to the phrasing used. Substantively, we couldn't agree more that having mental health coverage in all medical insurance policies would be a tremendous addition to Alaska's mental health system. The Alaska Mental Health Association has been advocating this for many years.

(i) Chapter Nine - Specialized Forensic Mental Health Services.

1. We would suggest the insertion of "internal" after "taken" in the first line on page 59.

2. The rest of the first paragraph on page 59 is good, although we would prefer to see some elaboration of the problems the forensic unit has on API, ie. the detrimental impact on the therapeutic environment of API.

3. Finally, with respect to the the first sentence in the first paragraph on page 59, relating to the lack of funding and community pressure which resulted in the abandonment of the plan to move the forensic unit to Hiland Correctional Center, I feel impelled to point out that the Hiland Correctional Center was illegally constructed on Mental Health Trust Lands without compensation to the Trust. In essence, the Hiland Correctional Center is trespassing on Mental Health Trust Lands, and it is certainly ironic that the Division could not even place the forensic unit there.

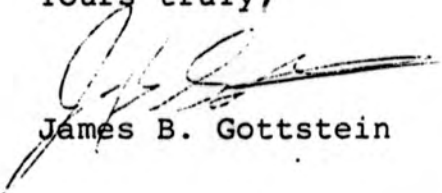
(j) Chapter Ten - Availability of Professionals.

1. Much of this chapter seems to be inapplicable to Alaska. For example, the Levels described on pages 64 & 65, discuss year round surface transportation. The first full paragraph on page 65 also seems inapplicable when it discusses the assumption that communities in Alaska are linked together and are mutually dependent for comprehensive mental health service delivery.

2. With respect to Goal C, on page 66, we do not necessarily support the concept of rotating API psychiatrists to rural areas. It could be good if it results in increased sensitivity and knowledge by the psychiatrists, but by the same token, we wouldn't want it to result in inappropriate treatment in the bush.

Dr. Henry, we feel the work you have done on the Comprehensive Mental Health Plan is invaluable. We also believe the development of the best plan possible is very important in increasing funding for mental health services, in addition to deciding where to spend available funds. We hope our comments have been helpful and offer our assistance in any way you might find it useful. Of course, if you have any questions about our comments, please don't hesitate to call.

Yours truly,



James B. Gottstein

cc: Alaska Mental Health Association
Governor's Mental Health Advisory Council
Interim Mental Health Trust Commission, including designees
and alternates.
Joint Legislative Committee on Mental Health Trust Lands
Steve Harrison
David Walker
G. Thomas Koester
Doug Modig
Ev Tucker
Amy Lohr
Tom Abel
Coral Allen
John Frannich

MEMORANDUM

State of Alaska

TO: George Rogers, Chairman
Interim Mental Health Trust
Commission

DATE: September 10, 1986

FILE NO: 663-87-0093

TELEPHONE NO: 465-3600

FROM: Harold M. Brown
Attorney General

SUBJECT: Can monetary pro-
ceeds of mental
health land sales
be preserved in
perpetuity?

By: G. Thomas Koester *GTK*
Assistant Attorney General

The Interim Mental Health Trust Commission asked for our advice regarding possible legal mechanisms for preserving, in perpetuity, the monetary proceeds from disposals of mental health trust lands. The basic question is whether it would be constitutionally permissible to establish a mental health trust permanent fund into which the proceeds of sales of mental health lands can be deposited and preserved in perpetuity -- i.e., can mental health trust lands be converted to money and the money preserved as a permanent trust asset? For the reasons which follow, we believe such an approach probably would be permissible under federal law but would be unconstitutional under the Alaska Constitution, although contrary arguments can be made.

As a general matter, the nature and extent of a trustee's powers and duties are determined by the terms of the trust itself. See generally Restatement (Second) of Trusts § 164 (1959). Under § 202(e) of the Alaska Mental Health Enabling Act, P.L. 84-830, the state as trustee has the following powers and duties:

All lands granted to the Territory of Alaska under this section, together with the income therefrom and the proceeds from any dispositions thereof, shall be administered by the Territory of Alaska as a public trust and such proceeds and income shall first be applied to meet the necessary expenses of the mental health program of Alaska. Such lands, income, and proceeds shall be managed and utilized in such manner as the legislature of Alaska may provide. Such lands, together with any property acquired in exchange therefor or acquired out of the income or proceeds therefrom, may be sold, leased, mortgaged, exchanged, or otherwise disposed of in such manner as the legislature of Alaska may provide, in order to obtain funds or other property to be invested, expended, or used by the Territory of Alaska. The authority of the legislature of Alaska under this subsection shall be exercised in a manner compatible with the

conditions and requirements imposed by the provisions of this Act.

Under this provision, the state is given broad discretion in administering mental health lands, including the express power to sell them. Where such discretionary power is conferred expressly, the trustee may properly sell trust property, Restatement (Second) of Trusts § 190 (1959), and a court will not interfere with the exercise of that power except to prevent an abuse of discretion. Restatement (Second) of Trusts §§ 187, 382 (1959).

Under § 202(e) of the Act, the proceeds of any mental health land sales may be "invested, expended, or [otherwise] used" by the state. The restrictions on the state's use of those proceeds are that (1) they must be "administered by [the state] as a public trust," and (2) they "shall first be applied to meet the necessary expenses of the mental health program of Alaska."

Under the second restriction, it might be argued that no proceeds from mental health land sales may be deposited in a permanent mental health trust fund until after they first had been made available to meet the necessary operating expenses of the state's mental health program. We believe this would be too literal a reading of the restriction. In particular, the Congressional authorization for the state to sell lands in order to obtain funds to be invested strongly suggests that the state has discretion, under federal law, to deposit proceeds from the sale of mental health lands (or, indeed, other income from mental health lands) in a permanent mental health trust fund.

At the same time, the broad discretion vested in the state by the Act certainly permits the state to spend proceeds from the sale of mental health lands on the necessary operating expenses of the state's mental health program. It undoubtedly was in recognition of this authorized use of such proceeds that the Alaska Supreme Court held in State v. Weiss, 706 P.2d 681, 684 (Alaska 1985), that the state is entitled to a set-off for mental health expenditures when the state's liability for previously-sold mental health lands is computed.

Under federal law, then, it is permissible for the state either to invest permanently the proceeds of mental health land sales or to spend such proceeds as authorized by the Act, which means making them available first to meet the necessary operating expenses of the state's mental health program. Unfortunately, it appears that only the second option is permissible under state law.

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

1531.2 SCOMM•56A: JNT. SPEC. MENTAL HEALTH•TRUST LAND, 1987

The state law analysis necessarily begins with article IX, section 7, of the Alaska Constitution, which provides:

The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article [relating to the Alaska Permanent Fund] or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

(Emphasis added.)

There is no question that some dedication of the proceeds from mental health lands is "required by the federal government for state participation" in a federal program, the state participation in this case being the receipt of lands under the Act. As we have seen, § 202(e) requires, as a condition of the state's acceptance of the land grant, that the income and the proceeds from mental health lands first be applied to funding Alaska's mental health program. 1/

1/ Once the "necessary expenses" of that program have been met, the federal legislation permits any remaining income and proceeds to be spent for other public purposes. See, e.g., S. Rep. No. 2053, 84th Cong., 2nd Sess. 3-4, reprinted in 1956 U.S. Code Cong. & Ad. News 3637, 3639-40 (emphasis added):

The income and proceeds from disposition of these lands must be administered as a public trust, with the expenses of the mental health program having first call on such funds. Amounts not needed for the mental health program can be used for other public purposes as the legislature may determine.

....

The purpose of the grant is to afford revenues to the Territory [of Alaska] for the support of its mental-health program. If such revenues are in excess of needs for the program, they may be used, as a public trust, for other public purposes.

The problem with seeking to preserve proceeds from sales of mental health lands in perpetuity -- i.e., establishing a permanent mental health trust fund -- is that such preservation is not required by the Alaska Mental Health Enabling Act as a condition of the state's acceptance of the land grant. As a result, such preservation is not (in the language of article IX, section 7, of the Alaska Constitution) "required by the federal government for state participation in federal programs."

Where dedication in perpetuity is not required by federal law, the prohibition on dedicated funds in the Alaska Constitution prohibits such dedication as a matter of state law. Cf. 1986 Inf. Op. Att'y Gen. 5 (May 28; 883-86-0126) (once federal condition satisfied, provisions of state law control remaining funds). Under the federal law, the federal condition would be satisfied once the income and proceeds are first applied to the state's mental health program. After the "necessary expenses" of that program have been met, any income and proceeds remaining could (under the federal law) be used for other public purposes. Under the article IX, section 7, prohibition on dedicated funds in the Alaska Constitution, those other public purposes cannot include dedication in perpetuity into a mental health permanent fund. In short, where dedication in perpetuity of "proceeds" from the sale or other disposal of mental health lands is not "required" by federal law, it is not permitted under the prohibition on dedicated funds contained in article IX, section 7, of the Alaska Constitution.

At the same time, arguments can be made that the establishment of a permanent mental health trust fund is, or at least ought to be, constitutionally permissible. First, § 202(e) of the Act requires that the state administer mental health lands and the proceeds therefrom, including the proceeds of mental health land sales, as a "public trust." It is an axiom of private trust law that "[t]he trustee is under a duty to the beneficiary to use reasonable care and skill to preserve the trust property." Restatement (Second) of Trusts § 176 (1959). If the state has the authority to sell the land but lacks the authority to preserve the proceeds of such sales in perpetuity, it might be argued that the state would not be exercising "reasonable care and skill" by selling the land.

However, that duty generally relates to protecting the trust property from loss or damage; it does not mean that trust property cannot be sold and the proceeds of such sales used for purposes authorized by express provisions of the trust itself. Compare Restatement (Second) of Trusts § 128 comment i (1959) (trustee may be authorized, expressly or by implication, to spend

George Rogers, Chairman
Interim Mental Health Trust Commission
File No. 663-87-0093

September 10, 1986
Page 5

part of principal). Again, it undoubtedly was in recognition of this authority that the Alaska Supreme Court authorized the set-off for state mental health expenditures when the state's liability for previous mental health land sales is calculated.

A stronger argument in this regard is that it elevates form over substance to acknowledge that the state permissibly may refuse to sell mental health lands and authorize only leases, a mechanism by which the mental health trust could be preserved in perpetuity, but may not sell the lands and deposit the sales proceeds in a permanent mental health trust fund. Nonetheless, because such dedication in perpetuity is not required by the federal Act, the prohibition on dedicated funds in article IX, section 7, of the Alaska Constitution precludes that approach.

The foregoing represents our best analysis of the question presented. Of course, we encourage members of the commission or other interested parties to provide additional analysis for our consideration.

GTK:md

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

September 24, 1986

SUBJECT: Limitations on expenditures of the income from
mental health land (Work Order No. 15-0071)

TO: Senator Rick Halford
Co-Chairman, Mental Health Land Committee

FROM: Richard A. Bradley
Legislative Counsel

Roger Porter has asked that we comment on the possibility that the proceeds from the management of Alaska mental health trust land might be managed in such a way that the income is protected from legislative appropriation. The suggestion is that this might be done through the vehicle of a permanent fund; implicitly, then, your request is that we comment on the legislative power to establish a dedicated fund for the income from mental health trust land. The legislature may generally take action unless a constitutional provision prohibits such a result.

In our view, several constitutional provisions are germane to the question.

The provisions of the Alaska Constitution prohibiting the establishment of a dedicated fund is found in art. IX, sec. 7. The provision provides:

SECTION 7. DEDICATED FUNDS. The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

As we comment on this question, you have asked that we consider the September 10, 1986 opinion of the attorney general

to George Rogers as chairman of the Interim Mental Health Trust Commission on this same question.

The attorney general concluded that the Alaska Constitution precludes the establishment by statute of a permanent fund in this situation because there is nothing in the Alaska Mental Health Enabling Act that requires the establishment of such a fund. Since it is a requirement of state constitutional law (art. IX, sec. 7) that such a fund not be established by law unless it is required by Federal law for state participation in a federal program, it necessarily follows that the fund may not be established by law.

We have carefully reviewed the opinion and we join in it. We believe that it states the present view of the Alaska Supreme Court on the question.

Some years ago, this office read the introductory phrase: "proceeds of a state tax or license" fairly narrowly and we would then have concluded that state income not fairly described as a "state tax or license" was outside the prohibition. The Supreme Court's decision in State v. Alex, 646 P.2d 203 (Alaska 1982) resolved this matter. In our view, it is clear now that the "sources of any public revenues" [Alex, at 210], including the proceeds from leases or sales of state mental health land are within the prohibition.

One other point raised in your request to us merits comment. The suggestion was that the funds derived from the lease or sale of the mental health trust land be protected from legislative appropriation. I take this suggestion to mean, particularly in the context of your question apropos a dedicated fund, that the income be managed without the need for legislative appropriations by some as yet unestablished board or commission for the purposes stated in the Alaska Mental Health Enabling Act: the support, "first", of the "mental health program of Alaska" and then after these needs have been met, "other public purposes as the legislature may determine." See sec. 202(e), P.L. 84-830 and its legislative history at 1956 USCC&AN 3637, 3639-3640.

I see no suggestion in the federal law that the legislature not participate in the management of the funds. I believe that affirmative language in an Act of Congress would be required to deprive the legislature of its constitutionally required obligation to approve expenditures. The provisions of art. IX, sec. 13 provide, in part, that "No money shall

Senator Halford
September 24, 1986
Page 3

be withdrawn from the treasury except in accordance with appropriations made by law."

To the contrary, the Enabling Act provides that "the income . . . shall be managed and utilized in such manner as the legislature of Alaska may provide, . . ." [Sec. 202(3) of the Enabling Act, P. L. 84-830].

However, having said all this, I believe that it is possible for the legislature to appropriate to a separate fund an amount to be ascertained by reference to receipts from the sale or lease of mental health trust land. We have advised the legislature of this option in different contexts in the past and we note that the attorney general apparently agrees; see the opinion of the attorney general of November 30, 1982 to that effect.

If I may be of further assistance, please advise.

RAB:mkr
m6/114

**ALTERNATIVE D
COURT ORDERED SETTLEMENT PROVIDING FOR MINIMUM MENTAL HEALTH
FUNLING LEVELS**

REPRESENTS A RETURN TO A SCHEME SIMILAR TO THAT ESTABLISHED BY STATUTE IN 1978. PROVIDES FOR A COURT SETTLEMENT WHEREBY THE STATE AGREES TO APPROPRIATE A PERCENTAGE OF STATE LAND REVENUES TO MENTAL HEALTH PROGRAMS.

Lands to be in Trust

None.

Compensation for Lands Removed From Trust.

The state would agree to a court-approved schedule of minimum expenditures for increasing funding for mental health programs:

FY 88	\$10 million
FY 89	\$ 8 million
FY 90	\$ 5 million
FY 91	\$ 5 million

The state would also agree that an amount equal to 1.5% of revenues of all state lands would be expended on mental health programs if that amount exceeds the above minimum schedule.

Enforcement

1. Establishment of a mental trust health board to ensure compliance.
2. Legislation enacted by the state legislature.
3. Consent decree entered in Alaska federal district court.
4. Board empowered to seek court enforcement if the state does not comply with the court settlement. Remedies available would specifically include; (1) contempt of court, (2) the court could appoint a receiver to manage the state mental health program similar to the enforcement procedure the Alabama federal district court has used to manage that state's prison system when the state officials refused to obey court orders, (3) other available legal remedies. The statute could also provide additional remedies.

Land Management

Not applicable.

Funding Management

The mental health board will establish guidelines to determine qualifying mental health expenditures and prioritization between mental health programs. The mental health board will also review revenue production from state lands and make recommendations to the Legislature on an annual basis.

Legislative Intent

To maintain state compliance with the court settlement.

The duties and appointment of a Mental Health Board.

1. Mental Health Board duties shall include:
 - a. Creating and amending guidelines to determine which mental health programs funded by the state apply to the minimum expenditures agreed to in the mental health land trust settlement.
 - b. Ensure that the state complies with the terms of the mental health settlement, seeking court enforcement if necessary.
 - c. Creating and amending guidelines for prioritization between state funded mental health programs.
 - d. Review income production from state lands and report to the legislature on a yearly basis.
2. Changes in the way that board members are appointed include:
 - a. Nomination by the mental health community.
 - b. Appointments by the Governor limited to mental health community nominees.
 - c. Appointments subject to approval by the state legislature in joint session.
3. Full time staff provided.

SCOMM

56A:3

SPECIAL JOINT COMMITTEE ON MENTAL HEALTH TRUST LAND

MEMBERS

Janet Baird (Alternate)
306 Slater St.
Fairbanks, Alaska 99701
452-5070

Patricia Ryan - Clasby
1200 Fritz Cove Road
Juneau, Alaska 99801
586-5280

Senator Betty Fahrenkamp
515 7th, Suite 130
Fairbanks, Alaska 99701
452-4882

Senator Paul Fischer
P.O.Box 784
Soldotna, Alaska 99669
262-9420

Clifford Groh
550 West 5th Ave., Suite 1250
Anchorage, Alaska 99501
272-6474

Representative Max Gruenberg
1024 W. 6th Ave., Suite 201D
Anchorage, Alaska 99501
276-3240

Senator Rick Halford, Co-Chair
1024 W. 6th Ave., Suite 301
Anchorage, Alaska 99501
276-4999

Representative Marco Pignalberi
6712 Lunar Drive
Anchorage, Alaska 99504
333-3298

Representative Pat Pourchot, Co-Chair
1024 W. 6th Ave., Suite 201E
Anchorage, Alaska 99501
276-6818

Jerry Schrader, M.D., P.C. (Alternate)
2239 North Jordon Ave.
Juneau, Alaska 99801
789-5812

Member Addresses

Interim Mental Health Trust Commission

PLAINTIFFS:

Member: George W. Rogers, PhD.
1790 Evergreen Avenue
Juneau, Alaska 99801
Phone: (907) 586-1202

Alternate: K. J. Metcalf
C/O Angoon Trading Company, Inc.
Box 10
Angoon, Alaska 99820
Phone: (907) 788-3111

INTERVENOR:

Member: Dr. Lidia Selkregg
5811 Radcliff Drive
Anchorage, Alaska 99508
Phone: (907) 333-8206

Alternate: Dr. Dennis Scholl
Seward Life Action Council
P.O. Box 1045
Seward, Alaska 99664
Phone: work (907) 224-3027, home (907) 224-3696

GOVERNOR'S MENTAL HEALTH ADVISORY COUNCIL:

Member: Sharron Lobaugh
3340 Fritz Cove Road
Juneau, Alaska 99811
Phone: work (907) 586-4952, home (907) 789-9210

Alternate: Barbara Wihlborg, Chairperson
Governor's Advisory Council on Mental Health
Box 142
Tok, Alaska 99780
Phone: work (907) 452-1802, home (907) 883-2202

DEPARTMENT OF NATURAL RESOURCES:

Esther C. Wunnicke, Commissioner
Department of Natural Resources
400 Willoughby
P.O. Box M
Juneau, Alaska 99811
Designee: Robert D. Arnold; Deputy Commissioner
Phone: (907) 465-2400

DEPARTMENT OF HEALTH AND SOCIAL SERVICE:

John Pugh, Commissioner
Department of Health and Social Services
P.O. Box H-01
Juneau, Alaska 99811
Designee: Karen Perdue, Assistant Commissioner
Phone: (907) 465-3030

1. Dispositions
 2. Lands - ^{fund} return (combine)
- B-
- a - lands still with the state
 - b - lands in parks etc.
1 - return or pay for -
 - c - 3rd party lands

CHRONOLOGY

Jerry Schneider -

✓

MENTAL HEALTH ANNOTATED CHRONOLOGY

- 1) 1956 - Mental Health Enabling Act
[1956 Public Law 830, Title II, Sec. 202, July 28, 1956]
 - a. Granted 1 million acres of land, including mineral rights, to Territory of Alaska as base for a public trust.
 - b. Established a public trust for the mentally ill in Alaska of the above lands and any income generated by these lands. Monies left over after mental health program costs were met could be used for other public needs. (A 12/7/68 memo from Peter Froelich, Assistant AG, states that this statute "neither required a dedicated or permanent fund nor created a true trust as did the statutes when granted school land.")
- 2) 1958 - Alaska Statehood Act, Sec. 6 (k) [1958 Public Law 85-508], reconfirmed the grant and transferred the grant from the territory to the state.
- 3) 1964 - "Selection of Mental Health School and University Lands by Boroughs", 1964 Opinions of the Attorney General No. 7, (Warren C. Colver), concluded that mental health and university lands were not unappropriated and unreserved (having been appropriated and reserved to support the designated programs) and therefore could not be selected by boroughs.
- 4) 1967 - An informal attorney general's opinion (memorandum) was issued by Deputy Attorney General Edward Reasor on "Mental Health Lands Exchange". This memorandum concluded that the state could exchange mental health lands for general grant lands as long as the exchange was for legitimate state purpose, the integrity of the trust was preserved, and the exchange supported the mental health program (it did not deal with the severance of estate issue).
- 5) 1976 - The legislature created a Mental Health Land Board composed of the Director of the Division of Mental Health, Chairman of Mental Health Advisory Council and the Commissioner of Revenue to oversee the disposal of mental health land (AS 38.05.035(a)(13)).
- 6) 1978 - New state legislation dealing with redesignation of mental health, school and university lands was passed. (Chapters 180, 181 and 182, Alaska Session Law 1978). Chapter 180 allowed for the municipal selection of mental health land subject to "DNR-led" land exchange. Chapters 181 and 182 redesignated mental health land as general grant land effective July 1, 1978 (the bill was signed July 18, 1978). The effect of chapters 181 and 182 was that exchanges of mental health land to allow for municipal selections were no longer necessary.

An accounting of income produced from mental health land was required for the pending legislation: the total was \$25,110,430 from 1959 thru 1977.

In order to comply with the intent of the original trust legislation, the legislature set up:

- A. A Mental Health Fund,
 - B. A Mental Health Fund Advisory Board within the Department of Revenue (members: Director, Division of Mental Health; Chair, Mental Health Advisory Council; Commissioner, Department of Revenue), and
 - C. The funding source for the fund: 1.5% of total revenue derived from the management of (all) state land.
- 7) 1979-1981 - No money deposited in the Mental Health Fund; no meeting of the Mental Health Fund Advisory Board held. However, money was appropriated by the legislature for the purpose of mental health treatment (e.g. DHSS, Div of Mental Health).
- 8) 1981 - House Bills 151 and 152 were introduced to appropriate \$84,000,000 to the Mental Health Fund (i.e., the amount owed to the fund from 1978-1981), and provide for oversight of the fund and income. Senate Bills 710 and 711 were also introduced to satisfy the Mental Health Fund requirements.

An article by Dr. Jerry Schrader appeared in "Coping" magazine calling for litigation if the legislation was not passed (it did not).

- 9) 1982 - (Feb) Ms. Laura Davis, Assistant AG, did an analysis of the Mental Health Trust Fund (J66-534-81A) at the request of Hugh Malone, state legislator. This analysis points out the following:
- a. That the 1.5% funding established in 1978 legislation was not based on an appraisal of mental health land, therefore, it is not possible to judge its fairness. The funding will exceed the value of the trust land at some future time (prohibited by Article IX Section 7 of the Alaska Constitution);
 - b. Although the legislature has not transferred money to a mental health fund, it has made mental health appropriations;
 - c. Money from the fund established by the Mental Health Enabling Act were not to be used exclusively for mental health. Mental health funding is simply the first priority.
 - d. If the substitution of revenue for the trust imposed by the 1978 legislation was not equal to the fair market value of the trust lands, then the trust has been breached (the failure to appropriate may also be a breach).
 - e. There existed three alternative courses of legislative action:
 1. Do nothing to fund the Mental Health Trust Fund. Litigation was likely with the course, but the state may be immune from enforcement as the MH Enabling Act didn't provide for enforcement. Also, the case can be made that past appropriations have taken care of reasonable mental health needs in Alaska.

2. Comply with the MH Enabling Act. This would entail an assessment of the fair market value of MH land as of the date of redesignation, regular legislative review of mental health needs in the state with recommended funding levels, and the transfer of money to the fund until the fund has received money equal to the fair market value of the trust land (recommends direct transfer without appropriation into the fund as it must be appropriated out).
3. Seek the repeal of the Alaska Mental Health Enabling Act by congress.

(Nov.) Lawsuit filed (Weiss v. State) in State Superior Court claiming that the state violated the terms of the MH Enabling Act. That suit sought:

- a. To void AS 37.14.070 claiming it was illegal to redesignate the land;
- b. To establish a trust because the state has, or will, realize revenue from redesignated mental health land that is not being placed in trust;
- c. To have the court direct the state to administer the land in accordance with trust principles. The litigants felt the state violated public trust by disposing of mental health land at less than fair market value.

The Assistant AG on the case, Mr. G. Thomas Koester, asked DNR to provide information regarding:

- a. The land obtained under the MH Enabling Act.
- b. The disposition of those lands, and
- c. The value of those lands.

DHSS is asked to provide documentation on state expenditures for mental health purposes.

- 10) 1983 - (June) Memorandum Decision (partial summary judgement) entered against the state. Requires the state to account for the value of land removed from the MH Trust. States that the remedy might be monetary rather than a invalidation of 1978 legislation.

(July) Appeal and cross appeal entered and denied.

(Aug) Mr. Stephen Cowper, the Weiss attorney, stated that he will not begin negotiations until the state accounts for all MH land and its disposition.

(Dec) Court ordered the state to comply with an accounting and an appraisal of MH land by March 30, 1984.

11) 1984 - (Feb) Mr. Koester drew up a judgment to be entered in the court which specifies that:

- a. The 1978 legislation is constitutional, and
- b. The MH public trust is entitled to be reimbursed for value of land redesignated as of July 19, 1978

(Judgement not signed).

(April) A resume' (survey) of mental health land activities was completed by the Division of Land & Water Management (DLWM).

(May) Mr. Cowper filed a motion to levy a sanction against the state (restraining the state from disposing of mental health land) for non-compliance with the discovery request. The hearing was held in Fairbanks the next day (June 1). At the hearing the motion was divided into two parts: sanctions and a temporary restraining order. Mr. Frank Mielke (DLWM) testified about our compliance with the discovery request and Mr. Koester made a case for the state's solvency. The motions were denied.

(August) Notice of Lis Pendens was filed August 1, 1984 by Cowper against all mental health land selected by the state.

The Department of Natural Resources issued an appraisal contract for 183 parcels of mental health land near Anchorage and Kenai.

Mr. Koester drew up a stipulation stating that the state will:

- a. Draw up a legal description of all land selected by the state to fulfill the MH land grant;
- b. Provide a listing of the current acquisition status of the MH selectons;
- c. Note whether the MH land had been alienated or conveyed and if so, how;
- d. Estimate the fair market value of the interests conveyed or alienated based on appraisals, done at the time of conveyance and revenues derived from the conveyance;
- e. Appraise the fair market value of all mental health land remaining in the MH trust on July 19, 1978; and
- f. Compute the value of all mental health land converted to general grant land by adding simple interest of 10.5% per year to the appraised value (a, b, c, e and f are due by March 15, 1985; d is due May 15, 1985).

The stipulation was signed by Mr. Koester August 30, 1984; was signed and filed with the court by Mr. Cowper on September 4, 1984.

At the same time, Mr. Koester drew up a judgement that stated:

- a. The mental health enabling act created a public trust for which the state is trustee.
- b. The redesignation of mental land to GG land was constitutional.
- c. The public trust shall recover the value of land conveyed from the trust as of the date of conveyance plus prejudgement interest (the redesignation is considered a conveyance).
- d. The state will receive credit for mental health expenditures when calculating the final judgement.

The judgement was filed September 14, 1984.

(September) - The state moved to have the Lis Pendens expunged. Plaintiffs filed an opposing motion. The state counter filed.

On September 18, 1984 the state filed a notice of appeal to the Alaska Supreme Court of the above judgement. The appeal is based on the following:

- a. The mental health trust land is not for the exclusive benefit of mental health.
- b. The redesignation of mental health land was not a breach of the public trust.
- c. The mental health trust fund is not entitled to be reimbursed for the full value of all mental health land received by the state.

A cross appeal was also filed. The appeal challenged the constitutionality of the 1978 redesignation.

The appraisals contracted for in August were completed. This group of 188 parcels (11,272.344 acres) is valued at \$13,895,600.00.

(October) After examining the number and location of mental health parcels remaining for appraisal and estimating the time and cost of traditional appraisals, plans were finalized for completing "appraisals" of the converted land by using a "valuation panel" consisting of three senior designated appraisers.

A motion to intervene (plaintiffs) was brought by Mr. James Gottstein, representing the Alaska Mental Health Association, Mary C. Nanuwak and John Martin. The motion sought to bring up other issues in the case:

- a. Is the state deliberately creating barriers to the enforcement the MH trust?
- b. Have third parties receiving MH land been notified of the trust status of the land?

- c. Are the conveyances in b. null and void?
- d. Should the 1.5% of land revenue dedicated to the MH trust by the 1978 legislation be automatically deposited?
- e. Are MH expenditures inadequate or misallocated?
- f. Should the state be replaced as trustee?
- g. Should punitive damages be awarded?
- h. Should the court appoint an independent board to oversee the land?

The prospective interveners were associated with Mr. Cowper, but apparently disagree with his tactics and strategy. An opposing motion was filed by Mr. Koester. The motion to intervene was denied October 31, 1984 because it was not timely filed.

(November) An order expunging Lis Pendens was signed November 15, 1984.

(December) The Opinion of Value (appraisal) Panel was chosen. The panel consists of three senior designated appraisers each representing a geographic area of the state. They are tasked with evaluating approximately 4,600 parcels of mental health land as of July 19, 1978.

The Mental Health Association announced that it would file a separate lawsuit in federal court, but did not.

- 12) 1985 - (Jan.) The Opinion of Value Panel began to work evaluating all parcels of land remaining in state ownership on July 19, 1978.

House Bill No. 128 was introduced by Representatives Pignalberi, Gruenberg, Bowden, Jenkins, Koponen and Taylor. The bill proposed to prevent the state from disposing of mental health lands. (It did not pass.)

The Division of Geological & Geophysical Surveys (DGGS) completed reports on the coal and oil and gas reserves underlying mental health land.

(March) The Opinion of Value Panel completed the evaluation of 4,146 parcels of state land. The total value of these parcels was estimated to be \$234,407,870.00 (973,098.229 acres).

(April) Reports were completed concerning the subsurface market value of mental health land (\$691,946) and the value of land removed from the public domain (e.g. for parks) before July, 1978 by the legislature (166 parcels equalling 164,385.7 acres valued at \$33,002,388.93).

Combined total estimated value of all mental health land retained in state ownership on July 19, 1978 is \$281,997,804.93. Brought forward to July, 1985 at 10.5% compounded annual interest, the total is \$567,259,354.20.

The first attempts were made to reach an out-of-court settlement. Mr. Koester suggested that the state accept the projected liability (plus interest accrued at a rate equal to the income earnings of the Alaska Permanent Fund) and place funds in a mental health trust over a period of years.

(May) DNR reviewed records concerning the 2,787 disposals of mental health land or resources occurring between statehood and July, 1978. The total receipts equaled \$25,955,647.79 (excluding the \$1,480,355.60 interest accruing on land sale contracts). Thus, the state's total projected liability in the lawsuit is estimated at \$593,215,001.99.

(June) Oral argument by both sides was heard by the Alaska Supreme Court.

(July) The results of the March and May DNR reports were released from attorney/client confidential status, and placed in the public record.

(October) On October 4, the State Supreme Court issued its opinion (No. 2987) in the case of Weiss v. State of Alaska. That opinion declared the redesignation act invalid, and stated that the trust must be reconstituted as nearly as possible to its 1978 status. As part of this reconstitution, the trust is to be reimbursed for lands sold since the date of the redesignation. This amount is to be off set by mental health expenditures made by the state during the same period. The case was then remanded to State Superior Court for further definition.

That same day, Commissioner Esther C. Wunnicke directed the Department of Natural Resources to cease all formal activities on mental health land.

Governor Sheffield established an informal working group of state officials to begin working on solutions to the problems associated with Weiss v. Alaska.

Mr. Cowper resigned the case in order to pursue his political career. Mr. William Council of Juneau took his place.

(November) Commissioner Wunnicke adopted an emergency regulation (11 AAC 06.010) closing all mental health land to mineral entry (November 5, 1986).

The Department of Natural Resources began the work of auditing all actions on mental health land between July 20, 1978 and October 5, 1985, and establishing the status of mental health land as of October 5, 1985.

Two mental health fund colocation codes were established within the department: a corpus "account" (150) to hold funds obtained from the sale of mental health land, an earnings "account" (155) to hold funds earned from mental health land.

(December) Commissioner Wunnicke issued Department Order 121 "Mental Health Land Interim Management" on December 11, 1985. That order establishes criteria for interim management of mental health land based on receipt of fair market value for all transactions or full reimbursement for the trust in land or money for other transactions executed for the general public good.

- 13) 1986 - (January) The Alaska State Legislature began work on resolution of mental health lands issues. A decision was made to table all bills containing mental health land during the 1986 session. (Bills creating various legislative designations [e.g. parks, forests] containing approximately 56,000 acres of mental health land were left pending at the end of the 1985 session).

(February) The motion to intervene brought by the Alaska Mental Health Association, et. al. was allowed by the State Supreme Court.

Mr. William Council resigned as attorney for the plaintiffs. Mr. David Walker, also of Juneau, took his place.

The department agreed to provide notice of newly occurring actions occurring on mental health land to the litigants.

Commissioner Wunnicke imposed a temporary suspension on certain types of actions on mental health land while Department Order 121 underwent revision. Those actions were: less than fair market value rights-of-way; actions on land sale discounts; further actions on land conveyance decisions made prior to the Weiss decision; and the conversion of remote parcels to homesteads.

The United States District Court handed down a decision in the case of Tyonek Native Corporation vs. Secretary of the Interior which affected Tyonek's ability to select state mental health lands under ANCSA (the court found that they could not).

(March) The State Superior Court issued an order continuing the mineral closure of mental health lands (the emergency regulation expired two days later).

(April) DNR's Land Title Section completed its audit of state land selected by the state, approved for conveyance to the state and patented to the state under the Mental Health Enabling Act. The report showed that 1,005,884 acres have been approved or patented to the state with expected adjustments (deletions) of approximately 27,600 acres. If the adjustments are made, the state would have a remaining entitlement of 21,700 acres.

(May) Department Order 121 was substantially revised and reissued.

One bill and one resolution involving mental health trust lands passed the legislature. HCS CSSCR 36 established a Joint Special Committee on Mental Health Trust Land. HCS CSSB 472 established an Interim Mental Health Trust Commission.

The Tyonek decision was appealed.

(June) The joint special committee legislative members were named: House - Pat Pourchot (co-chair), Max Gruenberg, Marco Pignalberi; Senate - Rick Halford (co-chair), Bettye Fahrenkamp, Paul Fisher (the two public members have yet to be named).

(July) Governor Sheffield appointed the members of the Interim Mental Health Trust Commission: For plaintiffs - Dr. George Rogers, member, Mr. K. J. Metcalf, alternate; for intervenor - Dr. Lidia Selkregg, member, Dr. Dennis Scholl, alternate; for the Governor's Mental Health Advisory Council - Ms. Sharon Lobaugh, member, Ms. Barbara Wihlborg, alternate. The two exofficio members are the Commissioner of the Department of Health and Social Services, John Pugh, who has designated Karen Perdue, Assistant Commissioner, to represent him; and the Commissioner of the Department of Natural Resources, Esther Wunnicke, who has appointed Robert Arnold, Deputy Commissioner, to represent her.

Last update July, 1986

SUPREME
COURT
OPINION

NOTICE: This opinion is subject to formal correction before publication in the Pacific Reporter. Readers are requested to bring typographical or other formal errors to the attention of the Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501, in order that corrections may be made prior to permanent publication.

THE SUPREME COURT OF THE STATE OF ALASKA

STATE OF ALASKA,)

Appellant/Cross-Appellee,)

v.)

VERN T. WEISS, et al.,)

Appellee/Cross-Appellant.)

File Nos. S-653/678

O P I N I O N

[No. 2987 - October 4, 1985]

Appeal from the Superior Court of the State of Alaska, Fourth Judicial District, Fairbanks, Warren W. Taylor, Judge.

Appearances: G. Thomas Koester, Assistant Attorney General, Norman C. Gorsuch, Attorney General, Juneau, for Appellant/Cross-Appellee. Stephen C. Cowper, Fairbanks, for Appellee/Cross-Appellant. Russ Winner, McGrath & Associates, Anchorage, for Amicus Curiae Cook Inlet Region, Inc.

Before: Rabinowitz, Chief Justice, Burke, Matthews and Compton, Justices. [Moore, Justice, not participating]

COMPTON, Justice.

The State of Alaska ("state") appeals from a judgment of the superior court holding that the state breached its duty as trustee of federal mental health grant lands when the legislature redesignated the property as "general grant land." For the reasons set forth below, we

affirm the holding to this extent, but reverse the superior court's conclusion that the redesignation legislation was valid.

I. FACTUAL AND PROCEDURAL BACKGROUND

In 1956 the United States Congress passed the Alaska Mental Health Enabling Act (AMHEA) which, insofar as it concerns this case, granted the Territory of Alaska one million acres of federal land to be held in public trust to help effectuate the creation and operation of mental health care facilities in Alaska. Pub. L. No. 84-830, 70 Stat. 709 (1956). Section 202(e) of the Act specifically provides:

All lands granted to the Territory of Alaska under this section, together with the income therefrom and the proceeds from any dispositions thereof, shall be administered by the Territory of Alaska as a public trust and such proceeds and income shall first be applied to meet the necessary expenses of the mental health program of Alaska. Such lands, income and proceeds shall be managed and utilized in such manner as the Legislature of Alaska may provide. Such lands, together with any property acquired in exchange therefor or acquired out of the income or proceeds therefrom, may be sold, leased, mortgaged, exchanged, or otherwise disposed of in such manner as the Legislature of Alaska may provide in order to obtain funds or other property to be invested, expended or used by the Territory of Alaska. The authority of the Legislature of Alaska under this subsection shall be exercised in a manner compatible with the conditions and requirements imposed by other provisions of this Act. (emphasis added)

The state managed these lands without maintaining a separate account until 1978. The Alaska State Legislature made its practice law in 1978 when it passed the following statutory provision:

REDESIGNATION AND DISPOSAL OF MENTAL HEALTH LAND

(a) Land granted to the state under the Mental Health Enabling Act of 1956, 70 Stat. 709, and patented to or approved for patent to the state on July 1, 1978 and land designated as mental health land which was received by the state in exchange for land granted under that federal land grant is redesignated as general grant land and shall be managed and disposed of by the Department of Natural Resources under applicable provisions of law.

Ch. 181, § 3(a), SLA (1978).

Alaska has provided continuous mental health care since statehood. The record indicates that between 1959 and 1982 the state spent over \$222,000,000 on mental health care. Generally speaking, there has been a constant increase from 1959 to the present in mental health expenditures: slightly less than \$1,200,000 was expended in 1959, and slightly more than \$29,000,000 was expended in 1982. The record does not indicate how much of the trust land at issue has been disposed of, nor the total value of such disposed land. In the state's answer to the complaint, it alleges that "state expenditures for mental health purposes exceeded revenues from mental health grant lands in all years for which revenues from those lands were tabulated

separately." The record does indicate that as of 1973, total revenues from these mental health trust lands amounted to \$19,555,582. The state's total expenditures to that point amounted to \$66,726,176.

Weiss et al. filed a class action in 1982 alleging that the state breached the public trust by 1) failing to account for revenues realized, 2) using revenues for purposes other than mental health care and 3) passing legislation redesignating the property "general grant land." Plaintiffs sought declaratory relief invalidating the redesignation legislation; injunctive relief compelling the state to administer the trust according to the law; general relief establishing a trust account "for the receipt of funds generated from all lands selected by the State of Alaska under the aforesaid mental health land grant"

The superior court ruled that invalidation of the redesignation legislation was not an available remedy, based on State v. University of Alaska, 624 P.2d 807, 815 (Alaska 1981). However, the court did hold that the state breached its duties as trustee by removing the federal grant lands from the trust. As a remedy, the court ordered that

[t]he public trust established by P. L. 84-830, 70 Stat. 709, shall recover from the defendant State of Alaska an amount equal to the fair market value of all lands conveyed from the trust as of the date of conveyance, plus prejudgment interest from the date of each conveyance. For the purposes of this judgment, all lands remaining in the trust as of July 19, 1978, shall be considered

as having been removed from trust status
by the State of Alaska on that date . .

The court also ordered a set-off for all monies spent by the state on mental health care.

The state appeals from the judgment, except the holding that the redesignation legislation was valid. Weiss et al. cross-appealed the trial court's failure to rule the legislation invalid.

II. DID THE STATE BREACH THE PUBLIC TRUST
CREATED BY CONGRESS WHEN IT REDESIGNATED
PROPERTY IN THE TRUST AS "GENERAL
GRANT LAND?"

A. Nature of the Trust.

The state argues, essentially, that the redesignation is of no legal consequence because the state has always provided public mental health programs in the past and, implicitly, will provide them in the future. The state maintains that providing such programs fulfills its obligations according to AMHEA, freeing the grant lands for other public purposes. Textual support for this position comes from the portion of Section 202(e) which states that "proceeds and income shall first be applied to meet the necessary expenses of the mental health program of Alaska." It is suggested that this language means Congress intended that the land grant serve as a revenue base guarantee. Great emphasis is placed on the legislative history of AMHEA

which establishes that Congress did not wish to limit the use of grant lands exclusively to mental health programs.¹

Despite these observations, we think it irrefutable that Congress intended to create a trust, to be based on a corpus of one million acres of federal land. It is a commonplace of the law that without trust property there can be no trust. Restatement (Second) of Trusts § 74 (1959).² When the state, through the legislature, altered the status of the property grant the trust was thereby effectively terminated. The state, as trustee, had no power to do this

1. The debates in the House and Senate are too lengthy to reproduce in their entirety here, but certain remarks are representative of the discussions. Senator Jackson commented that "[t]he income from sales or leases will be used to support the mental health program in Alaska. The income will be held in trust for that purpose. Any money received over and above the need for the mental health program may be used for other public purposes." He further noted that the language change was not of a fundamental nature, and thus said that, "[t]he purpose of granting 1 million acres is the same as in all other similar grants, such as the public school land-grant program." 102 Cong. Rec. 9761 (June 7, 1956).

We note that the language in the federal grant was changed from designating the proceeds of the land grant to be used as a public trust for Alaska's mental health program, to saying that the proceeds "shall first be applied to meet the necessary expenses of the mental health program" only because of worry among members of Congress that the land may actually have a value far in excess of the necessary health care expenses. The record in this case shows that income from the land grant was actually less than state expenditures for mental health programs.

2. Section 74 provides: "A trust cannot be created unless there is trust property."

and consequently breached its duty to preserve the corpus.³ The fact that the state has provided mental health care in the past and will most likely do so in the future is no justification for termination of the trust. Whether a beneficiary can rely on the bona fides of a trustee to continue voluntarily to uphold the terms of a defunct trust is quite beside the point. We decline the opportunity to encourage the state, or any trustee for that matter, to determine unilaterally when to terminate a trust without specific authority to do so.

B. Remedy.

Having concluded that the state breached the trust, we find it necessary on the facts of this case to invalidate the redesignation statute, Ch. 181, § 3(a), SLA (1978). State v. University of Alaska, 624 P.2d 807, 815 (Alaska 1981) does not compel a different result. In that case, the federal government had granted 100,000 acres to the state "for the exclusive use and benefit" of the

3. Our reliance upon basic trust law principles finds ample support in the precedents of this court and the United States Supreme Court. See Lassen v. Arizona, 385 U.S. 458, 17 L.Ed.2d 515 (1967); State v. University of Alaska, 624 P.2d 807 (Alaska 1981). Both Lassen and University of Alaska involved federal grants to be used by states for school purposes. Those cases stand for the proposition "that the same private trust law principles are to apply to federal land granted to the states for school purposes." University of Alaska, 624 P.2d at 813. There is no reason to treat federal lands granted for mental health purposes differently.

University. Id. at 811. Years after the grant, the state included 5,040 acres of the trust land in a state park. This action was not in itself a breach of the trust so long as the University was paid fair market value for the land. We inferred that the legislature intended to pay the University for this disposition, stating:

It is also logical to assume that the legislature intended to compensate the University for the loss of its land. This view gives the statute creating [the park] a reading that is in accord with the well recognized canon of statutory construction that, when possible, legislation should be construed in a way that upholds its validity.

524 P.2d at 816.

Unlike the situation in University of Alaska, the present case does not involve a disposition of a portion of trust lands for a specific use. Instead, the entire corpus of the trust is intermingled with the general grant lands of the state. No particular use of the trust lands is specified and it may be years before much of the land is used. While it was reasonable to infer a legislative intent to pay for 5,040 acres for which there was a present park land use in University of Alaska, it is not reasonable to infer that the legislature meant to pay for a quantity of trust land approaching one million acres for which in large part there is no present use. Thus, the payment remedy imposed in University of Alaska is not appropriate here. Because the state in passing the redesignation act went

beyond the power which had been granted it with respect to the trust lands by Congress, the redesignation act must be declared invalid.

It follows from our conclusion that the redesignation legislation is invalid that the trust must be reconstituted to match as nearly as possible the holdings which comprised the trust when the 1978 law became effective. The case is remanded so that requisite findings can be made. We take this opportunity to provide some guidance to the trial court to simplify its task.

Those general grant lands which were once mental health lands will return to their former trust status. In the event exchanges have been made, those properties which can be traced to an exchange involving mental health lands will also be included in the trust. To the extent that former mental health lands have been sold since the date of the conveyance the trust must be reimbursed for the fair market value at the time of sale. In calculating the total amount owed, the trial court should grant a set-off for mental health expenditures made by the state during the same period. In the event that expenditures exceeded the value of lands sold, the state need not furnish cash as part of the reconstitution. The goal is to restore the trust to its

position just prior to the conveyance effected by the redesignation legislation.⁴

AFFIRMED in part, REVERSED in part and REMANDED for further proceedings consistent with this opinion.

4. Amicus raises questions regarding the title held by conveyances and bona fide purchasers of mental health lands. In view of our disposition of this case, we deem it unnecessary to address those issues at the present time.

ENABLING
ACT

Enabling Act

TITLE I—AUTHORITY OF THE TERRITORY OF ALASKA IN THE FIELD OF MENTAL HEALTH

POWERS OF THE TERRITORIAL GOVERNMENT

Sec. 101. For the purpose of vesting in the Territory of Alaska authority comparable in scope to that of the States and other Territories of the United States in the field of mental health, the Territorial legislature is hereby authorized to enact such laws on the subject of mental health as it may deem appropriate, and such legislation may supersede any of the Acts cited in section 301.

FUNCTIONS OF COURTS

Sec. 102. In carrying out section 101, the Territorial legislature is authorized to confer upon United States commissioners, as ex officio probate judges, and upon the United States District Court for the Territory of Alaska, such jurisdiction, functions, and duties as it may deem appropriate for such purpose.

EFFECTIVE DATE

Sec. 103. This title shall become effective on the date of enactment of this Act.

TITLE II—GRANTS

SPECIAL GRANTS TO ALASKA FOR MENTAL HEALTH

Sec. 201. Title III of the Public Health Service Act, as amended, is hereby amended by adding thereto a new part as follows:

38 Stat. 691.
42 USC 201 note.

"PART H—GRANTS TO ALASKA FOR MENTAL HEALTH

"GRANTS FOR ALASKA MENTAL HEALTH PROGRAM

"Sec. 371. (a) There are hereby authorized to be appropriated the following sums to be available to the Surgeon General of the Public Health Service for the purpose of making grants to the Territory of Alaska to assist it to carry out plans, submitted by the Governor of the Territory or his designee and approved by the Surgeon General, for an integrated mental health program for the Territory, including outpatient and inpatient care and treatment: For each of the fiscal years ending June 30, 1958, and June 30, 1959, the sum of \$1,000,000; for each of the fiscal years ending June 30, 1960, and June 30, 1961, the sum of \$800,000; for each of the fiscal years ending June 30, 1962, and June 30, 1963, the sum of \$600,000; for each of the fiscal years ending June 30, 1964, and June 30, 1965, the sum of \$400,000; and for each of the years ending June 30, 1966, and June 30, 1967, the sum of \$200,000.

Appropriations.

Estimates: pay-
ments.

"(b) The Surgeon General shall, prior to the beginning of each calendar quarter or such shorter period as the Surgeon General may find necessary, estimate the cost of carrying out the approved plan, on the basis of estimates furnished by the Territory, including estimates of the amount of contractual obligations for hospitalization, and on the basis of such further investigations as he may find necessary. From the amounts appropriated for any fiscal year, the Surgeon General shall pay to the Territory the amount requested by it but not to exceed the amount so estimated by the Surgeon General for each such period, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which he finds that the amount paid for any prior period was greater or less than the amount which should have been paid. The amount of any balance of payments made to the Territory under this section and remaining unobligated on July 1, 1967, shall be repaid to the Treasury of the United States.

"(c) Whenever the Surgeon General finds, after affording opportunity for hearing, that the Territory has failed to comply substantially with any provisions of the approved plan, he shall notify the Governor that no further payments will be made under this section (or that further payments will not be made for parts of the plan affected by such failure) until he is satisfied that there will no longer be any such failure.

"(d) For the purpose of facilitating the administration of the Territory's mental health program, the Surgeon General is authorized to enter into arrangements with the Territorial government to provide for the care and treatment, in hospitals operated by the Service, of patients requiring hospitalization. Such arrangements shall be subject to the availability of suitable facilities therefor and shall provide for charges to the Territorial government in amounts determined by the Surgeon General which shall be sufficient to cover the full cost of such care and treatment. Upon payment by the Territory the amount of such charges shall be credited to the appropriation from which such costs were incurred: *Provided*, That, during the period of grants under this section, payment may be effected by deductions from the amount of such grants otherwise payable to the Territory, with such deductions to be credited to the appropriation from which such costs were incurred.

"PAYMENTS FOR CONSTRUCTION OF HOSPITAL FACILITIES

"SEC. 372. (a) There is hereby authorized to be appropriated an amount not exceeding the total sum of \$6,500,000, to remain available until expended, to enable the Surgeon General to make payments to the Territory of Alaska as the total contribution of the Federal Government to be used in defraying the cost of construction of hospital and other facilities in Alaska needed for the carrying out of a comprehensive mental health program.

"(b) Such facilities shall be scheduled for construction in accordance with a comprehensive construction program, developed by the Territory in consultation with the Public Health Service and approved by the Surgeon General. Projects shall be constructed in accordance with such approved program and in accordance with plans and specifications for the project approved by the Surgeon General.

"(c) Upon certification by the Territory, based upon inspection by it, that work has been performed upon a project, or purchases have been made in accordance with approved plans and specifications, and that payment of an installment is due, the Surgeon General shall certify such installment for payment: *Provided, however*,

That the Surgeon General may cause the project to be inspected at any time, and if such inspection indicates that the project is not being constructed in accordance with approved plans and specifications, he may, after notice and affording opportunity for hearing, withhold further payment until he finds that adequate corrective measures have been taken.

"(d) The term 'cost of construction' means the amount found necessary by the Surgeon General for the construction of a project and includes the construction and initial equipment of buildings (including medical transportation facilities), architects' and engineering fees, the cost of land acquired specifically for the purpose of the project, and on-site improvements.

"(e) If, within twenty years from the date of completion of construction, any hospital or other medical facility constructed with the aid of grants under this section shall cease to be a publicly owned facility operated for the care or treatment of patients under the Territory's mental health program, the United States shall be entitled to recover from the Territory the then value of the hospital or other medical facility, reduced, however, proportionately to the extent to which the Territory may have contributed to the cost of construction thereof."

Recovery of
value of facility.

LAND GRANT

Sec. 22. (a) The Territory of Alaska is hereby granted and shall be entitled to select, within ten years from the effective date of this Act, not to exceed one million acres from the public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection: *Provided*, That nothing herein contained shall affect any valid existing rights. All lands duly selected by the Territory of Alaska pursuant to this section shall be patented to the Territory by the Secretary of the Interior.

(b) The lands authorized to be selected by the Territory of Alaska by subsection (a) of this section shall be selected in such manner as the laws of the Territory may provide, and in conformity with such regulations as the Secretary of the Interior may prescribe. The authority to make selections shall never be alienated or bargained away, in whole or in part, by the Territory. All selections shall be made in reasonably compact tracts, taking into account the situation and potential uses of the lands involved. Upon the revocation of any order of withdrawal in Alaska, the order of revocation shall provide for a period of not less than ninety days before the date on which it otherwise becomes effective during which period the Territory of Alaska shall have a preferred right of selection, subject to the requirements of this Act, except as against prior existing valid rights or as against equitable claims subject to allowance and confirmation. Such preferred right of selection shall have precedence over the preferred right of application created by section 4 of the Act of September 27, 1944 (58 Stat. 748; 43 U. S. C., sec. 282), as now or hereafter amended, but not over other preference rights now conferred by law. As used in this subsection, the words "equitable claims subject to allowance and confirmation" include, without limitation, claims of holders of permits issued by the Department of Agriculture on lands eliminated from national forests, whose permits have been terminated only because of such elimination and who own valuable improvements on such lands.

(c) All grants made or confirmed under this section shall include mineral deposits: *Provided, however*, That mineral deposits in lands which on January 1, 1956, were subject to public land order numbered 62 of January 22, 1943, shall not be included in said grants, but shall continue to be reserved to the United States.

Mineral deposits.

Leases: sales.

(d) Following the selection of lands by the Territory pursuant to subsection (b), but prior to the issuance of final patent, the Territory shall be authorized to lease and to make conditional sales of such selected lands.

(e) All lands granted to the Territory of Alaska under this section, together with the income therefrom and the proceeds from any dispositions thereof, shall be administered by the Territory of Alaska as a public trust and such proceeds and income shall first be applied to meet the necessary expenses of the mental health program of Alaska. Such lands, income, and proceeds shall be managed and utilized in such manner as the Legislature of Alaska may provide. Such lands, together with any property acquired in exchange therefor or acquired out of the income or proceeds therefrom, may be sold, leased, mortgaged, exchanged, or otherwise disposed of in such manner as the Legislature of Alaska may provide, in order to obtain funds or other property to be invested, expended, or used by the Territory of Alaska. The authority of the Legislature of Alaska under this subsection shall be exercised in a manner compatible with the conditions and requirements imposed by other provisions of this Act.

EFFECTIVE DATE

Sec. 203. This title shall become effective on the date of enactment of this Act.

TITLE III—TRANSITIONAL AND GENERAL PROVISIONS

AMENDMENTS AND REPEALS

Sec. 301. (a) Such of the following Acts or parts thereof as the Governor by proclamation shall declare to be superseded by a law or laws hereafter enacted by the Territorial legislature are repealed as of the effective date (specified in such proclamation) of such superseding law or laws, or as of the two hundred and tenth day after the date of enactment of this Act, whichever is later:

(1) Section 8 of the Act of January 27, 1905 (33 Stat. 616, 619; 48 U. S. C. 47);

(2) The first sentence of section 7 of the Act of February 6, 1909 (33 Stat. 600, 601), as amended by section 2 of the Act of October 14, 1942 (56 Stat. 782; 48 U. S. C. 46);

(3) The Act of June 25, 1910 (36 Stat. 852; see 48 U. S. C. 46b);

(4) The Act of April 24, 1926 (44 Stat. 222), as amended by sections 4 and 5 of the Act of October 14, 1942 (56 Stat. 782, 783; 48 U. S. C. 50, 50a); and

(5) Sections 1, 3, 6, 7, 8, and 9 of the Act of October 14, 1942 (56 Stat. 782, 783-785; 48 U. S. C. 46c, 47a, 47b, 47c, 48, 48a).

(b) (1) The Acts and parts of Acts listed in subsection (a), except the Act of June 25, 1910, are, pending their repeal as provided in subsection (a), amended (A) by striking out the words "Secretary", "United States", "Congress", and "Department of the Interior" wherever these words appear, and inserting in lieu thereof the words "Governor of Alaska or his designee", "Territory of Alaska", "the Legislature of Alaska", and "Territory of Alaska", respectively; (B) by inserting immediately before the word "Treasury", wherever it appears, the word "Territorial"; (C) by striking out the word "Federal"; and (D) by amending section 1 (a) of the Act of October 14, 1942, to read as follows: "Governor means the Governor of Alaska or his designee;": *Provided*, That the words "United States" where

48 USC 46c, 47a,
47b, 47c, 48, 48a.

STATEHOOD Act

Alaska Statehood Act

Public Law 85-508
85th Congress, H. R. 7999
July 7, 1958
(72 Stat. 339)
As Amended

Cross references. — For sections implementing this act, see Act of December 2, 1980, P.L. 96-487, Title IX, 94 Stat. 2430-2448, set out at the end of this pamphlet.

Editor's notes. — The individual sub-

ject-matter headings, shown in brackets, were added by the publisher, based on marginal notations in the original.

The provisions of the Alaska Statehood Act may be found in the notes preceding 48 U.S.C. 21.

NOTES TO DECISIONS

Statehood Act fails to deal with native use of land. — The legislative history of the Statehood Act fails to clarify congressional intent with respect to native use and occupancy of Alaska lands. In fact, there is very little reference to native land claims in the legislative history on the Statehood Act. This is so because Congress was principally concerned with achieving statehood for Alaska, not with settlement of native land claims. Given the difficulty of winning congressional approval for Alaska statehood, Congress undertook to bypass, rather than to resolve, the complex and difficult questions arising out of native claims. *United States v. Atlantic Richfield Co.*, 435 F. Supp. 1009 (D. Alas. 1977), aff'd, 612 F.2d 1132 (9th Cir.), cert. denied, 449 U.S. 888, 101 S. Ct. 244, 66 L. Ed. 2d 113 (1980).

But is part of background of

settlement act. — The Alaska Statehood Act is important insofar as it is a significant part of the background of the Alaska Native Claims Settlement Act and contributes to an understanding of legislative intent in the settlement act. *United States v. Atlantic Richfield Co.*, 435 F. Supp. 1009 (D. Alas. 1977), aff'd, 612 F.2d 1132 (9th Cir.), cert. denied, 449 U.S. 888, 101 S. Ct. 244, 66 L. Ed. 2d 113 (1980).

Applied in *Edwardson v. Morton*, 369 F. Supp. 1359 (D.D.C. 1973).

Cited in *File v. State*, Sup. Ct. Op. No. 1827 (File Nos. 3482, 3537), 593 P.2d 268 (1979); *DeBoer v. United States*, 470 F. Supp. 1137 (D. Alas. 1979); *United States v. Atlantic Richfield Co.*, 612 F.2d 1132 (9th Cir. 1980); *Marrone v. State*, Ct. App. Op. No. 156 (File No. 5368), P.2d (1982).

Collateral references. — 72 Am. Jur. 2d, States, § 72.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to the provisions of this Act, and upon issuance of the proclamation required by section 8 (c) of this Act, the State of Alaska is hereby declared to be

a State of the United States of America, is declared admitted into the Union on an equal footing with the other States in all respects whatever, and the constitution formed pursuant to the provisions of the Act of the Territorial Legislature of Alaska entitled, "An Act to provide for the holding of a constitutional convention to prepare a constitution for the State of Alaska; to submit the constitution to the people for adoption or rejection; to prepare for the admission of Alaska as a State; to make an appropriation; and setting an effective date", approved March 19, 1955 (Chapter 46, Session Laws of Alaska, 1955), and adopted by a vote of the people of Alaska, 1955), and adopted by a vote of the people of Alaska in the election held on April 24, 1956, is hereby found to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and is hereby accepted, ratified, and confirmed.

[TERRITORY]

SEC. 2. The State of Alaska shall consist of all the territory, together with the territorial waters appurtenant thereto, now included in the Territory of Alaska.

NOTES TO DECISIONS

Evidence was insufficient to establish that Cook Inlet is an historic bay. *United States v. Alaska*, 422 U.S. 184, 95 S. Ct. 2240, 45 L. Ed. 2d 109, rehearing denied, 423 U.S. 885, 96 S. Ct. 159, 46 L. Ed. 2d 116 (1975).

Thus, the United States, as against

the state, has paramount rights to the subsurface lands of the lower, or seaward, portion of the inlet. *United States v. Alaska*, 422 U.S. 184, 95 S. Ct. 2240, 45 L. Ed. 2d 109, rehearing denied, 423 U.S. 885, 96 S. Ct. 159, 46 L. Ed. 2d 116 (1975).

[CONSTITUTION]

SEC. 3. The constitution of the State of Alaska shall always be republican in form and shall not be repugnant to the Constitution of the United State and the principles of the Declaration of Independence.

NOTES TO DECISIONS

Quoted in *Delahay v. State*, Sup. Ct. Op. No. 648 (File No. 1252), 476 P.2d 908 (1970).

[COMPACT WITH UNITED STATES]

SEC. 4. As a compact with the United States said State and its people do agree and declare that they forever disclaim all right and title to any lands or other property not granted or confirmed to the State or its political subdivisions by or under the authority of this Act, the right or title to which is held by the United States or is subject to disposition by the United States, and to any lands or other property (including fishing rights), the right or title to which may be held by any Indians, Eskimos, or Aleuts (hereinafter called natives) or is held by the United States in trust for said natives; that all such lands or other property (including fishing rights), the right or title to which may be held by said natives or is held by the United States in trust for said natives, shall be and remain under the absolute jurisdiction and control of the United States until disposed of under its authority, except to such extent as the Congress has prescribed or may hereafter prescribe, and except when held by individual natives in fee without restrictions on alienation: *Provided*, That nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by the laws of the United States applicable thereto; and nothing in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that any law applicable thereto authorizes, establishes, recognizes, or confirms the validity or invalidity of any such claim, and the determination of the applicability or effect of any law to any such claim shall be unaffected by anything in this Act: *And provided further*, That no taxes shall be imposed by said State upon any lands or other property now owned or hereafter acquired by the United States or which, as hereinabove set forth, may belong to said natives, except to such extent as the Congress has prescribed or may hereafter prescribe, and except when held by individual natives in fee without restrictions on alienation. (Amended June 25 1959, P.L. 86-70 § 2(a), 73 Stat. 141)

Opinions of attorney general. — Congress only intended the disclaimer clause to leave unimpaired possible future rights of the Alaskan natives to compensation from the United States. 1969 Op. Att'y Gen., No. 6.

This section does not constitute authority in Congress to legislate in derogation of the Statehood Act. 1969 Op. Att'y Gen., No. 6.

The "plenary" Indian power of the United States does not recognize in Congress the authority to abrogate the Statehood Act. 1969 Op. Att'y Gen., No. 6.

As to whether the United States may compensate Alaskan natives by taking a royalty out of lands already granted in fee to the State of Alaska, see 1969 Op. Att'y Gen., No. 6 (Supp.).

This section has been substantially incorporated into the Alaska Constitution as art. XII, § 12. *Aguilar v. Kleppe*, 424 F. Supp. 433 (D. Alas. 1976).

Eleventh amendment bar not waived. — This section and Alaska Const., art. XII, § 12, do not expressly waive the 11th amendment bar, and while Alaska disclaimed any interest in property rights held by Alaska Natives or the federal government, it is not overwhelmingly implied that the state consented to suits involving conflicting claims to land previously held by the federal government but later patented to the state. *Aguilar v. Kleppe*, 424 F. Supp. 433 (D. Alas. 1976).

Nothing in this act indicates that the state consented to be sued in the federal courts over such disagreements. *Aguilar v. Kleppe*, 424 F. Supp. 433 (D. Alas. 1976).

Immunity from state or local taxation of land in native townsite or allotment. — The beneficial interest of the natives in the land within a restricted native townsite or a native allotment cannot be taxed by the state or local government. *People of S. Naknek v. Bristol Bay Borough*, 466 F. Supp. 870 (D. Alas. 1979).

The United States has preempted the power of an Alaskan borough to tax the land, homes or other permanent improvements on Alaska Native allotments or restricted lots in native townsites. *People of S. Naknek v. Bristol Bay Borough*, 466

[TITLE TO PROPERTY]

SEC. 5. The State of Alaska and its political subdivisions, respectively, shall have and retain title to all property, real and personal, title to which is in the Territory of Alaska or any of the subdivisions. Except as provided in section 6 hereof, the United States shall retain title to all property, real and personal, to which it has title, including public lands.

F. Supp. 870 (D. Alas. 1979).

When immunity on allotments arose. — The immunity on an allotment would arise at the time of the first use and occupancy that is the basis of the native's allotment claim. *People of S. Naknek v. Bristol Bay Borough*, 466 F. Supp. 870 (D. Alas. 1979).

Tax immunity on the land and improvements on native allotments and native townsite lots commenced operation when the native residents of the area petitioned for native townsite status. *People of S. Naknek v. Bristol Bay Borough*, 466 F. Supp. 870 (D. Alas. 1979).

But personal property may be taxed. — The "absolute jurisdiction" language in this section has been interpreted not to mean "exclusive jurisdiction," and therefore is not a prohibition on state and local taxation of personal property in a native townsite or on an allotment. *People of S. Naknek v. Bristol Bay Borough*, 466 F. Supp. 870 (D. Alas. 1979).

A borough is not prohibited from taxing personal property associated with either an Alaska Native allotment or an Alaska Native townsite. *People of S. Naknek v. Bristol Bay Borough*, 466 F. Supp. 870 (D. Alas. 1979).

Applied in *Rowe v. United States*, 464 F. Supp. 1060 (D. Alas. 1979), aff'd in part, 633 F.2d 799 (9th Cir. 1980), cert. denied, 451 U.S. 970, 101 S. Ct. 2047, 68 L. Ed. 2d 349 (1981).

(SELECTION FROM PUBLIC LANDS; FISH AND WILDLIFE RESOURCES; PUBLIC SCHOOL SUPPORT; MINERAL PERMITS, LICENSES, OR CONTRACTS; MINERAL LAND GRANTS; SCHOOLS AND COLLEGES; CONFIRMATION OF GRANTS; INTERNAL IMPROVEMENTS; SUBMERGED LANDS)

SEC. 6. (a) For the purposes of furthering the development of and expansion of communities, the State of Alaska is hereby granted and shall be entitled to select, within thirty-five years after the date of the admission of the State of Alaska into the Union, from lands within national forests in Alaska which are vacant and unappropriated at the time of their selection not to exceed four hundred thousand acres of land, and from the other public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection not to exceed another four hundred thousand acres of land, all of which shall be adjacent to established communities or suitable for prospective community centers and recreational areas. Such lands shall be selected by the State of Alaska with the approval of the Secretary of Agriculture as to national forest lands and with the approval of the Secretary of the Interior as to other public lands: *Provided*, That nothing herein contained shall affect any valid existing claim, location, or entry under the laws of the United States, whether for homestead, mineral, right-of-way, or other purpose whatsoever, or shall affect the rights of any such owner, claimant, locator, or entryman to the full use and enjoyment of the land so occupied: *Provided further*, That for the purposes of this section the term "public lands of the United States in Alaska which are vacant, unappropriated, and unreserved" shall include, without limiting the use thereof, the retained or reserved interest of the United States in lands which have been disposed of with a reservation to the United States of all minerals or any specified mineral or minerals.

(b) The State of Alaska, in addition to any other grants made in this section, is hereby granted and shall be entitled to select, within thirty-five years after the admission of Alaska into the Union, not to exceed one hundred and two million five hundred and fifty thousand acres from the public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection: *Provided*, That nothing herein contained shall affect any valid existing claim, location, or entry under the laws of the United States, whether for homestead, mineral, right-of-way, or other purpose whatsoever, or shall affect the rights of any such owner, claimant, locator, or entryman to the full use and enjoyment of the lands so occupied: And provided further, That no selection hereunder shall be made in the area north and west of the line described in section 10 without approval of the President or his designated representative.

(c) Block 32, and the structures and improvements thereon, in the city of Juneau are granted to the State of Alaska for any or all of the

for the purposes or a combination thereof: A residence for the Governor, a State museum, or park and recreational use.

(d) Block 19, and the structures and improvements thereon, and the interests of the United States in blocks C and 7, and the structures and improvements thereon, in the city of Juneau, are hereby granted to the State of Alaska.

(e) All real and personal property of the United States situated in the Territory of Alaska which is specifically used for the sole purpose of conservation and protection of the fisheries and wildlife of Alaska, under the provisions of the Alaska game law of July 1, 1943 (57 Stat. 301; 48 U.S.C., secs. 192-211), as amended, and under the provisions of the Alaska commercial fisheries laws of June 26, 1906 (34 Stat. 478; 48 U.S.C., secs. 230-239 and 241-242), and June 6, 1924 (43 Stat. 465; 48 U.S.C., secs. 221-228), as supplemented and amended, shall be transferred and conveyed to the State of Alaska by the appropriate Federal agency: *Provided*, That the administration and management of the fish and wildlife resources of Alaska shall be retained by the Federal Government under existing laws until the first day of the first calendar year following the expiration of ninety calendar days after the Secretary of the Interior certifies to the Congress that the Alaska State Legislature has made adequate provision for the administration, management, and conservation of said resources in the broad national interest: *Provided*, That such transfer shall not include lands withdrawn or otherwise set apart as refuges or reservations for the protection of wildlife nor facilities utilized in connection therewith, or in connection with general research activities relating to fisheries or wildlife. Sums of money that are available for apportionment or which the Secretary of the Interior shall have apportioned, as of the date the State of Alaska shall be deemed to be admitted into the Union, for wildlife restoration in the Territory of Alaska, pursuant to section (8) (a) of the Act of September 2, 1937, as amended (16 U.S.C., sec. 669g-1), and for fish restoration and management in the Territory of Alaska, pursuant to section 12 of the Act of August 9, 1950 (16 U.S.C., sec. 777k), shall continue to be available for the period, and under the terms and conditions in effect at the time, the apportionments are made. Commencing with the year during which Alaska is admitted into the Union, the Secretary of the Treasury, at the close of each fiscal year, shall pay to the State of Alaska 70 per centum of the net proceeds, as determined by the Secretary of the Interior, derived during such fiscal year from all sales of sealskins or sea-otter skins made in accordance with the provisions of the Fur Seal Act of 1966. In arriving at the net proceeds, there shall be deducted from the receipts from all sales all costs to the United States in carrying out the provisions of the Fur Seal Act of 1966, including, but not limited to, the costs of handling and dressing the skins, the costs of making the sales, and all expenses incurred in the administration of the Pribilof Islands, and the

payments made to any municipal corporation established pursuant to section 206 of the Fur Seal Act of 1966 and to the civil service retirement and disability fund pursuant to section 208 of the Fur Seal Act of 1966. In administering the Pribilof Islands fund established by section 407 of the Fur Seal Act of 1966, the Secretary shall consult with the State of Alaska annually. Nothing in this Act shall be construed as affecting the rights of the United States under the provisions of the Fur Seal Act of 1966 and the Northern Pacific Halibut Act of 1937 (16 U.S.C. 772-772i).

(f) Five per centum of the proceeds of sale of public lands lying within said State which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to such sales, shall be paid to said State to be used for the support of the public schools within said State.

(g) Except as provided in subsection (a), all lands granted in quantity to and authorized to be selected by the State of Alaska by this Act shall be selected in such manner as the laws of the State may provide, and in conformity with such regulations as the Secretary of the Interior may prescribe. All selections shall be made in reasonably compact tracts, taking into account the situation and potential uses of the lands involved, and each tract selected shall contain at least five thousand seven hundred and sixty acres unless isolated from other tracts open to selection or, in the case of selections under subsection (a) of this section, one hundred and sixty acres. The authority to make selections shall never be alienated or bargained away, in whole or in part, by the State. Upon the revocation of any order of withdrawal in Alaska, the order of revocation shall provide for a period of not less than ninety days before the date on which it otherwise becomes effective, if subsequent to the admission of Alaska into the Union, during which period the State of Alaska shall have a preferred right of selection, subject to the requirements of this Act, except as against prior existing valid rights or as against equitable claims subject to allowance and confirmation. Such preferred right of selection shall have precedence over the preferred right of application created by section 4 of the Act of September 27, 1944 (58 Stat. 748; 43 U.S.C., sec. 282), as now or hereafter amended, but not over other preference rights now conferred by law. Where any lands desired by the State are unsurveyed at the time of their selection, the Secretary of the Interior shall survey the exterior boundaries of the area requested without any interior subdivision thereof and shall issue a patent for such selected area in terms of the exterior boundary survey; where any lands desired by the State are surveyed at the time of their selection, the boundaries of the area requested shall conform to the public land subdivisions established by the approval of the survey. All lands duly selected by the State of Alaska pursuant to this Act shall be patented to the State by the Secretary of the Interior. Following the selection of lands by the State and the tentative approval of such

selection by the Secretary of the Interior or his designee, but prior to the issuance of final patent, the State is hereby authorized to execute conditional leases and to make conditional sales of such selected lands. As used in this subsection, the words "equitable claims subject to allowance and confirmation" include, without limitation, claims of holders of permits issued by the Department of Agriculture on lands eliminated from national forests, whose permits have been terminated only because of such elimination and who own valuable improvements on such lands. As to all selections made by the State after January 1, 1979, pursuant to section 6(b) of this Act, the Secretary of the Interior, in his discretion, may waive the minimum tract selection size where he determines that such a reduced selection size would be in the national interest and would result in a better land ownership pattern.

(h) Any lease, permit, license, or contract issued under the Mineral Leasing Act of February 25, 1920 (41 Stat. 437; 30 U.S.C. 181 and the following), as amended, or under the Alaska Coal Leasing Act of October 20, 1914 (38 Stat. 741; 30 U.S.C. 432 and the following), as amended, shall have the effect of withdrawing the lands subject thereto from selection by the State of Alaska under this Act, unless an application to select such lands is filed with the Secretary of the Interior within a period of ten years after the date of the admission of Alaska into the Union. Such selections shall be made only from lands that are otherwise open to selection under this Act. When all of the lands subject to a lease, permit, license, or contract are selected, the patent for the lands so selected shall vest in the State of Alaska all the right, title, and interest of the United States in and to that lease, permit, license, or contract that remains outstanding on the effective date of the patent, including the right to all the rentals, royalties, and other payments accruing after that date under that lease, permit, license, or contract, and including any authority that may have been retained by the United States to modify the terms and conditions of that lease, permit, license, or contract: *Provided*, That nothing herein contained shall affect the continued validity of any such lease, permit, license, or contract or any rights arising thereunder. Where only a portion of the lands subject to a lease, permit, license, or contract are selected, there shall be reserved to the United States the mineral or minerals subject to that lease, permit, license, or contract, together with such further rights as may be necessary to the full and complete enjoyment of all rights, privileges, and benefits under or with respect to that lease, permit, license, or contract; upon the termination of the lease, permit, license, or contract, title to the minerals so reserved to the United States shall pass to the State of Alaska.

(i) All grants made or confirmed under this Act shall include mineral deposits. The grants of mineral lands to the State of Alaska under subsections (a) and (b) of this section are made upon the express conditions that all sales, grants, deeds, or patents for any of the mineral

lands so granted shall be subject to and contain a reservation to the State of all of the minerals in the lands so sold, granted, deeded, or patented, together with the right to prospect for, mine, and remove the same. Mineral deposits in such lands shall be subject to lease by the State as the State legislature may direct: *Provided*, That any lands or minerals hereafter disposed of contrary to the provisions of this section shall be forfeited to the United States by appropriate proceedings instituted by the Attorney General for that purpose in the United States District Court for the District of Alaska.

(j) The schools and colleges provided for in this Act shall forever remain under the exclusive control of the State, or its governmental subdivisions, and no part of the proceeds arising from the sale or disposal of any lands granted herein for educational purposes shall be used for the support of any sectarian or denominational school, college, or university.

(k) Grants previously made to the Territory of Alaska are hereby confirmed and transferred to the State of Alaska upon its admission. Effective upon the admission of the State of Alaska into the Union, section 1 of the Act of March 4, 1915 (38 Stat. 1214; 48 U. S. C., sec. 353), as amended, and the last sentence of section 35 of the Act of February 25, 1920 (41 Stat. 450; 30 U. S. C., sec. 191), as amended, are repealed and all lands therein reserved under the provisions of section 1 as of the date of this Act shall, upon the admission of said State into the Union, be granted to said State for the purposes for which they were reserved; but such repeal shall not affect any outstanding lease, permit, license, or contract issued under said section 1, as amended, or any rights or powers with respect to such lease, permit, license, or contract, and shall not affect the disposition of the proceeds or income derived prior to such repeal from any lands reserved under said section 1, as amended, or derived thereafter from any disposition of the reserved lands or an interest therein made prior to such repeal.

(l) The grants provided for in this Act shall be in lieu of the grant of land for purposes of internal improvements made to new States by section 8 of the Act of September 4, 1841 (5 Stat. 455), and sections 2378 and 2379 of the Revised Statutes (43 U. S. C., sec. 857), and in lieu of the swampland grant made by the Act of September 28, 1850 (9 Stat. 520), and section 2479 of the Revised Statutes (43 U. S. C., sec. 982), and in lieu of the grant of thirty thousand acres for each Senator and Representative in Congress made by the Act of July 2, 1862, as amended (12 Stat. 503; 7 U. S. C., secs. 301-308), which grants are hereby declared not to extend to the State of Alaska.

(m) The Submerged Lands Act of 1953 (Public Law 31, Eighty-third Congress, first session; 67 Stat. 29) shall be applicable to the State of Alaska and the said State shall have the same rights as do existing States thereunder. (Amended June 25 1959, P.L. 86-70 § 2(b), 73 Stat. 141; August 18 1959, P.L. 86-173, 73 Stat. 395; September 14 1960, P.L.

86 Alaska, 74 Stat. 1025; October 8 1963, P.L. 88-135, 77 Stat. 223; March 25 1964, P.L. 88-289, 78 Stat. 169; November 2 1966, P.L. 89-702, Title IV, § 408(b), 80 Stat. 1098; December 2 1980, P.L. 96-487, Title IX, § 906(a), (f)(3), 94 Stat. 2437, 2440

Cross references. — See note to AS 38.05.180; for state law applicable to rights in and to mineral deposits on state lands which on January 3, 1959, were subject to location under the mining laws of the United States, see 38.05.185; for recognition of mining locations made on state lands, including shorelands, tidelands or submerged lands, or state selected lands, see 38.05.275.

Effect of amendments. — Act of December 2, 1980, P.L. 96-487, Title IX, § 906(a), 94 Stat. 2437, in subsections (a) and (b) substituted "thirty-five years" for "twenty-five years."

Opinions of attorney general. — The grants by the federal government of school and university lands and mental health lands were confirmed and transferred to the State of Alaska upon its admission to the Union under this subsection, with the express proviso that they be used for the purposes for which they were reserved. 1964 Op. Att'y Gen., No. 7.

Use of the words "is hereby granted" signifies a present grant of lands to be thereafter identified by selection. By virtue of that grant the state became at once vested with the right of property in selected lands. It cannot be thereafter divested of such right. The United States Supreme Court has so held. 1969 Op. Att'y Gen., No. 6 (Supp.).

As to whether the United States may compensate Alaskan natives by taking a royalty out of lands already granted in fee to the State of Alaska, see 1969 Op. Att'y Gen., No. 6 (Supp.).

Since the Alaska Statehood Act did not authorize execution by the state of third-party leases and sales on lands not tentatively approved, those lands which are merely selected by the state and which

thus remain under administration by the Bureau of Land Management appear to be subject to § 2 of P.L. 94-204, 89 Stat. 1146, Jan. 2, 1976, *vs* a federal, and not state, obligation. June 14, 1979, Op. Att'y Gen. See also, June 28, 1979, Op. Att'y Gen. and July 3, 1979, Op. Att'y Gen.

The knowing relinquishment of an existing state selection so that another party might make a claim to the land would appear to be the "alienation" of the state's right to select land which it wishes to own. March 26, 1982, Op. Att'y Gen.

When the state claims title under subsection (m) to the bed of a river it asserts to be navigable, it can assert management authority over the riverbed prior to a judicial determination of navigability. June 10, 1982, Op. Att'y Gen.

Lands underlying navigable waters must be managed in accordance with the common-law public trust doctrine so that paramount rights of the public to use the river for navigation and recreation are not substantially impaired. June 10, 1982, Op. Att'y Gen.

Where the state has selected and received tentative approval to a riverbed under subsections (a) or (b) of this Act, the leasing requirement of subsection (i) for mineral lands applies unless and until the state successfully adjudicates navigability to establish state ownership of the riverbed under subsection (m). June 10, 1982, Op. Att'y Gen.

The production license requirements of AS 38.05.207 apply to riverbeds that the state claims to own under subsection (m) of this Act as well as to lands tentatively approved to the state under subsections (a) and (b) of this Act. June 10, 1982, Op. Att'y Gen.

NOTES TO DECISIONS

- I. General Consideration.
- IV. Construction With Alaska Native Claims Settlement Act.
- V. Lands Available For Selection.
- VI. Fish and Wildlife Resources.
- VII. Mineral Land Grants.
- VIII. Submerged Lands.

I. GENERAL CONSIDERATION.

The Alaska Statehood Act only created in the state the same authority as that given to other states. State v. Andrus, 429 F. Supp. 958 (D. Alas. 1977), *aff'd* on other grounds, 591 F.2d 537 (9th Cir. 1979).

The purpose of land grants under the Alaska Statehood Act is to serve Alaska's overall economic and social well-being. Some of the lands so selected will probably be used to protect mineral deposits. Others will safeguard wildlife. Still others will be used to protect domestic water supplies. *Udall v. Kalerak*, 396 F.2d 746 (9th Cir. 1968), cert. denied, 393 U.S. 1118, 89 S. Ct. 990, 22 L. Ed. 2d 123 (1969).

This section authorized the state to select 102,500,000 acres from public lands that were "vacant, unappropriated, and unreserved at the time of their selection." The intent of Congress was, of course, to provide the new state with a solid economic foundation. *United States v. Atlantic Richfield Co.*, 435 F. Supp. 1009 (D. Alas. 1977), *aff'd*, 612 F.2d 1132 (9th Cir.), cert. denied, 449 U.S. 888, 101 S. Ct. 244, 66 L. Ed. 2d 113 (1980).

Applicability of last sentence of subsection (g). — The "equitable claims" phrase in the last sentence of subsection (g) may have scope where there was physical possession or improvement by the equitable claimant or someone acting in his behalf, but it cannot be extended to a lease applicant merely because he has incurred expense in support or defense of his application. *Schraier v. Hickel*, 419 F.2d 663 (D.C. Cir. 1969).

Applied in *State v. University of Alaska*, Sup. Ct. Op. No. 2303 (File No. 4579), 624 P.2d 807 (1981); *Inupiat Community of Arctic Slope v. United States*, 680 F.2d 122 (Ct. Cl. 1982).

Cited in *McCubbins v. Keenan*, Sup. Ct. Op. No. 645 (File No. 1165), 475 P.2d 696 (1970).

IV. CONSTRUCTION WITH ALASKA NATIVE CLAIMS SETTLEMENT ACT.

Subsection 4(a) of the Alaska Native Claims Settlement Act requires dismissal of claims for entries under state leases pursuant to this subsection of the Alaska Statehood Act or entries pursuant to valid federal leases or conveyances. *United States v. Atlantic Richfield Co.*, 435 F. Supp. 1009 (D. Alas. 1977), *aff'd*, 612 F.2d 1132 (9th Cir.), cert. denied, 449 U.S. 888, 101 S. Ct. 244, 66 L. Ed. 2d 113 (1980).

Congress chose a specific language used in subsection of the Native Claims Settlement Act by Congressional intent was to make that any prior grant of land under law or tentative approval under subsection (g) of the Alaska Statehood Act to extinguish aboriginal title at the time the conveyance was made or the grant was given. In short, Congress intended that any conveyance or approval to be the effect of fact extinguishing aboriginal title at the time of construction is consistent with and not in conflict with other provisions of the Alaska Native Claims Settlement Act. *United States v. Atlantic Richfield Co.*, 435 F. Supp. 1009 (D. Alas. 1977), *aff'd*, 612 F.2d 1132 (9th Cir. 1979), cert. denied, 449 U.S. 888, 101 S. Ct. 244, 66 L. Ed. 2d 113 (1980).

V. LANDS AVAILABLE FOR SELECTION.

Indian trapping, hunting and camping could constitute a claim which would deprive the selected lands of the status of being "vacant, unappropriated, and unreserved." *Udall v. Udall*, 420 F.2d 938 (9th Cir. 1969), cert. denied, 397 U.S. 1076, 90 S. Ct. 152, 22 L. Ed. 2d 811 (1970).

Application for oil and gas lease "valid existing claim". — The phrase "valid existing claim" in subsection (b) is inapplicable to an application for an oil and gas lease under the Mineral Leasing Act, 30 U.S.C. § 181, which provides that lands subject to the act, which are to contain oil or gas deposits, may be leased by the Secretary of the Interior. *Schraier v. Hickel*, 419 F.2d 663 (D. C. Cir. 1969).

An applicant under the Mineral Leasing Act, 30 U.S.C. § 181 et seq., may have a further right to a lease where he is entitled to a lease over anyone else under the act, and the Secretary of the Interior has exercised his discretion to execute a lease where his proposal does not rise to the level of a "claim" or "right" within the meaning of the clause of the Statehood Act where there has been no such determination by the Secretary. *Schraier v. Hickel*, 419 F.2d 663 (D. C. Cir. 1969).

Lease rights are subordinate to rights-of-way legally exercised. *Yutan Constr. Co., Sup. Ct. Op. No. 631*, 420 P.2d 323 (1966).

VI. FISH AND WILDLIFE RESOURCES.

State wolf hunt program. — 43 Stat. § 1732(a), 43 U.S.C. § 1732(b)

U.S. (c), taken together, clearly provide the Secretary of the Interior with the power to halt the state wolf hunt program. Under 43 U.S.C. § 1732(a), the Secretary is commanded to manage the public lands under principles of multiple use. Multiple use includes the management of wildlife. 43 U.S.C. § 1702(c). Finally, the Secretary may close the lands to hunting for purposes of "administration" which on the face of the statute includes wildlife management. *State v. Andrus*, 429 F. Supp. 958 (D. Alas. 1977), *aff'd* on other grounds, 591 F.2d 537 (9th Cir. 1979).

The Secretary of the Interior has the authority under the "BLM Organic Act," 43 U.S.C. § 1701 et seq., Pub. L. 94-579, to halt the wolf kill program, instituted by the Alaska Department of Fish and Game to help protect the Western Arctic caribou herd, which was taking place entirely on federally controlled land. *State v. Andrus*, 429 F. Supp. 958 (D. Alas. 1977), *aff'd* on other grounds, 591 F.2d 537 (9th Cir. 1979).

There is no requirement of an environmental impact statement for wolf hunt program under the Alaska Native Claims Settlement Act. *State v. Andrus*, 429 F. Supp. 958 (D. Alas. 1977), *aff'd* on other grounds, 591 F.2d 537 (9th Cir. 1979).

Even if the Alaska Native Claims Settlement Act can be construed as authorizing an independent authority to close the wolf hunt program, there is still no federal action involved. *State v. Andrus*, 429 F. Supp. 958 (D. Alas. 1977), *aff'd* on other grounds, 591 F.2d 537 (9th Cir. 1979).

Under the property clause of the United States Constitution the federal government retains the right to control wildlife management on federal lands. By passage of the BLM Organic Act the Congress has implemented the property clause on federally controlled lands where a state instituted wolf hunt program was taking place and any state authority to the contrary has been divested by virtue of the supremacy clause. Accordingly, the Secretary of the Interior had the authority to issue an order prohibiting the hunt. *State v. Andrus*, 429 F. Supp. 958 (D. Alas. 1977), *aff'd* on other grounds, 591 F.2d 537 (9th Cir. 1979).

A substantial portion of the wolf hunt program instituted by the Alaska Department of Fish and Game was to occur on "d-2" lands (referring to § 17(d)(2) of the Alaska Native Claims Settlement Act). These are tracts of land which have been

withdrawn by the Secretary of the Interior for possible inclusion in the National Parks, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems, pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et seq. Under that act the Secretary is to administer d-2 lands under applicable laws and regulations. 43 U.S.C. § 1616(d)(3). The Secretary has the authority to halt hunting on the lands pending resolution of their status because the BLM Organic Act is one of the applicable laws under which these lands are administered. 43 U.S.C. § 1616(d)(3). Hence, the requirement of an environmental impact statement under the ANCSA § 17(d)(3) is precisely the same as it is under the BLM Organic Act. The ANCSA imposes no independent duty on the Secretary to require licenses or permits to hunt on these lands and cannot be the basis for a determination that there is federal action involved in these hunts. The power of the Secretary on these lands is totally derivative from other acts. *State v. Andrus*, 429 F. Supp. 958 (D. Alas. 1977), *aff'd* on other grounds, 591 F.2d 537 (9th Cir. 1979).

VII. MINERAL LAND GRANTS.

Alaska Constitution not amended to include terms and conditions set forth in subsection (i). — Although included in Alaska Statehood Act, § 8(b) was the provision that in the event that three propositions to be submitted to the voters, one of which required the consent by the state and its people to provisions of the Alaska Statehood Act reserving rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property therein made to the state of Alaska, were adopted by a majority vote, "the proposed constitution of the proposed State of Alaska . . . shall be deemed amended accordingly," and although the propositions were adopted, the Alaska Constitution was not thereby amended to include "the terms or conditions of the grants of land" set forth in subsection (i) of this section. *State v. Lewis*, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630, appeal dismissed, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1977).

There was no state legislature in existence at the time of passage of the Statehood Act, and the territorial legislature never approved an amendment incorporating the restrictions of subsection (i) of this section, which relates to mineral land grants, into the Alaska Con-

stitution. Nor was any constitutional convention called to act on the matter. *State v. Lewis*, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630, appeal dismissed, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1977).

Rather, compact formed as to federal restrictions on alienability of land. — Alaskans by ratification of the constitution including the provisions of Alaska Const., art. VIII, § 9 and art. XII, § 13; and again, separately, by approving proposition 3 of Alaska Statehood Act, § 8(b), agreed to be bound by restrictions on alienability of land imposed by the federal government. This constituted a compact. *State v. Lewis*, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630, appeal dismissed, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1977).

Congressional restraints intended to be binding to limited extent. — The congressional restraints on alienation were intended by Congress to be binding only to the extent required by that body. This also was the intent of those who agreed upon and adopted the Alaska Constitution by vote. *State v. Lewis*, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630, appeal dismissed, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1977).

All that was required to release the restrictions required by Congress was congressional consent. *State v. Lewis*, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630, appeal dismissed, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1977).

And state constitutional amendment not mandated. — After Congress has given its consent to a change in terms, a state constitutional amendment is not mandated to alter the compact. *State v. Lewis*, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630, appeal dismissed, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1977).

Since constitution did not contain specific restrictions on alienation. — The Alaska Constitution did not contain any specific restrictions on alienation but merely a consent to be bound by such reservations as would be required by Congress. *State v. Lewis*, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630, appeal dismissed, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1977).

Chapter 19, SLA 1976, not violative of Alaska Constitution. — Once congressional consent to release its restrictions was secured, the Alaska legislature, in agreeing to the disposition of the land and mineral rights by ch. 19, SLA 1976, was

not violating any specific provision of the Alaska Constitution. *State v. Lewis*, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630, appeal dismissed, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1977).

State's ownership of resource as basis for law discriminating against non-residents. — Rather than placing a statute completely beyond the privileges and immunities clause, a state's ownership of the property with which the statute is concerned is a factor — although often the crucial factor — to be considered in evaluating whether the statute's discrimination against non-citizens violates the clause. *Hicklin v. Orbeck*, 437 U.S. 518, 98 S. Ct. 2482, 57 L. Ed. 2d 397 (1978).

Alaska has little or no proprietary interest in much of the activity swept within the ambit of the Alaska hire law, and the connection of the state's oil and gas with much of the covered activity is sufficiently attenuated so that it cannot justifiably be the basis for requiring private employers to discriminate against non-residents. *Hicklin v. Orbeck*, 437 U.S. 518, 98 S. Ct. 2482, 57 L. Ed. 2d 397 (1978).

The fact that a state owns a resource, of itself, does not completely remove a law concerning that resource from the prohibitions of the privileges and immunities clause. *Hicklin v. Orbeck*, 437 U.S. 518, 98 S. Ct. 2482, 57 L. Ed. 2d 397 (1978).

VIII. SUBMERGED LANDS.

Applicability of Submerged Lands Act. — Since "... all lands expressly retained by or ceded to the United States when the State entered the Union . . . and any rights the United States has in lands presently and actually occupied by the United States under claim of right" are specifically excluded from the operation of the Submerged Lands Act, 43 U.S.C. § 1301 et seq., and the provisions of § 6(e) of this act specifically exclude all land and water previously withdrawn, the Submerged Lands Act had no application in an action to quiet title to lands under a lake located in lands withdrawn prior to statehood for establishment of the Kenai National Moose Range. *United States v. Alaska*, 423 F.2d 764 (9th Cir.), cert. denied, 400 U.S. 967, 91 S. Ct. 363, 27 L. Ed. 2d 388 (1970).

The state owns or controls the land beneath navigable waters. *Alaska Pub. Easement Defense Fund v. Andrus*, 435 F. Supp. 664 (D. Alas. 1977).

The court takes judicial notice of the fact that Alaska lies westward of the 98th meridian. Thus, under federal law

owner's control of the land under navigable waters is confirmed in the state. Alaska Pub. Easement Defense Fund v. Andrus, 435 F. Supp. 664 (D. Alas. 1977).

The people of the state have the right to use the water itself on nonnavigable rivers and streams. Alaska Pub. Easement Defense Fund v. Andrus, 435 F. Supp. 664 (D. Alas. 1977).

The ownership of ground and surface waters is to be determined according to state law. Under the Alaska Constitution and state law the right to use such waterways is placed in the people of the state. Alaska Pub. Easement Defense Fund v. Andrus, 435 F. Supp. 664 (D. Alas. 1977).

The purpose of the easements along the courses of major waterways is to provide a place for docks, campsites and such facilities to service those who are properly using the public waters. This purpose is apparently accommodated by the reservation of site easements under the order of the Secretary of the Interior. Alaska Pub. Easement Defense Fund v. Andrus, 435 F. Supp. 664 (D. Alas. 1977).

Thus, the United States, as against the state, has paramount rights to the subsurface lands of the lower, or seaward, portion of the inlet. United States v. Alaska, 422 U.S. 184, 95 S. Ct. 2240, 45 L. Ed. 2d 109, rehearing denied, 423 U.S. 885, 96 S. Ct. 159, 46 L. Ed. 2d 116 (1975).

Title remaining in United States. — The United States, as the sovereign at the time, had the power, prior to Alaskan statehood, to withhold, withdraw or convey the land and water of the Kenai Peninsula, Alaska, for any valid purpose, and in such case, the property withdrawn would not pass to the state. United States v. Alaska, 423 F.2d 764 (9th Cir.), cert. denied, 400 U.S. 967, 91 S. Ct. 363, 27 L. Ed. 2d 388 (1970).

Where the Alaska Railroad Act (Act

March 12, 1914, 38 Stat. 305; Act July 7, 1958, 72 Stat. 339), implemented by Presidential Order of August 31, 1915, empowered the President to "build or otherwise acquire docks, wharves, terminal facilities, and all structures needed for the equipment and operation of such railroad or railroads," and authorized him to perform any and all acts in addition to those specifically set out in the statutory language which were necessary to accomplish the purposes and declared objects of the Act; more precisely, to reserve such lands as might be useful for furnishing the materials for the construction of stations, terminals and docks in connection with the operation and construction of the railroad lines, such act, by necessary implication, reserved for the use of the Alaska railroad as a terminal the tide and submerged lands immediately adjacent to and contiguous with the ordinary highwater mark on the eastern shore of Knik Arm and also the tidelands and bed of Ship Creek within the exterior boundaries of the terminal reserve; and title to these lands remained therefore in the United States after the admission of Alaska into the Union on January 3, 1959. United States v. City of Anchorage, 437 F.2d 1081 (9th Cir. 1971).

Alaska's ownership of tidelands same as other states. — By this subsection, Alaska was given the same ownership of tidelands and lands beneath navigable waters as other states of the Union. State v. A.J. Indus., Inc., Sup. Ct. Op. No. 263 (File No. 477), 397 P.2d 280 (1964); City of Juneau v. Copley, Sup. Ct. Op. No. 415 (File No. 752), 429 P.2d 21 (1967).

Evidence was insufficient to establish that Cook Inlet is an historic bay. United States v. Alaska, 422 U.S. 184, 95 S. Ct. 2240, 45 L. Ed. 2d 109, rehearing denied, 423 U.S. 885, 96 S. Ct. 159, 46 L. Ed. 2d 116 (1975).

[CERTIFICATION BY PRESIDENT]

SEC. 7. Upon enactment of this Act, it shall be the duty of the President of the United States, not later than July 3, 1958, to certify such fact to the Governor of Alaska. Thereupon the Governor, on or after July 3, 1958, and not later than August 1, 1958, shall issue his proclamation for the elections, as hereinafter provided, for officers of all elective offices and in the manner provided for by the constitution of the proposed State of Alaska, but the officers so elected shall in any event include two Senators and one Representative in Congress.

[ELECTION OF OFFICERS; DATE, ETC.; CERTIFICATION OF VOTING RESULTS BY GOVERNOR; PROCLAMATION BY PRESIDENT; LAWS SUBJECT]

SEC. 8. (a) The proclamation of the Governor of Alaska required by section 7 shall provide for holding of a primary election and a general election on dates to be fixed by the Governor of Alaska: *Provided*, That the general election shall not be held later than December 1, 1958, and at such elections the officers required to be elected as provided in section 7 shall be, and officers for other elective offices provided for in the constitution of the proposed State of Alaska may be, chosen by the people. Such elections shall be held, and the qualifications of voters thereat shall be, as prescribed by the constitution of the proposed State of Alaska for the election of members of the proposed State legislature. The returns thereof shall be made and certified in such manner as the constitution of the proposed State of Alaska may prescribe. The Governor of Alaska shall certify the results of said elections to the President of the United States.

(b) At an election designated by proclamation of the Governor of Alaska, which may be the general election held pursuant to subsection (a) of this section, or a Territorial general election, or a special election, there shall be submitted to the electors qualified to vote in said election, for adoption or rejection, by separate ballot on each, the following propositions:

"(1) Shall Alaska immediately be admitted into the Union as a State?

"(2) The boundaries of the State of Alaska shall be as prescribed in the Act of Congress approved

(date of approval of this Act)

and all claims of this State to any areas of land or sea outside the boundaries so prescribed are hereby irrevocably relinquished to the United States.

"(3) All provisions of the Act of Congress approved

(date of

approval of this Act)

States, as well as those prescribing the terms or conditions of the grants of lands or other property therein made to the State of Alaska, are consented to fully by said State and its people."

In the event each of the foregoing propositions is adopted at said election by a majority of the legal votes cast on said submission, the proposed constitution of the proposed State of Alaska, ratified by the people at the election held on April 24, 1956, shall be deemed amended accordingly. In the event any one of the foregoing propositions is not adopted at said election by a majority of the legal votes cast on said submission, the provisions of this Act shall thereupon cease to be effective.

The Governor of Alaska is hereby authorized and directed to take such action as may be necessary or appropriate to insure the

submitted said propositions to the people. The return of the votes cast on said proposition shall be made by the election officers directly to the Secretary of Alaska, who shall certify the results of the submission to the Governor. The Governor shall certify the results of said submission, as so ascertained, to the President of the United States.

(c) If the President shall find that the propositions set forth in the preceding subsection have been duly adopted by the people of Alaska, the President, upon certification of the returns of the election of the officers required to be elected as provided in section 7 of this Act, shall thereupon issue his proclamation announcing the results of said election as so ascertained. Upon the issuance of said proclamation by the President, the State of Alaska shall be deemed admitted into the Union as provided in section 1 of this Act.

Until the said State is so admitted into the Union, all of the officers of said Territory, including the Delegate in Congress from said Territory, shall continue to discharge the duties of their respective offices. Upon the issuance of said proclamation by the President of the United States and the admission of the State of Alaska into the Union, the officers elected at said election, and qualified under the provisions of the constitution and laws of said State, shall proceed to exercise all the functions pertaining to their offices in or under or by authority of the government of said State, and officers not required to be elected at said initial election shall be selected or continued in office as provided by the constitution and laws of said State. The Governor of said State shall certify the election of the Senators and Representative in the manner required by law, and the said Senators and Representative shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States.

(d) Upon admission of the State of Alaska into the Union as herein provided, all of the Territorial laws then in force in the Territory of Alaska shall be and continue in full force and effect throughout said State except as modified or changed by this Act, or by the constitution of the State, or as thereafter modified or changed by the legislature of the State. All of the laws of the United States shall have the same force and effect within said State as elsewhere within the United States. As used in this paragraph, the term "Territorial laws" includes (in addition to laws enacted by the Territorial Legislature of Alaska) all laws or parts thereof enacted by the Congress the validity of which is dependent solely upon the authority of the Congress to provide for the government of Alaska prior to the admission of the State of Alaska into the Union, and the term "laws of the United States" includes all laws or parts thereof enacted by the Congress that (1) apply to or within Alaska at the time of the admission of the State of Alaska into the Union, (2) are not "Territorial laws" as defined in this paragraph, and (3) are not in conflict with any other provisions of this Act.

Opinions of attorney general. — The only constitutional method by which there can be enacted legislation which is in direct conflict with the Statehood Act is the approval by the people of the State of Alaska of such federal legislation. 1969 Op. Att'y Gen., No. 6.

Congress does not have the authority to enact Indian legislation which will override the Statehood Act because of the "supremacy clause" principle. 1969 Op. Att'y Gen., No. 6.

NOTES TO DECISIONS

This section does not hold state agencies bound by federal regulations extant as of statehood. *Dresser Indus., Inc. v. Alaska Dep't of Labor*, Sup. Ct. Op. No. 2415 (File No. 5625), 633 P.2d 998 (1981).

This section made it clear that federal legislative enactments were to be carried over unless overruled by the state constitution or the state legislature. *Dresser Indus., Inc. v. Alaska Dep't of Labor*, Sup. Ct. Op. No. 2415 (File No. 5625), 633 P.2d 998 (1981).

Alaska Constitution not amended to include terms and conditions of § 6(i) of this act. — Although included in subsection (b) of this section was the provision that in the event that three propositions to be submitted to the voters, one of which required the consent by the state and its people to provisions of the Alaska Statehood Act reserving rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property therein made to the state of Alaska, were adopted by a majority vote, "the proposed constitution of the proposed State of Alaska . . . shall be deemed amended accordingly," and although the propositions were adopted, the Alaska Constitution was not thereby amended to include "the terms or conditions of the grants of land" set forth in Alaska Statehood Act, § 6(i). *State v. Lewis*, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630, appeal dismissed, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1977).

There was no state legislature in existence at the time of passage of the Statehood Act, and the territorial legislature never approved an amendment incorporating the restrictions of Alaska Statehood Act, § 6(i), which relates to mineral land grants, into the Alaska Constitution. Nor was any constitutional convention called to act on the matter. *State v. Lewis*, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630, appeal dismissed, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1977).

Rather, compact formed as to federal restrictions on alienability of land. — Alaskans by ratification of the constitution including the provisions of Alaska Const., art. VIII, § 9 and art. XII, § 13, and again, separately, by approving proposition 3 of subsection (b) of this section, agreed to be bound by restrictions on alienability of land imposed by the federal government. This constituted a compact. *State v. Lewis*, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630, appeal dismissed, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1977).

Congressional restraints intended to be binding to limited extent. — The congressional restraints on alienation were intended by Congress to be binding only to the extent required by that body. This also was the intent of those who agreed upon and adopted the Alaska Constitution by vote. *State v. Lewis*, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630, appeal dismissed, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1977).

All that was required to release the restrictions required by Congress was congressional consent. *State v. Lewis*, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630, appeal dismissed, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1977).

And state constitutional amendment not mandated. — After Congress has given its consent to a change in terms, a state constitutional amendment is not mandated to alter the compact. *State v. Lewis*, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630, appeal dismissed, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1977).

Since constitution did not contain specific restrictions on alienation. — The Alaska Constitution did not contain any specific restrictions on alienation but merely a consent to be bound by such reservations as would be required by Congress. *State v. Lewis*, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630, appeal dismissed, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1977).

Chapter 19, SLA 1976, not violative of Alaska Constitution. — Once congressional consent was secured, the Alaska legislature, in agreeing to the disposition of the land and mineral rights by ch. 19, SLA 1976, was not violating any specific provision of the Alaska Constitution. *State v. Lewis*, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630, appeal dismissed, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1977).

Congress cannot limit supreme court's power to discipline Alaskan lawyers either directly or by continuing in force the provision of a territorial statute claimed to have that effect. In re Mackay, Sup. Ct. Op. No. 279 (File No. ABA 8), 416 P.2d 823 (1966), rehearing denied, 385 U.S. 890 (1966).

[HOUSE OF REPRESENTATIVES MEMBERSHIP]

SEC. 9. The State of Alaska upon its admission into the Union shall be entitled to one Representative until the taking effect of the next reapportionment, and such representative shall be in addition to the membership of the House of Representatives as now prescribed by law; *Provided*, That such temporary increase in the membership shall not operate to either increase or decrease the permanent membership of the House of Representatives as prescribed in the Act of August 8, 1911 (37 Stat. 13) nor shall such temporary increase affect the basis of apportionment established by the Act of November 15, 1941 (55 Stat. 761; 2 U. S. C., sec. 2a), for the Eighty-third Congress and each Congress thereafter.

[NATIONAL DEFENSE WITHDRAWALS; JURISDICTION]

SEC. 10. (a) The President of the United States is hereby authorized to establish, by Executive order or proclamation, one or more special national defense withdrawals within the exterior boundaries of Alaska, which withdrawal or withdrawals may thereafter be terminated in whole or in part by the President.

(b) Special national defense withdrawals established under subsection (a) of this section shall be confined to those portions of Alaska that are situated to the north or west of the following line: Beginning at the point where the Porcupine River crosses the international boundary between Alaska and Canada; thence along a line parallel to, and five miles from, the right bank of the main channel of the Porcupine River to its confluence with the Yukon River; thence along a line parallel to, and five miles from, the right bank of the main channel of the Yukon River to its most southerly point of intersection with the meridian of longitude 160 degrees west of Greenwich; thence south to the intersection of said meridian with the Kuskokwim River; thence along a line parallel to, and five miles from the right bank of the Kuskokwim River to the mouth of said river; thence along the shoreline of Kuskokwim Bay to its intersection with the meridian of longitude 162 degrees 30 minutes west of Greenwich; thence south to the intersection of said meridian with the parallel of latitude 57 degrees 30 minutes north; thence east to the intersection of said parallel with the meridian of longitude 156 degrees west of Greenwich; thence south to the intersection of said meridian with the parallel of latitude 50 degrees north.

(c) Effective upon the issuance of such Executive order or proclamation, exclusive jurisdiction over a special national defense withdrawal established under this section is hereby reserved to the United States, which shall have sole legislative, judicial, and executive power within such withdrawals, except as provided hereinafter. The exclusive jurisdiction so established shall extend to all lands within the exterior boundaries of each such withdrawal, and shall remain in effect with respect to any particular tract or parcel of land only so long as such tract or parcel remains within the exterior boundaries of such a withdrawal. The laws of the State of Alaska shall not apply to areas within any special national defense withdrawal established under this section while such areas remain subject to the exclusive jurisdiction hereby authorized: *Provided, however*, That such exclusive jurisdiction shall not prevent the execution of any process, civil or criminal, of the State of Alaska, upon any person found within said withdrawals: *And provided further*, That such exclusive jurisdiction shall not prohibit the State of Alaska from enacting and enforcing all laws necessary to establish voting districts, and the qualification and procedures for voting in all elections.

(d) During the continuance in effect of any special national defense withdrawal established under this section, or until the Congress otherwise provides, such exclusive jurisdiction shall be exercised within each such withdrawal in accordance with the following provisions of law:

(1) All laws enacted by the Congress that are of general application to areas under the exclusive jurisdiction of the United States, including, but without limiting the generality of the foregoing, those provisions of title 18, United States Code, that are applicable within the special maritime and territorial jurisdiction of the United States as defined in section 7 of said title, shall apply to all areas within such withdrawals.

(2) In addition, any areas within the withdrawals that are reserved by Act of Congress or by Executive action for a particular military or civilian use of the United States shall be subject to all laws enacted by the Congress that have application to lands withdrawn for that particular use, and any other areas within the withdrawals shall be subject to all laws enacted by the Congress that are of general application to lands withdrawn for defense purposes of the United States.

(3) To the extent consistent with the laws described in paragraphs (1) and (2) of this subsection and with regulations made or other actions taken under their authority, all laws in force within such withdrawals immediately prior to the creation thereof by Executive order or proclamation shall apply within the withdrawals and, for this purpose, are adopted as laws of the United States: *Provided, however*, That the laws of the State or Territory relating to the organization or powers of municipalities or local political subdivisions, and the laws or ordinances of such municipalities or political subdivisions shall not be adopted as laws of the United States.

(4) All functions vested in the United States commissioners by the laws described in this subsection shall continue to be performed within the withdrawals by such commissioners.

(5) All functions vested in any municipal corporation, school district, or other local political subdivision by the laws described in this subsection shall continue to be performed within the withdrawals by such corporation, district, or other subdivision, and the laws of the state or the laws or ordinances of such municipalities or local political subdivision shall remain in full force and effect notwithstanding any withdrawal made under this section.

(6) All other functions vested in the government of Alaska or in any officer or agency thereof, except judicial functions over which the United States District Court for the District of Alaska is given jurisdiction by this Act or other provisions of law, shall be performed within the withdrawals by such civilian individuals or civilian agencies and in such manner as the President shall from time to time, by Executive order, direct or authorize.

(7) The United States District Court for the District of Alaska shall have original jurisdiction, without regard to the sum or value of any matter in controversy, over all civil actions arising within such withdrawals under the laws made applicable thereto by this subsection, as well as over all offenses committed within the withdrawals.

(e) Nothing contained in subsection (d) of this section shall be construed as limiting the exclusive jurisdiction established in the United States by subsection (c) of this section or the authority of the Congress to implement such exclusive jurisdiction by appropriate legislation, or as denying to persons now or hereafter residing within any portion of the areas described in subsection (b) of this section the right to vote at all elections held within the political subdivisions as prescribed by the State of Alaska where they respectively reside, or as limiting the jurisdiction conferred on the United States District Court for the District of Alaska by any other provision of law, or as continuing in effect laws relating to the Legislature of the Territory of Alaska. Nothing contained in this section shall be construed as limiting any authority otherwise vested in the Congress or the President.

[MOUNT MCKINLEY NATIONAL PARK; MILITARY, NAVAL, ETC., LANDS;
CIVIL AND CRIMINAL JURISDICTION]

SEC. 11. (a) Nothing in this Act shall affect the establishment, or the right, ownership, and authority of the United States in Mount McKinley National Park, as now or hereafter constituted; but exclusive jurisdiction, in all cases, shall be exercised by the United States for the national park, as now or hereafter constituted; saving, however, to the State of Alaska the right to serve civil or criminal process within the limits of the aforesaid park in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed in said

State, but outside of said park; and saving further to the State the right to tax persons and corporations, their franchises and property on the lands included in said park; and saving also to the persons residing now or hereafter in such area the right to vote at all elections held within the respective political subdivisions of their residence in which the park is situated.

(b) Notwithstanding the admission of the State of Alaska into the Union, authority is reserved in the United States, subject to the proviso hereinafter set forth, for the exercise by the Congress of the United States of the power of exclusive legislation, as provided by article I, section 8, clause 17, of the Constitution of the United States, in all cases whatsoever over such tracts or parcels of land as, immediately prior to the admission of said State, are owned by the United States and held for military, naval, Air Force, or Coast Guard purposes, including naval petroleum reserve numbered 4, whether such lands were acquired by cession and transfer to the United States by Russia and set aside by Act of Congress or by Executive order or proclamation of the President or the Governor of Alaska for the use of the United States, or were acquired by the United States by purchase, condemnation, donation, exchange, or otherwise: *Provided*, (i) That the State of Alaska shall always have the right to serve civil or criminal process within the said tracts or parcels of land in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed within the said State but outside of the said tracts or parcels of land; (ii) that the reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over the lands aforesaid shall not operate to prevent such lands from being a part of the State of Alaska, or to prevent the said State from exercising over or upon such lands, concurrently with the United States, any jurisdiction whatsoever which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation of authority; and (iii) that such power of exclusive legislation shall rest and remain in the United States only so long as the particular tract or parcel of land involved is owned by the United States and used for military, naval, Air Force, or Coast Guard purposes. The provisions of this subsection shall not apply to lands within such special national defense withdrawal or withdrawals as may be established pursuant to section 10 of this Act until such lands cease to be subject to the exclusive jurisdiction reserved to the United States by that section.

Opinions of attorney general. — Alaska's fish and game laws are applicable as federal law on military reservations, except for the licensing of military personnel who hunt on military reservations. 1964 Op. Att'y Gen., No. 2. Any hunting or fishing at a military

reservation must be in accord with Alaska laws regulating seasons, bag limits, methods of taking, etc., even though military personnel are not required to comply with Alaska's licensing requirements while on the reservation. 1964 Op. Att'y Gen., No. 2.

Alaska federal government have concurrent jurisdiction over federal military reservations by the terms of (ii) of this subsection. 1964 Op. Att'y Gen., No. 2.

Subsection (b) (ii) grants to Alaska and the federal government concurrent jurisdiction to enforce Alaska's fish and game laws and regulations on federal military reservations. 1964 Op. Att'y Gen., No. 2.

Only on a military reservation under the exclusive legislative jurisdiction of the federal government could enforcement of

game and fish laws be in the hands of the federal government exclusively. 1964 Op. Att'y Gen., No. 2.

The state has subject matter jurisdiction over sewage disposal in Petroleum Reserve No. 4. June 28, 1977, Op. Att'y Gen.

Until Congress expressly exercises its latent power of exclusive jurisdiction, the state has concurrent jurisdiction over Petroleum Reserve No. 4. June 28, 1977, Op. Att'y Gen.

[JUDICIAL AND CRIMINAL PROVISIONS]

SEC. 12. Effective upon the admission of Alaska into the Union —

(a) The analysis of chapter 5 of title 28, United States Code, immediately preceding section 81 of such title, is amended by inserting immediately after and underneath item 81 of such analysis, a new item to be designated as item 81A and to read as follows:

"81A. Alaska";

(b) Title 28, United States Code, is amended by inserting immediately after section 81 thereof a new section, to be designated as section 81A, and to read as follows:

"§ 81A. Alaska

"Alaska constitutes one judicial district.

"Court shall be held at Anchorage, Fairbanks, Juneau, and Nome.";

(c) Section 133 of title 28, United States Code, is amended by inserting in the table of districts and judges in such section immediately above the item: "Arizona *** 2", a new item as follows: "Alaska *** 1";

(d) The first paragraph of section 373 of title 28, United States Code, as heretofore amended, is further amended by striking out the words: "the District Court for the Territory of Alaska,"; *Provided*, That the amendment made by this subsection shall not affect the rights of any judge who may have retired before it takes effect;

(e) The words "the District Court for the Territory of Alaska," are stricken out wherever they appear in sections 333, 460, 610, 753, 1252, 1291, 1292, and 1346 of title 28, United States Code;

(f) The first paragraph of section 1252 of title 28, United States Code, is further amended by striking out the word "Alaska," from the clause relating to courts of record;

(g) Subsection (2) of section 1294 of title 28, United States Code, is repealed and the later subsections of such section are renumbered accordingly;

(h) Subsection (a) of section 2410 of title 28, United States Code, is amended by striking out the words: "including the District Court for the Territory of Alaska,";

(i) Section 3241 of title 18, United States Code, is amended by striking out the words: "District Court for the Territory of Alaska, the";

(j) Subsection (e) of section 3401 of title 18, United States Code, is amended by striking out the words: "for Alaska or";

(k) Section 3771 of title 13, United States Code, as heretofore amended, is further amended by striking out from the first paragraph of such section the words: "the Territory of Alaska,";

(l) Section 3772 of title 18, United States Code, as heretofore amended, is further amended by striking out from the first paragraph of such section the words: "the Territory of Alaska,";

(m) Section 2072 of title 28, United States Code, as heretofore amended, is further amended by striking out from the first paragraph of such section the words: "and of the District Court for the Territory of Alaska";

(n) Subsection (q) of section 376 of title 28, United States Code, is amended by striking out the words: "the District Court for the Territory of Alaska,"; *Provided*, That the amendment made by this subsection shall not affect the rights under such section 376 of any present or former judge of the District Court for the Territory of Alaska or his survivors;

(o) The last paragraph of section 1963 of title 28, United States Code, is repealed;

(p) Section 2201 of title 28, United States Code, is amended by striking out the words: "and the District Court for the Territory of Alaska"; and

(q) Section 4 of the Act of July 28, 1950 (64 Stat. 380; 5 U. S. C., sec. 341b) is amended by striking out the word: "Alaska".

[CONTINUATION OF SUITS]

SEC. 13. No writ, action, indictment, cause, or proceeding pending in the District Court for the Territory of Alaska on the date when said Territory shall become a State, and no case pending in an appellate court upon appeal from the District Court for the Territory of Alaska at the time said Territory shall become a State, shall abate by the admission of the State of Alaska into the Union, but the same shall be transferred and proceeded with as hereinafter provided.

All civil causes of action and all criminal offenses which shall have arisen or been committed prior to the admission of said State, but as to which no suit, action, or prosecution shall be pending at the date of such admission, shall be subject to prosecution in the appropriate State courts or in the United States District Court for the District of Alaska in like manner, to the same extent, and with like right of appellate review, as if said State had been created and said courts had been established prior to the accrual of said causes of action or the commission of such offenses; and such of said criminal offenses as shall have

been committed against the laws of the Territory shall be tried and punished by the appropriate courts of said State, and such as shall have been committed against the laws of the United States shall be tried and punished in the United States District Court for the District of Alaska.

Cross references. — See note to AS 33.15.240.

[APPEALS]

SEC. 14. All appeals taken from the District Court for the Territory of Alaska to the Supreme Court of the United States or the United States Court of Appeals for the Ninth Circuit, previous to the admission of Alaska as a State, shall be prosecuted to final determination as though this Act had not been passed. All cases in which final judgment has been rendered in such district court, and in which appeals might be had except for the admission of such State, may still be sued out, taken, and prosecuted to the Supreme Court of the United States or the United States Court of Appeals for the Ninth Circuit under the provisions of then existing law, and there held and determined in like manner; and in either case, the Supreme Court of the United States, or the United States Court of Appeals, in the event of reversal, shall remand the said cause to either the State supreme court or other final appellate court of said State, or the United States district court for said district, as the case may require: *Provided*, That the time allowed by existing law for appeals from the district court for said Territory shall not be enlarged thereby.

Cross references. — See note to AS 33.15.240.

NOTES TO DECISIONS

This section was obviously an expedient provided by Congress while the State court system was being organized. *Moody v. State*, Sup. Ct. Op. No. 221 (File No. 401), 392 P.2d 466 (1964).

[SUCCESSION OF COURTS]

SEC. 15. All causes pending or determined in the District Court for the Territory of Alaska at the time of the admission of Alaska as a State which are of such nature as to be within the jurisdiction of a district court of the United States shall be transferred to the United States District Court for the District of Alaska for final disposition and enforcement in the same manner as is now provided by law with reference to the judgments and decree in existing United States district courts. All other causes pending or determined in the District Court for the Territory of Alaska at the time of the admission of Alaska as a State shall be transferred to the appropriate State court of Alaska. All

final judgments and decrees rendered upon such transferred cases in the United States District Court for the District of Alaska may be reviewed by the Supreme Court of the United States or by the United States Court of Appeals for the Ninth Circuit in the same manner as is now provided by law with reference to the judgments and decrees in existing United States district courts.

Cross references. — See note to AS 33.15.240.

[TRANSFER OF CASES]

SEC. 16. Jurisdiction of all cases pending or determined in the District Court for the Territory of Alaska not transferred to the United States District Court for the District of Alaska shall devolve upon and be exercised by the courts of original jurisdiction created by said State, which shall be deemed to be the successor of the District Court for the Territory of Alaska with respect to cases not so transferred and, as such, shall take and retain custody of all records, dockets, journals, and files of such court pertaining to such cases. The files and papers in all cases so transferred to the United States district court, together with a transcript of all book entries to complete the record in such particular cases so transferred, shall be in like manner transferred to said district court.

Cross references. — See note to AS 33.15.240.

[CASES PENDING IN DISTRICT COURT FOR TERRITORY OF ALASKA]

SEC. 17. All cases pending in the District Court for the Territory of Alaska at the time said Territory becomes a State not transferred to the United States District Court for the District of Alaska shall be proceeded with and determined by the courts created by said State with the right to prosecute appeals to the appellate courts created by said State, and also with the same right to prosecute appeals or writs of certiorari from the final determination in said causes made by the court of last resort created by such State to the Supreme Court of the United States, as now provided by law for appeals and writs of certiorari from the court of last resort of a State to the Supreme Court of the United States.

Cross references. — See note to AS 33.15.240.

[JURISDICTION OF DISTRICT COURT; TERMINATION DATE]

SEC. 18. The provisions of the preceding sections with respect to the termination of the jurisdiction of the District Court for the Territory of Alaska, the continuation of suits, the succession of courts, and the satisfaction of rights of litigants in suits before such courts, shall not be effective until three years after the effective date of this Act, unless the President, by Executive order, shall sooner proclaim that the United States District Court for the District of Alaska, established in accordance with the provisions of this Act, is prepared to assume the functions imposed upon it. During such period of three years or until such Executive order is issued, the United States District Court for the Territory of Alaska shall continue to function as heretofore. The tenure of the judges, the United States attorneys, marshals, and other officers of the United States District Court for the Territory of Alaska shall terminate at such time as that court shall cease to function as provided in this section.

Cross references. — See note to AS 33.15.240.

[FEDERAL RESERVE SYSTEM]

SEC. 19. The first paragraph of section 2 of the Federal Reserve Act (38 Stat. 251) is amended by striking out the last sentence thereof and in inserting in lieu of such sentence the following: "When the State of Alaska is hereafter admitted to the Union the Federal Reserve districts shall be readjusted by the Board of Governors of the Federal Reserve System in such manner as to include such State. Every national bank in any State shall, upon commencing business or within ninety days after admission into the Union of the State in which it is located, become a member bank of the Federal Reserve System by subscribing and paying for stock in the Federal Reserve bank of its district in accordance with the provisions of this Act and shall thereupon be an insured bank under the Federal Deposit Insurance Act, and failure to do so shall subject such bank to the penalty provided by the sixth paragraph of this section."

[REPEAL]

SEC. 20. Section 2 of the Act of October 20, 1914 (38 Stat. 742; 48 U. S. C., sec. 433), is hereby repealed.

[UNITED STATES NATIONALITY]

SEC. 21. Nothing contained in this Act shall operate to confer United States nationality, nor to terminate nationality heretofore lawfully acquired, nor restore nationality heretofore lost under any law

the United States or under any treaty to which the United States may have been a party.

[IMMIGRATION AND NATIONALITY ACT AMENDMENT]

SEC. 22. Section 101 (a) (36) of the Immigration and Nationality Act (66 Stat. 170, 8 U. S. C., sec. 1101 (a) (36)) is amended by deleting the word "Alaska,".

[IMMIGRATION AND NATIONALITY ACT AMENDMENT]

SEC. 23. The first sentence of section 212 (d) (7) of the Immigration and Nationality Act (66 Stat. 188, 8 U. S. C., sec. 1182 (d) (7)) is amended by deleting the word "Alaska,".

[IMMIGRATION AND NATIONALITY ACT AMENDMENT]

SEC. 24. Nothing contained in this Act shall be held to repeal, amend, or modify the provisions of section 304 of the Immigration and Nationality Act (66 Stat. 237, 8 U. S. C., sec. 1404).

[IMMIGRATION AND NATIONALITY ACT AMENDMENT]

SEC. 25. The first sentence of section 310 (a) of the Immigration and Nationality Act (66 Stat. 239, 8 U. S. C., sec. 1421 (a)) is amended by deleting the words "District Courts of the United States for the Territories of Hawaii and Alaska" and substituting therefor the words "District Court of the United States for the Territory of Hawaii".

[IMMIGRATION AND NATIONALITY ACT AMENDMENT]

SEC. 26. Section 344 (d) of the Immigration and Nationality Act (66 Stat. 265, 8 U. S. C., sec. 1455 (d)) is amended by deleting the words "in Alaska and".

[TRANSPORTATION BY WATER]

SEC. 27. (a) The third proviso in section 27 of the Merchant Marine Act, 1920, as amended (46 U. S. C., sec. 883), is further amended by striking out the word "excluding" and inserting in lieu thereof the word "including".

(b) Nothing contained in this or any other Act shall be construed as depriving the Federal Maritime Board of the exclusive jurisdiction heretofore conferred on it over common carriers engaged in transportation by water between any port in the State of Alaska and other ports in the United States, its Territories or possessions, or as conferring upon the Interstate Commerce Commission jurisdiction over transportation by water between any such ports.

SEC. 28. (a) The last sentence of section 9 of the Act entitled "An Act to provide for the leasing of coal lands in the Territory of Alaska, and for other purposes", approved October 20, 1914 (48 U. S. C. 439), is hereby amended to read as follows: "All net profits from operation of Government mines, and all bonuses, royalties, and rentals under leases as herein provided and all other payments received under this Act shall be distributed as follows as soon as practicable after December 31 and June 30 of each year: (1) 90 per centum thereof shall be paid by the Secretary of the Treasury to the State of Alaska for disposition by the legislature thereof; and (2) 10 per centum shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts."

(b) Section 35 of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920, as amended (30 U. S. C. 191), is hereby amended by inserting immediately before the colon preceding the first proviso thereof the following: ", and of those from Alaska 52½ per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof".

Opinions of attorney general. — Neither the state nor federal government may unilaterally amend the Statehood Act. 1969 Op. Att'y Gen., No. 6.

The United States may not constitutionally enact effective legislation in direct conflict with compact provisions of the Statehood Act unless there is an amendment to the Constitution of the State of Alaska, because a Statehood Act constitutes a compact in the nature of a contract between two sovereign governments. 1969 Op. Att'y Gen., No. 6.

Royalty legislation on state oil and gas leases is a matter within the paramount jurisdiction of the state. The conservation of oil and gas is a matter within the authority of the states. 1969 Op. Att'y Gen., No. 6.

The royalty provisions of a mineral leasing act are related to conservation of natural resources. 1969 Op. Att'y Gen., No. 6.

The United States, under the 10th amendment to the federal constitution, has no authority to legislate on state royalty provisions and state oil and gas leases. 1969 Op. Att'y Gen., No. 6.

An overriding gross royalty of 2% of all proceeds from any state and federal lands conflicts with the Statehood Act and the province of the Alaska state legislature. 1969 Op. Att'y Gen., No. 6.

The United States cannot unilaterally amend the Statehood Act to the state's detriment without the state's consent or acquiescence. April 2, 1981, Op. Att'y Gen.

NOTES TO DECISIONS

Legislative intent. — It was the intent of Congress in the Statehood Act to provide the new state with a solid economic foundation. *Rowe v. United States*, 464 F. Supp. 1060 (D. Alas. 1979), *aff'd in part*, 633 F.2d 799 (9th Cir. 1980), *cert. denied*, 451 U.S. 970, 101 S. Ct. 2047, 68 L. Ed. 2d 349 (1981).

Applied in *United States v. Atlantic Richfield Co.*, 435 F. Supp. 1009 (D. Alas. 1977), *aff'd*, 612 F.2d 1132 (9th Cir.), *cert. denied*, 449 U.S. 888, 101 S. Ct. 244, 66 L. Ed. 2d 113 (1980).

SEC. 29. If any provision of this Act, or any section, subsection, sentence, clause, phrase, or individual word, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, phrase, or individual word to other persons and circumstances shall not be affected thereby.

[REPEAL OF CONFLICTING LAWS]

SEC. 30. All Acts or parts of Acts in conflict with the provisions of this Act, whether passed by the legislature of said Territory or by Congress, are hereby repealed.

Approved July 7, 1958.

1978

LEGISLATION



LAWS OF ALASKA

1978

Source

FCCS CSSB 159

Chapter No.

182

AN ACT

Relating to state land; and providing for an effective date.

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

* Section 1. REDESIGNATION AND DISPOSAL OF MENTAL HEALTH LAND. (a) Land granted to the state under the Mental Health Enabling Act of 1956, 70 Stat. 709, and patented to or approved for patent to the state on July 1, 1978 and land designated as mental health land which was received in exchange for land granted under that federal land grant is redesignated as general grant land and shall be managed consistent with applicable provisions of law.

(b) Redesignation of mental health land in (a) of this section does not affect the validity of a deed, contract for sale, lease, easement, right-of-way, permit, mineral lease disposal, or a reservation for public use of that land by statute, in effect before July 1, 1978 or land management actions including use classifications under AS 38.05.300, and interagency land management assignments of that land made by the Department of Natural Resources before July 1, 1978.

* Sec. 2. REDESIGNATION AND DISPOSAL OF SCHOOL LAND. (a) Land granted to the state in sections 16 and 36 in each township surveyed before January 3, 1959 under the Act of March 4, 1915, 48 U.S.C. 353, and patented to or approved for patent to the state on July 1, 1978 and land designated as school land which was received in exchange for land granted under that federal land grant and land granted to the state as lieu or indemnity land is redesignated as general grant land and shall be managed consistent with applicable provisions of law.

(b) The redesignation of school land in (a) of this section does not affect the validity of a deed, contract for sale, lease, easement, right-of-way, permit, mineral lease disposal, or a

Chapter 182

reservation for public use of that land by statute, in effect before July 1, 1978 or land management actions including use classifications under AS 38.05.300, and interagency land management assignments of that land made by the Department of Natural Resources before July 1, 1978.

* Sec. 3. REDESIGNATION AND DISPOSAL OF UNIVERSITY LAND.

(a) Land granted to the state under 38 Stat. 1214, as amended, 48 U.S.C. 353, and the Act of January 21, 1929, 48 U.S.C. 354(a) which is held in the name of the University of Alaska on July 1, 1978 and land designated as university land which was received in exchange for land granted under those federal land grants is redesignated as general grant land and shall be managed consistent with applicable provisions of law.

(b) The redesignation of university land in (a) of this section does not affect the validity of a deed, contract for sale, lease, easement, right-of-way, permit, mineral lease disposal, or a reservation for public use of that land by statute, in effect before July 1, 1978 or land management actions including use classifications under AS 38.05.300, and interagency land management assignments of that land made by the Department of Natural Resources before July 1, 1978.

(c) Land in Section 6, Township 1 South, Range 1 West, Section 31, Township 1 North, Range 1 West, Section 1, Township 1 South, Range 2 West, and Section 36, Township 1 North, Range 2 West, Fairbanks Meridian granted under the Act of March 4, 1915, 48 U.S.C. 353, and all land used or occupied by the university and its associated facilities, community colleges, or subordinate campuses on or before July 1, 1978 shall be held in the name of the University of Alaska and shall be reserved and dedicated to use for the University of Alaska and title to that land shall be held by the university.

* Sec. 4. AS 37 is amended by adding a new chapter to read:

CHAPTER 14. TRUST FUNDS.

ARTICLE 1. MENTAL HEALTH FUND.

Sec. 37.14.010. MENTAL HEALTH FUND ESTABLISHED. (a) There is established as a separate fund the mental health fund.

(b) The principal of the fund established in (a) of this section consists of sums transferred under sec. 99 of this chapter.

(c) The income of the fund established in (a) of this section consists of the interest and dividends earned from investments of the principal of that fund under sec. 170 of this chapter.

Sec. 37.14.020. MENTAL HEALTH FUND ADVISORY BOARD CREATED. (a) There is created in the Department of Revenue the Mental Health Fund Advisory Board composed of the director of the division of mental health, the chairman of the Mental Health Advisory Council, and the commissioner of the Department of Revenue.

(b) The board created in (a) of this section shall elect a chairman from the membership of that board. Members

serve without compensation but are entitled to per diem and travel expenses authorized by law for other boards.

Sec. 37.14.030. POWERS AND DUTIES OF BOARD. The board created in sec. 20 of this chapter has the following powers and duties:

(1) to hold regular meetings and special meetings considered necessary;

(2) to have prepared an annual accounting of the total principal and income of the fund established in sec. 10 of this chapter; and

(3) to prepare long-range investment plans for the fund established in sec. 10 of this chapter.

Sec. 37.14.040. FUND UTILIZATION. The principal of the fund established in sec. 10 of this chapter shall be retained in that fund for investment as specified in sec. 170 of this chapter. The income of the fund may not be appropriated for a purpose other than the support of the state mental health program.

Sec. 37.14.050. CONTRIBUTIONS. During each fiscal year, subject to legislative appropriation of sufficient funds, the commissioner of the Department of Revenue shall transfer to the fund established in sec. 10 of this chapter a sum equal to one and one-half per cent of the total revenue derived from the management of state land, including amounts paid to the state as proceeds of sale or annual rent of surface rights, mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue-sharing payments or bonuses.

ARTICLE 2. UNIVERSITY FUND.

Sec. 37.14.060. UNIVERSITY FUND ESTABLISHED. (a) There is established as a separate fund the university fund.

(b) The principal of the fund established in (a) of this section consists of

(1) the balance of the trust fund established in AS 14.40.400 on July 1, 1978; and

(2) sums transferred under sec. 100 of this chapter.

(c) The income of the fund established in (a) of this section consists of the interest and dividends earned from investments of the principal of that fund under sec. 170 of this chapter.

Sec. 37.14.070. UNIVERSITY FUND ADVISORY BOARD CREATED. (a) There is created in the Department of Revenue the University Fund Advisory Board composed of two members appointed by the Board of Regents of the University of Alaska from the membership of the Board of Regents, and the commissioner of the Department of Revenue.

(b) The board created in (a) of this section shall elect a chairman from the membership of that board.

Chapter 182

Members serve without compensation but are entitled to per diem and travel expenses authorized by law for other boards.

Sec. 37.14.080. POWERS AND DUTIES OF BOARD. The board created in sec. 70 of this chapter has the following powers and duties:

(1) to hold regular meetings and special meetings considered necessary;

(2) to have prepared an annual accounting of the total principal and income of the fund established in sec. 60 of this chapter; and

(3) to prepare long-range investment plans for the fund established in sec. 60 of this chapter.

Sec. 37.14.090. FUND UTILIZATION. (a) The principal of the fund established in sec. 60 of this chapter shall be retained in the fund for investment as specified in sec. 170 of this chapter.

(b) The income from the fund established in sec. 60 of this chapter may not be appropriated for a purpose other than the support of programs of the University of Alaska.

(c) No part of the principal and income of the fund established in sec. 60 of this chapter may be used for the support of a sectarian or denominational college or school.

Sec. 37.14.100. CONTRIBUTIONS. During each fiscal year the commissioner of the Department of Revenue shall transfer to the fund created in sec. 60 of this chapter a sum equal to one-half of one per cent of the total receipts derived from the management of state land, including amounts paid to the state as proceeds of sale or annual rent of surface rights, mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue-sharing payments or bonuses.

ARTICLE 3. PUBLIC SCHOOL FUND.

Sec. 37.14.110. PUBLIC SCHOOL FUND ESTABLISHED. (a) There is established as a separate fund the public school fund.

(b) The principal of the fund established in (a) of this section consists of

(1) the balance of the public school permanent fund on July 1, 1978; and

(2) sums transferred under sec. 150 of this chapter.

(c) The income of the fund created in (a) of this section consists of the interest and dividends earned from investments of the principal of that fund under sec. 170 of this chapter.

Sec. 37.14.120. PUBLIC SCHOOL FUND ADVISORY BOARD CREATED. (a) There is created in the Department of Revenue the Public School Fund Advisory Board composed of

the commissioner of the Department of Education, three members elected by the Board of Education from among its membership, and the commissioner of the Department of Revenue.

(b) The board created in (a) of this section shall elect a chairman from the membership of the board. Members serve without compensation but are entitled to per diem and travel expenses authorized by law for other boards.

Sec. 37.14.130. POWERS AND DUTIES OF BOARD. The board created in sec. 120 of this chapter has the following powers and duties:

(1) to hold regular meetings and special meetings considered necessary;

(2) to have prepared an annual accounting of the principal and income of the fund established in sec. 110 of this chapter; and

(3) to prepare long-range investment plans for the fund established in sec. 110 of this chapter.

Sec. 37.14.140. FUND UTILIZATION. The principal of the fund established in sec. 110 of this chapter shall be retained in the fund for investment as specified in sec. 170 of this chapter. The income of the fund may not be appropriated for a purpose other than for the support of public education programs.

Sec. 37.14.150. CONTRIBUTIONS. During each fiscal year the commissioner of the Department of Revenue shall transfer to the fund created in sec. 110 of this chapter a sum equal to one-half of one per cent of the total receipts derived from the management of state land, including amounts paid to the state as proceeds of sale or annual rent of surface rights, mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue-sharing payments or bonuses.

ARTICLE 4. CUSTODY AND INVESTMENT OF TRUST FUNDS.

Sec. 37.14.160. DUTIES OF COMMISSIONER OF REVENUE. The commissioner of revenue is the treasurer of the funds created in secs. 10, 60, and 110 of this chapter and shall

(1) act as official custodian of the cash and securities belonging to those funds and provide adequate safe deposit facilities for each of them;

(2) receive cash belonging to those funds;

(3) collect the principal on securities acquired for each fund established under secs. 10, 60, and 110 of this chapter and credit each fund accordingly;

(4) collect interest and dividends earned on investments of the funds established under secs. 10, 60, and 110 of this chapter and credit the income reserve account of each fund accordingly;

(5) invest and reinvest the principal of each

Chapter 182

fund in accordance with sec. 170 of this chapter.

Sec. 37.14.170. INVESTMENTS. (a) The commissioner of revenue, with the approval of each advisory board created in secs. 20, 70, and 120 of this chapter, may invest the principal of the funds created in secs. 10, 60, and 110 of this chapter in the same manner as specified for the investment of surplus pension funds under AS 39.35.110.

(b) The commissioner of revenue may

- (1) invest and reinvest the principal of the funds;
- (2) sell, exchange, convey, transfer, or otherwise dispose of investments of the funds by private contract or at public auction;
- (3) vote upon a stock, bond, or other security; give a general or special proxy or power of attorney with or without power of substitution; exercise a conversion privilege, subscription right, or other option and make payments incidental to it; consent to or participate in a corporate reorganization or other change affecting corporate securities, delegate discretionary power, pay an assessment or charge in connection with the delegation; and generally exercise any of the powers of an owner with respect to stocks, bonds, securities, or other investments held in the funds;
- (4) make, execute, acknowledge, and deliver documents of transfer and conveyance and instruments necessary or appropriate to carry out the powers granted;
- (5) register investments held in a fund in the name of the board having the power to approve investments for a fund;
- (6) do all acts whether or not expressly authorized which are considered proper for the protection of the investments held in the funds.

* Sec. 5. AS 38.05.030(c) is amended to read:

(c) In addition to the requirements specified in AS 38.50.090, the agencies referred to in (b) of this section and other state agencies with authority to acquire or dispose of land shall give written notification of the fact of acquisition, lease or exchange to the division of lands within three months after the date that they make the acquisition, lease or exchange.

* Sec. 6. AS 38.05.030(d) is amended to read:

(d) Real property acquired by, and under the management of, the agencies referred to in (b) of this section, which is no longer needed for its intended use, shall be returned to the jurisdiction of the division of lands, except that the Department of Transportation and Public Facilities may dispose of real property acquired by it under AS 19.05.040(2) and AS 19.05.080 - 19.05.120.

* Sec. 7. AS 38.05.C35(b) is amended by adding a new

paragraph to read:

(6) dispose of land which is held in the name of the University of Alaska except land granted under the Act of March 4, 1915, 48 U.S.C. 353 which is reserved as the site of the University of Alaska and all land used or occupied by the university and its associated facilities, community colleges, or subordinate campuses.

* Sec. 8. AS 38.05.085(b) is repealed and re-enacted to read:

(b) When it becomes necessary to determine the fair market value of property as required by (a) of this section, the director shall have the property appraised by a qualified appraiser. If the lessee disagrees with the appraisal obtained by the director, he may appoint a qualified appraiser to make an appraisal of the property in question. If the two appraisers agree upon the fair market value, the determination is binding on the parties. In the event the two appraisers are unable to agree, they shall appoint a third qualified appraiser who shall then make his appraisal of the property in question. When the third appraisal is completed, the two of the three appraisals which are nearest each other in their determination of the fair market value shall be averaged and the resultant sum shall be the fair market value of the property in question and absolutely binding on the parties. All costs incurred in making the appraisals provided for in this subsection shall be borne by the state and the lessee equally.

* Sec. 9. AS 38.05.085(g) is amended by adding a new paragraph to read:

(3) "qualified appraiser" means a senior member of the American Institute of Real Estate Appraisers, the Society of Real Estate Appraisers, a person meeting the requirements for certification as an appraiser II by the division of personnel, Department of Administration, or a person qualified according to regulations adopted by the commissioner under the Administrative Procedure Act (AS 44.62).

* Sec. 10. AS 38.05.095 is amended to read:

Sec. 38.05.095. SUBLEASES. (a) Except as provided in (b) of this section, a lessee may sublease or assign the land or portion of it upon which he has a lease if, after application to the director, the director issues a permit. The director may issue a permit if he finds that it is in the best interests of the state to do so.

(b) A nonprofit organization that is exempted from paying rent on state land under sec. 97 of this chapter may not sublease or assign the land or a portion of it on which it has a lease.

* Sec. 11. AS 38.05 is amended by adding a new section to read:

Sec. 38.05.097. EXEMPTION FROM RENTAL PAYMENTS ON LAND LEASED BY NONPROFIT ORGANIZATIONS. (a) A nonprofit organization using state land leased by it under secs. 70 - 105 of this chapter for a youth encampment or similar

Chapter 182

recreational purpose is exempt from lease rental payments on that land. The nonprofit organization shall meet all other terms and conditions of the lease specified under secs. 70 - 105 of this chapter.

(b) In this section, "nonprofit organization" means nonprofit corporations, associations, clubs, or societies organized and operated exclusively for charitable, religious, scientific, or educational purposes or for the promotion of social welfare and which has received an exemption from the payment of federal income tax.

(c) A nonprofit organization which satisfies the requirements of this section that is using land under a lease in effect before July 1, 1978 may convert its lease to a new lease with terms exempting it from the payment of rent by submitting a written request to the director.

* Sec. 12. AS 38.05.105(b)(1) is amended to read:

(1) subject to the provisions of (c) of this section, changes in property value due to governmental actions, including zoning reclassifications, shall be included; and

* * Sec. 13. AS 38.05.105 is amended by adding a new subsection to read:

(c) Changes or adjustments of annual rent on land under lease and used for single-family residential purposes in an area zoned for commercial or other nonresidential uses shall be based on an adjusted fair market value determined by reference to the actual use of the property and not by reference to the other uses permissible under the zoning ordinance.

* Sec. 14. AS 38.05.310 is amended to read:

Sec. 38.05.310. APPRAISAL. No land may be sold or leased, or a renewal lease issued, except in the case of an oil or gas or mineral lease, unless it has been appraised within 120 days before the date fixed for the sale or lease. When land is offered at public sale but is not sold and is available at private sale, no reappraisal is required unless the director considers that a change in value of the lands 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 the approved, appraised market value, except as provided in secs. 315 and 320 of this chapter, secs. 75 - 85 and sec. 97 of this chapter.

* Sec. 15. AS 38.05.340 is amended to read:

Sec. 38.05.340. ASSIGNMENT. (a) Except as provided in (b) of this section, all contracts of purchase or lease of lands or interest in lands may be, on the affirmative approval of the director, assigned or subleased in whole or in part in writing by the contract holder or lessee, and the assignee or sublessee is subject to the provisions of laws and regulations applicable to the contract or lease.

(b) A nonprofit organization that is exempted from paying rent on state land under sec. 97 of this chapter may not assign or sublease the land or a portion of it on which it has a lease.

* Sec. 16. AS 38.35.140(a) is amended to read:

(a) The lease price for a right-of-way lease shall be the annual fair market rental of the state lands included in the right-of-way based on the appraised fair market value of the land. The lease price is payable annually in advance on or before the anniversary of the lease. The appraised fair market rental value shall be adjusted at five-year intervals and charges or adjustments shall be based on a reappraised annual rental value. Rental may not be charged for any land acquired by the lessee under sec. 130(b) of this chapter and conveyed without cost to the state.

* Sec. 17. AS 38.50.040 is amended to read:

Sec. 38.50.040. LAND SUBJECT TO EXCHANGE. Except as otherwise provided in this chapter, the director is authorized to convey for purposes of exchange any state land or interest in land regardless of the authority under which the land or interest was obtained by the state. The conveyance of university land shall be approved in the manner prescribed in AS 38.05.030.

* Sec. 18. AS 38.50.040 is amended to read:

Sec. 38.50.040. LAND SUBJECT TO EXCHANGE. Except as otherwise provided in this chapter, the director is authorized to convey for purposes of exchange any state land or interest in land regardless of the authority under which the land or interest was obtained by the state.

* Sec. 19. AS 14.40.280 is amended to read:

Sec. 14.40.280. ENDOWMENTS AND DONATIONS. All monetary gifts, bequests or endowments which are made to the university for the purpose of the separate fund created under AS 37.14.110 shall be transferred to the Department of Revenue. The Department of Revenue shall manage that money in accordance with AS 37.14.060 - 37.14.100. Title to and control or possession of land, personal property, and all money other than that transferred to the Department of Revenue, which is devised, bequeathed or given to the university shall be taken by the university in its corporate capacity acting by and through the regents or an authorized agent, and shall be entered in the perpetual inventory of the university.

* Sec. 20. The following laws are repealed: AS 14.40.350, 14.40.360, 14.40.400; AS 34.10.010 - 34.10.160, 34.10.180 - 34.10.240; AS 38.05.030(a) and (e), 38.05.032, 38.05.035(a)(8) and (13), 38.05.365(8), (14) and (20); and AS 38.50.110(a)(6).

* Sec. 21. Sec. 12, ch. 138, SLA 1977 is amended to read:

Sec. 12. CONVERSION OF LEASES. The provisions of secs. 9 - 11 of this Act are applicable to state leases which are in existence on or before the effective date of this Act if a lessee under a lease elects, in writing, to

Chapter 182

be bound by this Act. When a lessee elects to be bound by the provisions of this Act, the state shall enter into an amended lease with the lessee for a term equal to the remaining period of the original lease which is being converted, and that amended lease shall be consistent with the provisions of this Act but shall not otherwise alter the terms of the original lease. However, for purposes of determining the annual rent by the state, the fair market value of the property which is used to establish the fixed base annual rent for the initial period of the lease may not exceed the fair market value as it was last appraised on or before January 1, 1975, brought forward to the date of the first day of the quarter following the date of a request for conversion at the rate of 10 per cent a year, or, if the lease was entered into after January 1, 1975, the fair market value used to establish the annual rent for the initial period of the new lease is the fair market value of the last appraisal brought forward to the date of conversion at the rate of 10 per cent per year.

* Sec. 22. A request for conversion permitted under sec. 12, ch. 138, SLA 1977, given before the effective date of this Act remains in effect.

* Sec. 23. Chapter 144, SLA 1961 is amended by adding new sections to read:

Sec. 4. The director of the division of lands of the Department of Natural Resources is empowered and directed to offer, by noncompetitive sale, to Alyeska Ski Corporation, an Alaska corporation or to a sublessee, under the lease provided for in sec. 1 of this chapter, the following described real property or any portion of it lying in the vicinity of Girdwood, in the Anchorage Recording District: Beginning at a point vicinity of Girdwood, in the Anchorage Recording District: Beginning at a point being the southwest corner, Cor. #4, of U.S. Survey 3569, thence West 20 chs., North 60 chs., East 65 1/2 chs. m/1 to the Chugach National Forest boundary line, thence South 60 chs. along the Chugach National Forest boundary line, thence West 5 1/2 chs. m/1, to the southeast corner, Cor. #3, of U.S. Survey 3569, thence North 40 chs. along the east boundary of U.S. Survey 3569 to the northeast corner of the survey, Cor. #2, thence West 40 chs. along northern boundary of U.S. Survey 3569 to the northwest corner of the survey, Cor. #1, thence South 40 chs. along western border of U.S. Survey 3569 to point of beginning, containing approximately 233 acres.

Sec. 5. The sale price of land offered under sec. 4 of this chapter shall be the fair market value of the land on July 1, 1978 which shall be determined in the same manner as specified for the determination of adjusted market value for leased land in AS 38.05.105(b).

* Sec. 24. ELECTION BY BOARD OF REGENTS. The Board of Regents shall hold a special meeting not later than September 1, 1978 to determine whether it is in the best interests of the University of Alaska to relinquish the authority to approve of the management and disposal of university land by the Department of Natural Resources, and to accept the benefits of the university fund established in AS 37.14.060 - 37.14.100 contained in sec. 4 of this Act. The Act of approval or disapproval shall be

recorded by resolution of the Board of Regents. A majority of the whole board shall determine whether the matter under consideration is approved or disapproved.

* Sec. 25. The Department of Natural Resources may not initiate any foreclosure action under AS 34.10 after the effective date of this section.

* Sec. 26. A right of repurchase created by former AS 34.10.-220 and existing on the effective date of this section may be exercised only if it is exercised under that statute within three years following the effective date of this section. The division of lands shall publish notice of the expiration of all such repurchase rights in the manner provided by AS 38.05.345 before January 1, 1979 and again before January 1, 1980 and before January 1, 1981.

* Sec. 27. Sections 3, 5 - 7, 18, 19, and AS 37.14.060 - 37.14.100 contained in sec. 4 of this Act, and the repeal of AS 14.40.350, 14.40.360, 14.40.400; AS 38.05.030(a) and 38.05.365-(20) contained in sec. 20 of this Act, take effect on the date that the Board of Regents votes to approve the matters under consideration as provided in sec. 24 of this Act.

* Sec. 28. Sections 1, 2, 8 - 16, and AS 37.14.010 - 37.14.-050 and 37.14.110 - 37.14.170 contained in sec. 4 of this Act, and the repeal of AS 38.05.030(e), 38.05.032, 38.05.035(a)(13), 38.05.365(8) and (14) contained in sec. 20 of this Act take effect July 1, 1978.

* Sec. 29. Section 17 of this Act takes effect on the date that the Board of Regents votes to disapprove the matters under consideration as provided in sec. 25 of this Act.

* Sec. 30. Sections 22 and 24 - 26 of this Act and the repeal of AS 34.10.010 - 34.10.160, 34.10.180 - 34.10.240 and AS 38.-05.035(a)(8) contained in sec. 20 of this Act take effect immediately in accordance with AS 01.10.070(c).

* Sec. 31. Section 21 of this Act takes effect immediately in accordance with AS 01.10.070(c) and is retroactive to September 21, 1977.

Approved by the Governor: July 18, 1978
Actual Effective Date: Secs. 1, 2, 8-16, 22 and 24-26 take effect July 1, 1978, secs. 3, 5-7, 18 and 19 take effect as provided in sec. 27 of this Act; sec. 17 takes effect as provided in Sec. 29 of this Act; sec. 4 takes effect as provided in secs. 27 and 28, and repeals provided in sec. 20 take effect as provided in secs. 27, 28, and 29. Sec. 21 takes effect July 19, retroactive to September 21, 1977.

SB 472

Offered: 5/10/86
Referred: Rules

Original sponsor: Health, Education and
Social Services Committee

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 472 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the interim management of the
7 mental health trust; and providing for an effective
8 date."

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

10 * Section 1. INTERIM MENTAL HEALTH TRUST COMMISSION ESTABLISHED. (a)

11 The interim mental health trust commission is established in the Department
12 of Natural Resources.

13 (b) The commission established under (a) of this section consists of
14 five members, including the commissioner of natural resources and the
15 commissioner of health and social services, or their designees, and three
16 members and three alternates appointed by the governor as follows:

17 (1) a member and an alternate representing the plaintiffs,
18 appointed by the governor from a list of three names submitted to the
19 governor by the plaintiffs in Weiss v. State, 4 FA 82-2208 Civil;

20 (2) a member and an alternate representing the intervenors,
21 appointed by the governor from a list of three names submitted to the
22 governor by the intervenors in Weiss v. State, 4 FA 82-2208 Civil; and

23 (3) a member and an alternate representing the Governor's Mental
24 Health Advisory Council, appointed by the governor from a list of three
25 names submitted to the governor by the Governor's Mental Health Advisory
26 Council.

27 (c) The members of the commission shall elect a presiding officer. A
28 majority of the commission constitutes a quorum. The affirmative vote of
29 three members is required to take official action. A vacancy does not

1 impair the power of the remaining members to exercise the powers of the
2 commission.

3 (d) In the absence of the member, an alternate appointed under (b) of
4 this section may vote and has all the powers of a member.

5 (e) Members of the commission serve without compensation but are
6 entitled to per diem and travel expenses authorized by law for other boards
7 under AS 39.20.180.

8 (f) The commission shall meet at least quarterly and may meet more
9 frequently, either in person or by teleconference.

10 (g) The commission shall prepare a budget allocating the funds appro-
11 priated to it for the performance of its responsibilities and may contract
12 with parties or individuals for the performance of functions it considers
13 necessary, including the services of an executive director and staff.

14 * Sec. 2. RESPONSIBILITIES OF THE COMMISSIONER OF NATURAL RESOURCES AND
15 THE COMMISSION. (a) The commissioner of natural resources shall inventory
16 and catalog the mental health trust land of the state, shall audit and
17 appraise each transaction involving land that has been part of the mental
18 health trust land of the state, and determine the status of mental health
19 trust land on October 4, 1985, under procedures and guidelines established
20 by the commissioner of natural resources with the approval of the commis-
21 sion. In the exercise of the commission's responsibilities under this
22 section, the commission and its staff may review the records of the Depart-
23 ment of Natural Resources that are made confidential by law or regulation.

24 (b) An individual who acquires information made confidential by law
25 or regulation in the performance of functions authorized by this Act and
26 discloses it without proper authority violates AS 11.56.860.

27 (c) The commissioner of natural resources shall, with the approval of
28 the commission, retain an appraiser or appraisers to appraise all or a
29 portion of land that, at any time, was part of the mental health trust land

1 of the state. The commissioner shall provide an appraiser conducting an
2 appraisal with written procedures and instructions that have been approved
3 by the commission.

4 (d) The commissioner of natural resources is responsible for the
5 management of the mental health land of the state as a public trust under
6 P.L. 84-830, 70 Stat. 709. Except as provided in (e) of this section, the
7 commissioner of natural resources may not sell, lease, or exchange mental
8 health trust land of the state or an interest in the mental health trust
9 land of the state without the prior approval of the commission. In review-
10 ing a proposal for the sale, lease, or exchange of mental health trust land
11 from the commissioner of natural resources, the commission may approve the
12 proposal of the commissioner on its determination that the proposal is
13 consistent with the terms of the trust established by the Alaska Mental
14 Health Enabling Act.

15 (e) The commissioner of natural resources may transfer trust land to
16 the federal government under AS 38.05.035(b)(9) without approval of the
17 commission. The commissioner of natural resources shall advise the commis-
18 sion of an intention to transfer trust land to the federal government and,
19 after the transfer, shall make every effort to acquire replacement land to
20 fulfill the state's remaining entitlement based on a prioritization, ap-
21 proved by the commission, of existing valid mental health selection.

22 (f) The proceeds from the management of the mental health trust land
23 of the state shall be deposited in a special trust account in the general
24 fund of the state and shall first be applied to meet the necessary expenses
25 of the mental health program of the state.

26 * Sec. 3. RESPONSIBILITIES OF THE COMMISSIONER OF HEALTH AND SOCIAL
27 SERVICES AND THE COMMISSION. (a) The commissioner of health and social
28 services, with the approval of the commission, shall

29 (1) establish the procedures and guidelines for the audit of the

1 state's mental health program; and

2 (2) propose the guidelines and procedures to be used in de-
3 termining a range of expenditures for mental health programs necessary to
4 comply with the state's comprehensive mental health plan.

5 (b) The legislative auditor shall audit the state's mental health
6 program under the procedures and guidelines established in (a) of this
7 section.

8 * Sec. 4. ADDITIONAL RESPONSIBILITIES OF THE COMMISSION. The commis-
9 sion shall submit a report to the legislature by the 10th day of the First
10 Session of the Fifteenth State Legislature on matters of concern to the
11 commission. The report shall include its recommendations for amendment of
12 the laws relating to the management of the mental health trust account, the
13 mental health trust land, and the mental health program of the state.

14 * Sec. 5. DEFINITION. In this Act "commission" means the interim
15 mental health trust commission established in sec. 1 of this Act.

16 * Sec. 6. This Act is repealed July 1, 1987.

17 * Sec. 7. This Act takes effect immediately in accordance with AS 01.-
18 10.070(c).

ferred to the commissioner" for "returned to the jurisdiction of the division of lands" and "Transportation and Public Facilities" for "Highways" and made a series of technical changes; and repealed former subsection (a), relating to the sale, lease, or other disposal of university land.

Legislative history reports. — For report on ch. 267, SLA 1976 (FCCS SCSHB 139), see 1976 Senate Journal, p. 1461.

Opinions of attorney general. — The interaction of AS 38.05.030(b), 38.05.035(a)(7) and (12), AS 35.05.040(1), and AS 35.20.010 was examined to deter-

mine (1) which agency of the state had authority to accept title to land transferred by the federal government and (2) which agency had authority to manage the land, which was conveyed for airport and other purposes. The division of lands is the proper agency for acceptance of title. The division of aviation in the (former) Department of Public Works possesses the authority to manage the granted land for airport and directly related purposes while the division of lands possesses the authority to manage the land for other public purposes. April 14, 1977, Op. Att'y Gen.

NOTES TO DECISIONS

Scope of subsection (a). — Subsection (a) of this section only covers disposals of land by the commissioner of natural resources. *State v. University of Alaska*, Sup. Ct. Op. No. 2303 (File No. 4579), 624 P.2d 807 (1981).

Creation of state park including university lands. — Since creation of a state park which included university lands was a disposal by the legislature, not by administrative action, subsection (a) of this section was inapplicable. *State v. University of Alaska*, Sup. Ct. Op. No. 2303 (File No. 4579), 624 P.2d 807 (1981).

By enacting AS 41.20.210 (now see AS 41.21.121), creating Chugach State Park, the legislature did not impliedly repeal subsection (a) of this section, which prevents disposal of university lands by the commissioner of natural resources without the approval of the Board of

Regents of the University of Alaska. AS 41.20.210 withdrew the particular university land involved from the operation of the management mechanism created by subsection (a) and AS 14.40.170(a)(4), which grants certain management powers to the Board of Regents. *State v. University of Alaska*, Sup. Ct. Op. No. 2303 (File No. 4579), 624 P.2d 807 (1981).

Construction of state lease provision reserving right to grant right-of-way. — Provision in a lease issued by the State of Alaska, Division of Lands, expressly reserving the right to grant an easement or right-of-way across the leased property was construed to include an interagency transfer of a right-of-way to the Department of Transportation and Public Facilities. *Wessells v. State*, Dep't of Hwys., Sup. Ct. Op. No. 1402 (File No. 2834), 562 P.2d 1042 (1977).

Sec. 38.05.032. School land disposition procedures. [Repealed, § 20 ch 182 SLA 1978.]

Sec. 38.05.035. Powers and duties of the director. (a) The director shall

(1) have general charge and supervision of the division and may exercise the powers specifically delegated to the director; may employ and fix the compensation of assistants and employees necessary for the operations of the division; and is the certifying officer of the division, with the consent of the commissioner, and may approve vouchers for disbursements of money appropriated to the division;

(2) manage, inspect and control state land and improvements on it belonging to the state and under the jurisdiction of the division;

(3) execute laws, rules, regulations and orders adopted by the commissioner;

(4) prescribe application procedures and practices for the sale, lease or other disposition of available land, resources, property, or interest in them;

(5) prescribe fees or service charges, with the consent of the commissioner, for any public service rendered;

(6) under the conditions and limitations imposed by law and the commissioner, issue deeds, leases or other conveyances disposing of available land, resources, property or any interests in them;

(7) have jurisdiction over state land, except that land acquired by the Alaska World War II Veterans Board and the Agricultural Loan Board or the departments or agencies succeeding to their respective functions through foreclosure or default; to this end the director possesses the powers and, with the approval of the commissioner, shall perform the duties necessary to protect the state's rights and interest in state land, including the taking of all necessary action to protect and enforce the state's contractual or other property rights;

(8) [Repealed, § 20 ch 182 SLA 1978.]

(9) maintain such records as the commissioner considers necessary, administer oaths, and do all things incidental to the authority imposed; the following records and files shall be kept confidential upon request of the person supplying the information:

(A) the name of the person nominating or applying for the sale, lease, or other disposal of land by competitive bidding;

(B) before the announced time of opening, the names of the bidders and the amounts of the bids;

(C) all geological, geophysical and engineering data supplied, whether or not concerned with the extraction or development of natural resources;

(D) except as provided in AS 38.05.036, cost data and financial information submitted in support of applications, bonds, leases and similar items;

(E) applications for rights-of-way or easements;

(F) requests for information or applications by public agencies for land which is being considered for use for a public purpose;

(10) account for the fees, licenses, taxes or other money received in the administration of this chapter including the sale or leasing of land, identify their source, and promptly transmit them to the proper fiscal department after crediting them to the proper fund; receipts from land application filing fees and charges for copies of maps and records shall be deposited immediately in the general fund of the state by the director;

(11) select and employ or obtain at reasonable compensation cadastral, appraisal, or other professional personnel the director considers necessary for the proper operation of the division;

(12) be the certifying agent of the state to select, accept and secure by whatever action is necessary in the name of the state, by deed, sale

gift, devise, assignment, operation of law, or other means any land, of whatever nature or interest, available to the state; and be the certifying agent of the state, to select, accept or secure by whatever action is necessary in the name of the state any land, or title or interest to land available, granted, or subject to being transferred to the state for any purpose;

(13) [Repealed, § 15 ch 181 SLA 1978; § 20 ch 182 SLA 1978.]

(14) [Repealed, § 88 ch 152 SLA 1984.]

(b) The director may

(1) delegate the administrative duties, functions or powers imposed upon the director to a responsible employee in the division;

(2) grant preference rights for the lease or purchase of state land without competitive bid in order to correct errors or omissions of a state or federal administrative agency when inequitable detriment would otherwise result to a diligent claimant or applicant due to situations over which the claimant or applicant had no control; the exercise of this discretionary power operates only to divest the state of its title to or interests in land and may be exercised only

(A) with the express approval of the commissioner; and

(B) if the application for the preference right is filed with the director within three years from

(i) the occurrence of the error or omission;

(ii) the date of acquisition by the state of the land; or

(iii) the date of a court decision or settlement nullifying a disposal of state land;

(3) grant a preference right to a claimant who shows bona fide improvement of state land or of federal land subsequently acquired by the state and who has in good faith sought to obtain title to the land but who, through error or omission of others occurring within the three years before (A) the application for the preference right, (B) the date of acquisition by the state of the land, or (C) the date of a court decision or settlement nullifying a disposal of state land, has been denied title to it; upon a showing satisfactory to the commissioner, the claimant may lease or purchase the land at the price set on the date of original entry on the land or, if a price was not set at that time at a price determined by the director to fairly represent the value of unimproved land at the time the claim was established, but in no event less than the cost of administration including survey; the error or omission of a predecessor in interest or an agent, administrator, or executor which has clearly prejudiced the claimant may be the basis for granting a preference right;

(4) sell land by lottery for less than the appraised value when, in the judgment of the director, past scarcity of land suitable for private ownership in any particular area has resulted in unrealistic land values;

(5) when the director determines it is in the best interests of the state and will avoid injustice to a person or the heirs or devisees of a person, dispose of land, by direct negotiation to that person who presently uses and who used and made improvements to that land before January 3, 1959 or to the heirs or devisees of the person; the amount paid for the land shall be its fair market value on the date that the person first entered the land, as determined by the director; a parcel of land disposed of under this paragraph shall be of a size consistent with the person's prior use, but may not exceed five acres;

(6) dispose of an interest in land limited to use for agricultural purposes by lottery;

(7) convey to an adjoining landowner for its fair market value a remnant of land that the director considers unmanageable or a parcel of land created by a highway right-of-way alignment or realignment, or a parcel created by the vacation of a state-owned right-of-way if

(A) the director determines that it is in the best interests of the state;

(B) the parcel does not exceed the minimum lot size under an applicable zoning code; and

(C) the director and the platting authority having land use planning jurisdiction agree that conveyance of the parcel to the adjoining landowner will result in boundaries that are convenient for the use of the land by the landowner and compatible with municipal land use plans;

(8) for good cause extend for up to 90 days the time for rental or installment payments by a lessee or purchaser of state land under this chapter if reasonable penalties and interest set by the director are paid;

(9) quitclaim land or an interest in land to the federal government on a determination that the land or the interest in land was wrongfully or erroneously conveyed by the federal government to the state.

(c) A parcel of land may be conveyed under (b) of this section without classification or reclassification under AS 38.05.300.

(d) A parcel of land described in (b) (7) of this section must be sold at its fair market value as determined by the director on the basis of an appraisal completed as provided in AS 38.05.840. Nothing in this subsection prevents the sale of land under AS 38.05.055 or 38.05.057 to a person not qualifying as an adjoining landowner if the adjoining landowner declines to purchase the land.

(e) Upon a written finding that the interests of the state will be best served, the director may, with the consent of the commissioner, approve contracts for the sale, lease, or other disposal of available land, resources, property or interests in them, and, in addition to the conditions and limitations imposed by law, may impose additional conditions or limitations in the contracts as the director determines, with the consent of the commissioner, will best serve the interests of the state. A contract for the sale, lease, or other disposal of available land or an interest in land is not legally binding on the state until the

commissioner approves the contract but if the appraised value is not greater than \$50,000 in the case of the sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or interest in land, the director may execute the contract without the approval of the commissioner. Before a public hearing, if held, or in any case no less than 21 days before the sale, lease, or other disposal of available land, property, resources, or interests in them, the director shall make available to the public a written finding that sets out the facts and applicable law upon which the determination that the sale, lease, or other disposal will best serve the interests of the state was based. A written finding is not required before the approval of

- (1) a contract for a negotiated sale authorized under AS 38.05.115;
- (2) a lease of land for a shore fishery site under AS 38.05.082;
- (3) a permit or other authorization revocable by the commissioner;
- (4) a mineral claim located under AS 38.05.195;
- (5) a mineral lease issued under AS 38.05.205; or
- (6) a production license issued under AS 38.05.207.

(f) The director shall grant a preference right to the purchase or lease without competitive bid of up to five acres of state land to an individual who has erected a building on the land and used the land for bona fide business purposes for five or more years under a federal permit or without the need for a permit and, after selection by the state, under a state use permit or lease, if the business produced no less than 25 percent of the total income of the applicant for the five years preceding the application to purchase or lease the land. The director shall sell or lease the land at a price determined by the director to represent the current fair market value of the unimproved land but in no event less than the cost of administration including survey if required. If the director determines in a written finding that the purchase or lease of the land would interfere with public use by residents of the area, the director may condition the purchase or lease to mitigate the adverse effects on the public use or may reject the application for the preference right. A lease granted under this subsection may not be for a period in excess of 50 years. In this subsection, "business purposes" means a purpose permitted under the classification of the land at the time the land was entered. (§ 5 art II ch 169 SLA 1959; am § 1 ch 57 SLA 1960; am §§ 2 — 4 ch 61 SLA 1960; am § 1 ch 55 SLA 1962; am § 1 ch 56 SLA 1964; am § 1 ch 98 SLA 1964; am § 1 ch 5 SLA 1965; am § 1 ch 58 SLA 1965; am § 1 ch 194 SLA 1968; am § 1 ch 164 SLA 1972; am §§ 2, 3 ch 257 SLA 1976; am §§ 1, 2 ch 176 SLA 1978; am § 15 ch 181 SLA 1978; am § 20 ch 182 SLA 1978; am § 1 ch 61 SLA 1980; am §§ 9 — 13 ch 113 SLA 1981; am §§ 19, 20, 88 ch 152 SLA 1984)

Revisor's notes. — In 1981, in subsection (b) (7), the word "convey" was substituted for "dispose" at the beginning of the

paragraph and in subsection (d), the words "of land" were added following "parcel" under AS 01.05.031.

Effect of amendments. — The 1980 amendment added "except as provided in AS 38.05.036" at the beginning of subparagraph (a)(9)(D).

The 1981 amendment substituted "\$50,000" for "\$10,000" preceding "in the case of the sale of land," substituted "\$5,000" for "\$1,000" preceding "in the case of the annual rental of land," substituted semicolons for periods preceding "the written finding" and preceding "before a public hearing," added "a written finding is not required before the approval of" following "interest of the state" and added subparagraphs (A)-(C) in former subsection (a)(14). In subsection (b)(3), the amendment added "the price set on the date of original entry on the land or, if a price was not set at that time at" preceding "a price determined by the division." In subsection (b)(5), the amendment substituted "on the date that the person first entered the land" for "as of that date" preceding "as determined by the director." The amendment also added paragraphs (7) and (8) of subsection (b) and added subsections (c) and (d).

The 1984 amendment repealed former paragraph (14) of subsection (a), added subsection (e) to replace former paragraph (14) of subsection (a), and added subsection (f). The 1984 amendment also, in paragraph (2) of subsection (b), divided the language into introductory language and subparagraph (A), deleted "the past or future" following "correct" in the introductory language, added "and" at the end of subparagraph (A), and added subparagraph (B); in paragraph (3) of subsection (b), inserted "ag" within the

three years before (A) the application for the preference right, (B) the date of acquisition by the state of the land, or (C) the date of a court decision or settlement nullifying a disposal of state land" and substituted "director" for "division"; in paragraph (4) of subsection (b), substituted "the judgment of the director" for "his judgment"; in paragraph (5) of subsection (b), substituted "the director" for "he" near the beginning of the paragraph; in paragraph (7) of subsection (b), inserted "for its fair market value a remnant of land that the director considers unmanageable or" in the introductory language and substituted "the director" for "he" in subparagraph (A); added paragraph (9) to subsection (b); and made a series of technical changes throughout subsection (b).

Opinions of attorney general. — The interaction of AS 38.05.030(b), 38.05.035(a)(7) and (12), AS 35.05.040(1), and AS 35.20.010 was examined to determine (1) which agency of the state had authority to accept title to land transferred by the federal government and (2) which agency had authority to manage the land, which was conveyed for airport and other purposes. The division of lands is the proper agency for acceptance of title. The division of aviation in the (former) Department of Public Works possesses the authority to manage the granted land for airport and directly related purposes while the division of lands possesses the authority to manage the land for other public purposes. April 14, 1977, Op. Att'y Gen.

NOTES TO DECISIONS

The leasing of state lands is governed by regulations promulgated by the commissioner of the Department of Natural Resources, pursuant to AS 38.05.020(b)(1), and executed by the Director of the Division of Lands, pursuant to subsection (a)(3) of this section. *Swindel v. Kelly*, Sup. Ct. Op. No. 812 (File Nos. 1416, 1418), 469 P.2d 291 (1972).

Construction of state lease provision reserving right to grant right-of-way. — Provision in a lease issued by the State of Alaska, Division of Lands, expressly reserving the right to grant an easement or right-of-way across the leased property was construed to include an interagency transfer of a right-of-way to the Department of Transportation and Public Facilities. *Weissell v. State*, Dep't of Hwys., Sup. Ct. Op. No. 1402 (File No. 2834), 562 P.2d 1042 (1977).

Applied in *Hammond v. North Slope Borough*, Sup. Ct. Op. No. 2499 (File Nos. 5550, 5558), 645 P.2d 750 (1982); *Hoblit v. Commissioner of Natural Resources*, Sup. Ct. Op. No. 2797 (File No. 7148), 678 P.2d 1337 (1984).

Quoted in *Alyeska Ski Corp. v. Holdsworth*, Sup. Ct. Op. No. 406 (File No. 620), 426 P.2d 1006 (1967).

Cited in *Hammond v. North Slope Borough*, Sup. Ct. Op. No. 2499 (File Nos. 5550, 5558), 645 P.2d 750 (1982); *State v. Bering Strait Regional Educ. Attendance Area School Dist.*, Sup. Ct. Op. No. 2625 (File No. 6381), 658 P.2d 784 (1983); *Chevron U.S.A., Inc. v. LeResche*, Sup. Ct. Op. No. 2659 (File Nos. 6396, 6348), 663 P.2d 923 (1983).

records. ... person
commits the crime of tampering with public records if he knowingly
(1) makes a false entry in or falsely alters a public record; or
(2) destroys, mutilates, suppresses, conceals, removes, or otherwise
impairs the verity, legibility, or availability of a public record, knowing
that he lacks the authority to do so.

(b) Tampering with public records is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

For case construing former AS v. State, Sup. Ct. Op. No. 1430 (File No. 11.30.240 — 11.30.260, relating to 2433), 564 P.2d 365 (1977).
mishandling of public records, see Larson

Sec. 11.56.830. Impersonating a public servant. (a) A person commits the crime of impersonating a public servant if he pretends to be a public servant and does any act in that capacity.

(b) It is not a defense to a prosecution under this section that

(1) the office the defendant pretended to hold did not in fact exist; or
(2) the defendant was in fact a public servant different than the one he pretended to be.

(c) This section does not apply to a peace officer acting within the scope and authority of his employment.

(d) Impersonating a public servant is a class B misdemeanor. (§ 6 ch 166 SLA 1978)

Cross reference. — As to criminal impersonation, see AS 11.46.570.

Am. Jur., ALR and C.J.S. references. — 22 Am. Jur., False Pretenses and Allied Criminal Frauds, § 75.

Criminal responsibility of one aiding and

abetting the offense of false personation, 5 ALR 784.

Intent as affecting offense of false personation, 97 ALR 1510.

35 C.J.S., False Personation, §§ 1 to 7.

Article 6. Abuse of Public Office.

Section

850. Official misconduct

860. Misuse of confidential information

Sec. 11.56.850. Official misconduct. (a) A public servant commits the crime of official misconduct if, with intent to obtain a benefit or to injure or deprive another person of a benefit, he

(1) performs an act relating to his office but constituting an unauthorized exercise of his official functions, knowing that that act is unauthorized; or

(2) knowingly refrains from performing a duty which is imposed upon him by law or is clearly inherent in the nature of his office.

(b) Official misconduct is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

C.J.S. references. — 1 C.J.S., Acknowledgments, § 145; 35 C.J.S., Extortion, § 1 et seq; 67 C.J.S., Officers, § 133.

Sec. 11.56.860. Misuse of confidential information. (a) A person who is or has been a public servant commits the crime of misuse of confidential information if he

(1) learns confidential information through his employment; and
(2) while in office or after leaving office, uses the confidential information for personal gain or in a manner not connected with the performance of his official duties other than by giving sworn testimony or evidence in a legal proceeding in conformity with a court order.

(b) As used in this section, "confidential information" means information which has been classified confidential by law.

(c) Misuse of confidential information is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

Article 7. General Provisions.

Section

900. Definitions

Sec. 11.56.900. Definitions. As used in this chapter, unless the context requires otherwise,

(1) "improperly influence a witness" means to cause or induce a witness to

(A) testify falsely, offer misleading testimony, or unlawfully withhold testimony in an official proceeding;

(B) avoid or attempt to avoid legal process summoning him to testify in an official proceeding, regardless of whether legal process has issued;

(C) absent himself from an official proceeding to which he has been summoned; or

(D) engage in conduct described in § 610 of this chapter;

(2) "judicial officer" means a supreme court justice, including the chief justice, a judge of the superior court, a district court judge, or a magistrate;

(3) "juror" means a person who is a member of an impanelled jury or a person who has been drawn or summoned to attend as a prospective juror;

(4) "physical evidence" means an article, object, document, record, or other thing of physical substance;

(5) "testimony" means oral or written statements, documents, or other material that may be offered by a witness in an official proceeding;

(6) "witness" means

(A) a witness summoned or appearing in an official proceeding; or

(B) a person who the defendant believes may be called as a witness in an official proceeding, present or future. (§ 6 ch 166 SLA 1978)

Section
50. Exclusion of compensation
60. Exclusion of governor and lieutenant governor from personnel laws
70. Subsequent legislation relating to AS 39.20.050 and 39.20.060

Section
80. Salary of executive department head and deputy
90. Salaries and expenses

Sec. 39.20.010. Monthly salary of governor. The monthly salary of the governor is equal to Step F, Range 30 of the salary schedule in AS 39.27.011(a) for Juneau, Alaska. (§ 1 ch 39 SLA 1959; am § 1 ch 115 SLA 1965; am § 4 ch 101 SLA 1969; am § 4 ch 193 SLA 1970; am § 5 ch 34 SLA 1974; am § 7 ch 148 SLA 1976; am § 9 ch 263 SLA 1976; am § 6 ch 3 SLA 1980; am § 21 ch 3 SLA 1980)

Collateral references. — 63 Am. Jur. 2d, Public Officers and Employees, §§ 5, 360-413.
67 C.J.S., Officers, § 218 et seq.

Sec. 39.20.020. Date of entitlement of governor's salary. The governor is entitled to receive the salary established for the office effective from the date on which the oath of office is taken by the governor. (§ 2 ch 39 SLA 1959)

Sec. 39.20.030. Monthly salary of lieutenant governor. The monthly salary of the lieutenant governor is equal to Step F, Range 28 of the salary schedule in AS 39.27.011(a) for Juneau, Alaska. (§ 1 ch 40 SLA 1959; am § 2 ch 115 SLA 1965; am § 1 ch 123 SLA 1967; am § 5 ch 101 SLA 1969; am § 5 ch 193 SLA 1970; am § 6 ch 34 SLA 1974; am § 8 ch 148 SLA 1976; am § 10 ch 263 SLA 1976; am § 7 ch 3 SLA 1980; am § 22 ch 3 SLA 1980)

Revisor's notes. — In this section the 1970 Alaska constitutional amendment (SJR 2) changing the designation of "secretary of state" has been changed to "lieutenant governor" in conformity with that office.

Sec. 39.20.040. Date of entitlement of lieutenant governor's salary. The lieutenant governor is entitled to receive the salary established for the office effective from the date on which the oath of office is taken by the lieutenant governor. (§ 2 ch 40 SLA 1959)

Revisor's notes. — In this section the 1970 Alaska constitutional amendment (SJR 2) changing the designation of "secretary of state" has been changed to "lieutenant governor" in conformity with that office.

Sec. 39.20.050. Exclusive compensation. The compensation fixed by law for the governor and lieutenant governor is in full for all services rendered by each of them in any official capacity or employment whatsoever during their respective terms of office, and shall be paid throughout their respective terms of office unless the office becomes vacant. (§ 1 ch 160 SLA 1960)

Revisor's notes. — In this section the 1970 Alaska constitutional amendment (SJR 2) changing the designation of "secretary of state" has been changed to "lieutenant governor" in conformity with that office.

Sec. 39.20.060. Exclusion of governor and lieutenant governor from personnel laws. Notwithstanding the provisions of any other law, the governor and lieutenant governor are not considered employees of the state for the purpose of state personnel laws relating to hours of employment, annual leave, sick leave, overtime, compensatory time, and travel allowances. Nothing in this section shall be construed to deprive the governor and lieutenant governor of the right to participate in the state retirement system or in state group insurance plans. (§ 2 ch 160 SLA 1960)

Revisor's notes. — In this section the 1970 Alaska constitutional amendment (SJR 2) changing the designation of "secretary of state" has been changed to "lieutenant governor" in conformity with that office.

Sec. 39.20.070. Subsequent legislation relating to AS 39.20.050 and 39.20.060. AS 39.20.050 and 39.20.060 are not superseded or modified by any subsequent legislation except to the extent that the legislation does so expressly. (§ 3 ch 160 SLA 1960)

Sec. 39.20.080. Salary of executive department head and deputy. (a) The monthly salary of the head of each principal executive department of the state is equal to Step E, Range 28 of the salary schedule in AS 39.27.011(a) for Juneau, Alaska.

(b) The monthly salary of a deputy head of a principal executive department of the state is not less than Step A nor more than Step F, Range 28 of the salary schedule in AS 39.27.011(a) for Juneau, Alaska.

(c) Except as provided by a general law applicable to all officers of the state, the compensation of the head of each principal executive department of the state may not be reduced during the executive's tenure in office. (§ 1 ch 105 SLA 1959; am § 1 ch 128 SLA 1962; am § 3 ch 115 SLA 1965; am § 1 ch 156 SLA 1966; am § 2 ch 123 SLA 1967; am § 6 ch 101 SLA 1969; am § 6 ch 193 SLA 1970; am § 37 ch 71 SLA 1972; am § 7 ch 34 SLA 1974; am § 9 ch 148 SLA 1976; am § 11 ch 263 SLA 1976; am §§ 8, 9, 15, 23, 24 ch 3 SLA 1980)

Effect of amendments. — Section 8, ch. 3, SLA 1980, retroactive to January 1, 1979, and applicable to calendar year 1979, in subsection (a), substituted "The annual salary of the head of each principal executive department of the state is \$57,500, payable monthly in 12 equal installments" for the former provisions, which read: "The annual salary of the head of each principal executive department of

the state shall be prescribed in accordance with AS 39.23."

Section 23 of ch. 3, retroactive to January 1, 1980, substituted "The monthly salary of the head of each principal executive department of the state is equal to Step E, Range 28 of the salary schedule in AS 39.27.011(a) for Juneau, Alaska" for the material substituted by § 8 of ch. 3.

Section 9, ch. 3, SLA 1980, retroactive to

January 1, 1979, in subsection (b), substituted "The annual salary of a deputy head of a principal executive department of the state is \$52,500, payable monthly in 12 equal installments" for the former provisions, which read: "The salary of the deputy head of each principal executive department of the state shall be prescribed in accordance with AS 39.23." Section 24 of ch. 3, retroactive to January 1, 1980, substituted "The monthly salary of a deputy head of a principal executive department

of the state is not less than Step A nor more than Step F, Range 28 of the salary schedule in AS 39.27.011(a) for Juneau, Alaska" for the material substituted by § 9 of ch. 3.

Section 15, ch. 3, SLA 1980, added subsection (c).

Editor's notes. — Chapter 205, SLA 1975, which amended this section, was submitted to the voters by referendum and was rejected.

Sec. 39.20.090. Salaries and expenses. The salaries and expenses of officers, boards, commissions, and bureaus established by the laws of the state shall be paid from appropriations made for that purpose, as other expenses of the state are paid. (§ 11-3-8 ACLA 1949)

Sec. 39.20.100. Fees, mileage or compensation. [Repealed, § 75 ch 59 SLA 1982.]

Article 2. Travel Regulations.

Section	Section
110. Per diem allowance	180. Transportation and per diem expenses for members of boards, commissions, etc.
120. Allowable expenses	
130. Mileage allowance	185. State employees who are members of certain boards
140. Travel costs and travel outside the state	190. Definitions
150. Advances and recovery	
160. Regulations	
170. Construction of AS 39.20.110 — 39.20.170	

Sec. 39.20.110. Per diem allowance. Officials and employees of the state agencies, while traveling on official business and away from their designated post of duty, shall be allowed, instead of their actual expenses for subsistence and all fees or tips, a per diem allowance to be prescribed by the commissioner of administration under the regulatory authority set out in AS 39.20.160, and in consultation with the head of the agency concerned. (§ 4 ch 60 SLA 1957; am § 1 ch 99 SLA 1960; am § 1 ch 105 SLA 1970; am § 10 ch 47 SLA 1974)

NOTES TO DECISIONS

Cited in *Laborers & Hod Carriers Local 341 v. Groothuis*, Sup. Ct. Op. No. 773 (File Nos. 1435, 1459), 494 P.2d 808 (1972).

Collateral references. — 63 Am. Jur. 2d, Public Officers and Employees, §§ 389, 390.

67 C.J.S., Officers, § 225. Per diem compensation, 1 ALR 276. Power to appropriate public money for

expenses of legislators not covered by constitutional compensation, 50 ALR 1238; 60 ALR 416.

Public officer's right and duties in respect of mileage and other allowances incident to duties of his office but which represented no actual expense or outlay by him, 81 ALR 493.

Constitutional inhibition of change in compensation as applicable to expenses, 106 ALR 779.

Allowance of mileage or traveling expenses to officer as affected by use of his own vehicle for transportation, 112 ALR 172.

Sec. 39.20.120. Allowable expenses. Except as provided in AS 39.20.110 — 39.20.170, only actual and necessary traveling expenses shall be allowed to an official or employee. (§ 5 ch 60 SLA 1957)

Sec. 39.20.130. Mileage allowance. Officials and employees of state agencies shall, under regulations adopted by the commissioner of administration, and whenever the mode of transportation is authorized or approved as more advantageous to the state, be paid an amount, instead of actual expenses of transportation, not to exceed a mileage allowance set by the commissioner of administration for the use of privately-owned automobiles or airplanes, when engaged in official travel inside or outside their designated posts of duty or places of service. In addition to the mileage allowance, there may be allowed reimbursement for the actual cost of ferry fares, and bridge, road, and tunnel tolls. When two or more officials or employees are traveling in the same direction, and it is possible to share a privately-owned automobile or airplane, the mileage permitted shall be allowed only once. (§ 6 ch 60 SLA 1957; am § 11 ch 47 SLA 1974)

Collateral references. — Public officer's right and duties in respect of mileage and other allowances incident to duties of his office but which represented no actual expense or outlay by him, 81 ALR 493. Allowance of mileage or traveling

expenses to officer as affected by use of the officer's own vehicle for transportation, 112 ALR 172.

Accepting excessive mileage allowance as punishable offense, 134 ALR 1258.

Sec. 39.20.140. Travel costs and travel outside the state. (a) The Department of Administration shall not pay an official or employee for per diem or transportation costs unless the travel is clearly necessary to benefit the state.

(b) The Department of Administration may not reimburse an official or employee or pay for more than the lowest tourist class fare for the most direct route unless (1) tourist class accommodation is not available; (2) waiting for tourist class accommodation would occasion a delay harmful to the state; or (3) the Department of Administration finds that travel by tourist class accommodation is not in the best interest of the state, and authorizes other accommodation.

(c) When the Department of Administration authorizes more expensive travel under (b) (3) of this section, it shall file a justification for

that a authorization with the travel voucher. When fares other than tourist class are authorized under (b) of this section, the Department of Administration may not reimburse the official or employee or pay for more than the lowest first class fare available.

(d) Officials and employees are authorized to travel only the least number of days necessary to transact the business involved, to secure return passage, and to return.

(e) Every official and employee shall, unless otherwise authorized by law to travel outside the state, obtain prior approval for travel outside the state from the head of the official's or employee's department or from an immediate supervisor, or from the Department of Administration if the official or employee is not within a department or is not under the direct supervision of an official or supervisor. If an employee deviates materially from the travel authorized under this section, the employee must obtain approval for the deviation from the person who approved the travel before the Department of Administration may reimburse the employee for the travel. (§ 7 ch 60 SLA 1957; am § 1 ch 83 SLA 1962)

Sec. 39.20.150. Advances and recovery. (a) An agency may advance, through proper disbursing methods, to a person entitled to per diem or mileage allowance under AS 39.20.110 — 39.20.170 the sums considered advisable considering the character and probable duration of the travel to be performed.

(b) Sums advanced and not used for allowable travel expense are recoverable by setoff against salary due, or otherwise, from the person to whom advanced, or the person's estate, by deduction from any amount due from the state, or by other legal methods of recovery that may be necessary. (§ 8 ch 60 SLA 1957)

Sec. 39.20.160. Regulations. The fixing and payment under AS 39.20.110 — 39.20.170 of travel and per diem allowances and of advances and recovery and reimbursement of travel expenses shall be in accordance with regulations adopted by the commissioner of administration. The regulations shall be uniform for all officials and employees, and all agencies and departments. The regulations shall also govern the use of public transportation facilities by officials and employees. The regulations relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act (AS 44.62). (§ 9 ch 60 SLA 1957; am § 2 ch 13 SLA 1963)

Sec. 39.20.170. Construction of AS 39.20.110 — 39.20.170. AS 39.20.110 — 39.20.170 may not be construed to modify or repeal a law providing for the travel expenses of the governor, or members of the legislature, or members of boards or commissions of the state government. (§ 10 ch 60 SLA 1957)

Sec. 39.20.180. Transportation and per diem expenses for members of boards, commissions, etc. Except as otherwise provided by law, from and after March 27, 1962, the provisions in this section relating to per diem and transportation govern exclusively and supersede all other provisions of law with respect to a member of a state board, commission, committee, judicial council, or other similar body of persons of the state organized or established under the authority of law, but excluding any other state employee other than a legislator, who is otherwise entitled by law to receive from the state payments for expenses of transportation, and for reimbursement or for per diem in lieu of reimbursement for other expenses incident to duties as such member:

(1) For transportation, the member is entitled either to the use of state transportation requests, or to be reimbursed for expenses of transportation to the same extent, in the same manner, and under the same conditions as provided for state officials and employees by the provisions of AS 39.20.110 — 39.20.170.

(2) For reimbursement for other expenses, the member is entitled to a per diem allowance prescribed by the commissioner of administration under the regulatory authority set out in AS 39.20.160 for each day or portion of a day spent in actual meeting or on authorized official business incident to duties as a member. (§ 1 ch 130 SLA 1953; am § 1 ch 34 SLA 1960; am § 1 ch 37 SLA 1962; am § 5 ch 136 SLA 1967; am § 12 ch 47 SLA 1974)

Cross references. — For coverage of state board and commission members under the Worker's Compensation Act, see AS 23.30.242.

NOTES TO DECISIONS

Quoted in *Employers Liab. Assurance Corp. v. Groothuis*, 8 Alas. L.J. No. 12, p. 334 (Nov., 1970).

341 v. Groothuis, Sup. Ct. Op. No. 773 (File Nos. 1435, 1459), 494 P.2d 808 (1972).

Cited in *Laborers & Hod Carriers Local*

Sec. 39.20.185. State employees who are members of certain boards. A state official or employee who is a member of the judicial council or a state official or employee appointed by the governor to a state board, commission, or committee established under the authority of law is not entitled to per diem when the meeting or other business takes place in the community of which the member is a resident. (§ 1 ch 139 SLA 1968)

Sec. 39.20.190. Definitions. In AS 39.20.110 — 39.20.170

(1) "employee" or "state employee" means a person employed by a state agency;

(2) "official" or "state official" means the appointive head of a state agency;

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

1531.3 SCOMM 56A: JNT. SPEC. MENTAL HEALTH TRUST LAND, 1987 385

Effective date — Section 70, ch. 21, May 10, 1985, in accordance with AS SLA 1985, makes this section effective 01.10.070(c).

Sec. 39.05.060. Appointment, qualifications, and terms of office of members of departmental boards, councils, or commissions. (a) Each member of the following shall be a citizen of the United States:

- (1) Local Boundary Commission;
- (2) Alcoholic Beverage Control Board;
- (3) Employment Security Advisory Council;
- (4) Alaska State Housing Authority;
- (5) Board of Fisheries;
- (6) Board of Tourism;
- (7) [Repealed, § 72 ch 59 SLA 1982.]
- (8) [Repealed, § 36 ch 124 SLA 1975.]
- (9) the Governor's Commission on the Involvement of Young People in Government;
- (10) Board of Game.

(b) The governor shall appoint each member on the basis of interest in public affairs, good judgment, knowledge and ability in the field of action of the department for which appointed, and with a view to providing diversity of interest and points of view in the membership. Appointments are subject to confirmation by a majority of the members of the legislature in joint session.

(c) [Repealed, § 56 ch 21 SLA 1985.]

(d) A vacancy occurring during a term of office is filled in the same manner as the original appointment is made and for the balance of the unexpired term. Each member holds office at the pleasure of the governor notwithstanding the member's term. (§ 6 ch 64 SLA 1959; am § 2 ch 34 SLA 1960; am § 2 ch 89 SLA 1964; am § 2 ch 90 SLA 1967; am § 10 ch 96 SLA 1967; am § 1 ch 107 SLA 1969; am § 30 ch 46 SLA 1970; am § 2 ch 121 SLA 1971; am § 36 ch 124 SLA 1975; am §§ 34-36 ch 206 SLA 1975; am § 72 ch 59 SLA 1982; am §§ 56, 57 ch 21 SLA 1985)

Effect of amendments. — The 1985 amendment, effective May 10, 1985, repealed subsection (c), concerning initial appointments of board or commission

members, and deleted "Initial terms date from February 1 before appointment." at the beginning of subsection (d).

Chapter 20. Compensation and Allowance

Article

1. Salaries (§§ 39.20.010, 39.20.030)
2. Leaves of Absence (§§ 39.20.245, 39.20.310)

Article 1. Salaries.

Section

10. Annual salary of governor
30. Annual salary of lieutenant governor

Sec. 39.20.010. Annual salary of governor. The annual salary of the governor is \$81,648. (§ 1 ch 39 SLA 1959; am § 1 ch 115 SLA 1965; am § 4 ch 101 SLA 1969; am § 4 ch 193 SLA 1970; am § 5 ch 34 SLA 1974; am § 7 ch 148 SLA 1976; am § 9 ch 263 SLA 1976; am § 6 ch 3 SLA 1980; am § 21 ch 3 SLA 1980; am § 2 ch 87 SLA 1985)

Effect of amendments. — The 1985 amendment, effective July 16, 1985, substituted "Annual" for "Monthly" in the catchline and "annual" for "monthly" and

"\$81,648" for "equal to Step F, Range 30 of the salary schedule in AS 39.27.011(a) for Juneau, Alaska."

Sec. 39.20.030. Annual salary of lieutenant governor. The annual salary of the lieutenant governor is \$76,188. (§ 1 ch 40 SLA 1959; am § 2 ch 115 SLA 1965; am § 1 ch 123 SLA 1967; am § 5 ch 101 SLA 1969; am § 5 ch 193 SLA 1970; am § 6 ch 34 SLA 1974; am § 8 ch 148 SLA 1976; am § 10 ch 263 SLA 1976; am § 7 ch 3 SLA 1980; am § 22 ch 3 SLA 1980; am § 3 ch 87 SLA 1985)

Effect of amendments. — The 1985 amendment, effective July 16, 1985, substituted "Annual" for "Monthly" in the catchline and in the section substituted

"annual" for "monthly" and "\$76,188" for "equal to Step F, Range 28 of the salary schedule in AS 39.27.011(a) for Juneau, Alaska."

Article 3. Leaves of Absence.

Section

245. Donation of leave
310. Exceptions

Sec. 39.20.245. Donation of leave. (a) An officer or employee may donate one or more days of personal leave a year to the memorial scholarship revolving loan fund, or to a scholarship account in the fund, under AS 14.43.250 — 14.43.325. The commissioner of administration shall pay to the account of the memorial scholarship revolving loan fund, or to a scholarship account in the fund, an amount equal to the value of the day or days of personal leave contributed by the officer or employee.

SCR 36

Offered: 5/10/86
Referred: Ruler,

Original sponsors: Josephson, Sackett,
Rodey, et al

1 IN THE SENATE BY THE FINANCE COMMITTEE
2 HOUSE CS FOR CS FOR SENATE CONCURRENT RESOLUTION NO. 36 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 Establishing a joint special committee
6 on mental health trust land.

7 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 WHEREAS the United States Congress granted 1,000,000 acres of land to
9 the Territory of Alaska to be administered as a public trust for the neces-
10 sary expenses and support of mental health in the territory; and

11 WHEREAS in October 1983, the Alaska Supreme Court determined that the
12 1978 decision of the Alaska Legislature to redesignate mental health trust
13 land as general grant land had breached the trust established by the Con-
14 gress; and

15 WHEREAS the funding level for the mental health programs in the state
16 is one of the lowest in the nation on a per capita basis; and

17 WHEREAS the legislature, the administration, and mental health advo-
18 cates agree that the state must comply with the intent of the Congress that
19 mental health programs in the state receive sufficient funding; and

20 WHEREAS it is not in the public interest that continued litigation
21 over the mental health land trust divert attention from the underlying goal
22 of increased funding for mental health programs and care in the state; and

23 WHEREAS present state statutes do not explicitly provide for the
24 management of mental health trust land for maximum revenue production; and

25 WHEREAS the return of mental health trust land to trust status pre-
26 cludes management of mental health trust land for its highest and best use;

27 BE IT RESOLVED by the Alaska State Legislature that a Joint Special
28 Committee on Mental Health Trust Land is established under Uniform Rule 21;
29 and be it

1 **FURTHER RESOLVED** that the Joint Special Committee on Mental Health
2 Trust Land is composed of three members of the Senate appointed by the
3 president of the Senate, three members of the House of Representatives
4 appointed by the speaker of the House of Representatives, and two public
5 members interested in the mental health trust land issue; the public mem-
6 bers shall be selected by the other members of the Joint Special Committee
7 on Mental Health Trust Land; and be it

8 **FURTHER RESOLVED** that one member appointed from the House of Represen-
9 tatives be from the membership of the House Finance Committee and one
10 member appointed from the Senate be from the membership of the Senate
11 Finance Committee; and be it

12 **FURTHER RESOLVED** that the Joint Special Committee on Mental Health
13 Trust Land develop, after public hearings, a proposal to resolve the mental
14 health trust litigation and recommend a level of appropriations adequate to
15 provide sufficient funding for mental health programs in the future; and be
16 it

17 **FURTHER RESOLVED** that the committee is authorized to meet during and
18 between sessions of the legislature and is to report its recommendations
19 and findings on the first day of the First Session of the Fifteenth State
20 Legislature; and be it

21 **FURTHER RESOLVED** that the committee terminates on the 10th day of the
22 First Session of the Fifteenth State Legislature.

DEPT. OF

NATURAL

RESOURCES

D.O. #121

MEMORANDUM

State of Alaska

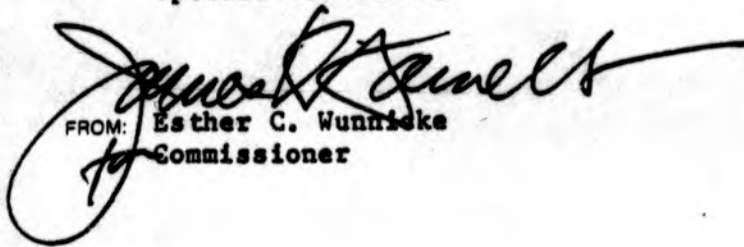
DEPARTMENT OF NATURAL RESOURCES, Office of the Commissioner

TO: Deputy Commissioners
Division Directors
Special Assistants

DATE: May 15, 1986

FILE NO:

TELEPHONE NO:

FROM: 
Esther C. Wunniscke
Commissioner

SUBJECT: Revision of Department
Order 121

Attached is Department Order 121 as revised. This order replaces both the order as originally issued on December 11, 1985 and my February 26, 1986 directive concerning the cessation of certain activities on mental health land. Your continued assistance and compliance with all aspects of this order is appreciated.

I anticipate that actions in Category "C" may already be in progress under the original order. Notice for these actions should be made to the Mental Health Land Officer as soon as possible. If there is an important deadline that will be missed by adherence to the new notice time frame required by this order, you should notify the Officer. She will then attempt to expedite the review of these cases.

A new bill creating an Interim Mental Health Trust Commission (HCS CSSB 472) was recently passed by the legislature. When that bill is signed into law, all disposal actions on mental health land must cease until approved by the commission. You will be notified by PROFS when the bill is signed.

This revised departmental order is effective immediately.

Attachments: DO 121
Mental Health Fact Sheet

cc: Tom Koester, AGO
David Walker
Jim Gottstein
Barbara Wihldorg, MHAC

MEMORANDUM

State of Alaska

DEPARTMENT OF NATURAL RESOURCES, Office of the Commissioner

TO: Deputy Commissioners
Division Directors
Special Assistants

DATE: May 13, 1986

FILE NO: REVISED

TELEPHONE NO:

FROM: *Esther C. Wunnicke*
Esther C. Wunnicke
Commissioner

SUBJECT: DEPARTMENT ORDER 121:
Mental Health Land Interim
Management

Issue

On October 4, 1985, the Alaska Supreme Court decided that the 1978 legislative redesignation of mental health grant land to general grant land was invalid. The court returned the land to trust status and ordered the state to reimburse the trust and devise a future land management program for the trust lands. This department order is intended to implement the court mandate on an interim basis and is open to amendment as necessary. We will continue to seek long term resolution in consultation with the Attorney General's Office, the legislature and the affected parties.

Introduction

In July 1956, Congress passed Alaska's Mental Health Enabling Act. The act established "a public trust to be used first for the necessary expenses of the mental health program of Alaska." One million acres of federal land were granted to the Territory of Alaska to form the economic base for the trust. Any monies remaining after mental health program costs were met could be spent for other public purposes at the discretion of the legislature. Although a formal mental health trust fund was never established, income generated from mental health lands was tracked and the Alaska Legislature made appropriations for mental health programs.

Mental health grant land selections were subsequently made between 1956 and 1966, largely near centers of population (Anchorage, Fairbanks, Juneau, Kenai etc.), the railbelt, and other areas believed to be valuable for subsurface resources (Beluga coal, Kenai oil, etc.). State and federal records show that by December, 1985 approximately 1,005,884¹ acres had been transferred to state ownership. Some of this acreage has been conveyed by the state to other entities; the remainder is managed by the Department of Natural Resources.

¹Although these records currently show an overconveyance, both state and federal officials agree that the reconveyance liability (caused by valid third party interests in existence prior to the state's selection of the land, administrative errors, and erroneously charged acreage due to meanderable waters or other survey problems) should produce a slight underconveyance.

In 1978, the legislature redesignated state trust lands (mental health, and school) as general statehood grant land. The redesignation provided for an undifferentiated land base which made the land easier and more cost effective to administer. The legislation also established separate trust funds for all the trusts. The mental health trust fund was to be financed by 1.5 percent of the annual receipts from all state land. However, the funding mechanism set out in the 1978 act was never implemented by the legislature, and mental health advocates sued the state in November, 1982 to restore the mental health trust (Weiss v. Alaska).

In September 1984, the Superior Court directed the state to reimburse the trust for the full value of the land designated in 1978. In response, the state completed an audit of the land and calculated its corresponding (1978) value. The case was then appealed to the Alaska Supreme Court.

On October 4, 1985 the Alaska Supreme Court issued a decision which found that the legislature breached the mental health trust in 1978 when it redesignated the mental health trust land. The relief granted by the court returns the land remaining in state ownership to trust status and requires the state to reimburse the trust for land which has been sold, minus expenditures made for mental health programs. Mental health trust land is to continue to be managed by the Department of Natural Resources. The responsibility for defining details of the settlement, including land management responsibilities, was remanded to the Superior Court. However, the legislature has recently passed legislation affecting the administration of mental health land. (HCS CSSB 472, creating an Interim Mental Health Trust Commission and HCS CSSCR 36, establishing a joint special committee on mental health trust land).

The creation of a new legislative foundation for mental health land management may not occur for some time, and the state (in conjunction with the commission when established) must provide for interim management of mental health trust land. The most important consideration in management of mental health land is to comply with the intent of the original grant. Therefore, to the extent that existing state statutes (e.g. Title 38 of the Alaska Statutes) and regulations (e.g. Title 11 of the Alaska Administrative Code) used by the department may conflict with the intent of the Mental Health Enabling Act, those statutes and regulations do not apply.

The purpose of the Mental Health Enabling Act (MHEA) was to produce revenue to provide for an integrated mental health program for Alaska. Section 202(e) of the act sets out the management parameters for the trust. That section states in part:

"Such lands, income, and proceeds shall be managed and utilized in such manner as the Legislature of Alaska may provide..."

That section additionally states that mental health land, and property acquired out of trust income or by exchange....

"may be sold, leased, mortgaged, exchanged, or otherwise disposed of in such manner as the Legislature of Alaska may provide, in order to obtain funds or other property to be invested, expended, or used by ... Alaska."

It is important that all decisions regarding interim management of mental health land be prudent and within the parameters of the MHEA.

Requirement for Special Notice

Oversight of all departmental actions pertaining to mental health trust land will be performed by the plaintiffs and intervenor until other oversight provisions are made. Notice of all departmental actions shall be provided to the plaintiffs and intervenor at least 30 days prior to any action taking place. We expect their review to take 30 days, however, upon request, another 30 day review period will be granted by the department. (Notice will also be given to the Department of Law). Some actions (see Category B below) will require concurrence prior to public review of the proposal. Actions which the department judges to comply with the trust (Category C) or to have resulted in the vesting of equitable title with the applicant (Category D), will not require concurrence from the plaintiffs/intervenor. However, notice of these actions will be given as outlined above to allow any action to be appealed by the plaintiffs/intervenor as well as other affected parties. Notice of police power actions (C-10) shall occur as early in the process as possible, but these actions are not necessarily bound by the 30 day notice requirement above. Procedures for notice under this department order are found in Section III, Implementation.

If an action also requires public notice under AS 38.05.945, that notice must specifically state that the land included is mental health trust land. Notice under this department order shall constitute notice to the plaintiffs and intervenor under AS 38.05.945(b)(3).

Interim Mental Health Trust Commission and Joint Special Committee on Mental Health Trust Land

The 1986 Alaska State Legislature established an Interim Mental Health Trust Commission within the department. With one exception (AS 38.05.035 (b)(9) land reconveyances), the Commissioner of Natural Resources may not sell, lease, or exchange mental health trust land or interests thereof, without the prior approval of the commission. Following its review of proposals for the sale, lease or exchange of mental health trust land or interests thereof, the commission may approve the proposal if determined consistent with the terms of the trust and authorize the commissioner to proceed with the transaction. Accordingly, the department will submit all proposals for sales, leases or exchange involving mental health trust land to the commission in a timely fashion and request review and a consistency determination. Therefore, after the commission is established, all asterisk items in categories B, C and D are suspended until the commission can act on them.

The legislature also established a Joint Special Committee on mental health trust land. This committee will hold public hearings and submit a proposal to the first session of the 15th State Legislature to resolve the mental health trust litigation, including appropriations adequate to fund future mental health programs in the state.

The department shall assist both the commission and committee and make its records available for examination and use.

I. Proposed Actions

The criteria to be used by the department in making and evaluating decisions regarding mental health land management, the role of the plaintiffs and intervenor in each of these decisions, and associated accounting procedures are outlined below. If disagreement regarding compliance occurs within the department, the case will be forwarded to my office for resolution.

Cases which include both mental health land and other land grant types, must be handled according to the provisions of this department order. In some instances, however, adjudicators and/or decision makers may wish to divide the acreage into separate cases in order to segregate the mental health land. The Department of Natural Resources' land and resource management activities are organized into four categories of proposed actions: A) prohibited actions which may not occur as they do not comply with the MHEA or court decision, B) actions which may occur because they comply under certain circumstances, C) authorized actions which the department judges to comply with the MHEA and the court's decision and D) actions implementing vested rights but which may not comply with the intent of the act and decision. These criteria apply to all actions occurring after the October 4, 1985 Supreme Court decision.

A department action involving mental health land which is inconsistent with the MHEA and the Alaska Supreme Court decision may not occur unless compensation is provided to the trust. Compensation shall consist of either a) replacement land designated to the trust of at least equal fair market appraised value (with consideration given to the revenue generating potential of these lands), or b) an equivalent monetary payment to the trust of at least the appraised value of the land (see Category C). When replacement land is contemplated, funding sufficient to complete necessary appraisals must be available. If monetary compensation is to be paid, legislative appropriation may be a prerequisite to action approval in some instances.

The department will review individual cases to determine whether circumstances (i.e. type of use, location, duration, improvements, financial ability of applicant, etc.) warrant performance bonding or other types of security arrangements to assure adequate protection for state resources and the mental health trust.

In unique and special circumstances, actions which are not allowed by this department order may be approved with the concurrence of the plaintiffs and intervenor. This approval should be sought through the Mental Health Land Officer prior to any formal action being taken by the department.

A) Prohibited actions:

1. Trapping cabin construction permits (AS 38.95.080) (Existing permits which are due to expire in 1986 may be renewed for a single two year period. The applicant should be advised if possible to seek a new location near the trapline which is not mental health land).

2. Homesteads/homesites (AS 38.09.020/AS 38.08.040). (If a homestead/home-site entry permit has been issued, see D-6. No new applications will be accepted, nor will any remote parcel leases be allowed to convert to homesteads under AS 38.09.100.)
3. Personal use cabin permits (11 AAC 65.010-900).
4. Remote cabin permits (AS 38.05.079).
5. Free use permits (AS 38.05.850).
6. Public use cabin permits (AS 38.05.850, 11 AAC 12.245).
7. Mining claims (AS 38.05.195). (All mental health land is presently closed to mineral entry.)
8. Grant of land discounts, including veteran's discounts (AS 38.05.940) and credits for required appraisal and survey (unless the legislature is willing to compensate the trust fund for the discount). (The applicability of discounts applied for or referenced in sales brochures prior to the Supreme Court decision is being examined by the Attorney General's Office. If an applicant insists on a decision prior to the issuance of the Attorney General's opinion, the discount will be denied.)
9. Interagency Land Management Assignments (ILMAs), public and charitable use sales and leases under AS 38.05.810, and less than fair market appraised value preference right sales and leases under AS 38.05.035 (for exceptions see B-1).
10. Municipal selection approvals (see D-2 for municipal patent issuance).
11. Credit for survey and appraisal, unless the right to those credits has already vested with the applicant (see category D).

B) Actions permitted under certain circumstances:

These actions require a special finding by the department which shows compliance with the intent of the act and court decision. That finding should be included in the best interest finding, wherever possible. The finding should consider the reason for the decision, the results of the proposed actions and future uses of the land.

*1. Less than fair market appraised value disposals (e.g. preference rights under AS 38.05.035(b)(5)) or those which place restrictions on the land's ability to produce revenue (e.g. land exchanges which restrict the revenue producing capacity of the newly acquired land); public and charitable use leases or sales (AS 38.05.810); and Interagency Land Management Assignments (ILMA's) may occur only if the sale, lease, or transfer facilitates important policy goals and the fair market value of the transaction is replaced in the trust by money or land of at least equal value.

Revised

*2. The department may create rights-of-way on mental health land without compensation, when the purpose of the right-of-way is to facilitate specific (e.g. subdivision, oil & gas or timber sales), non-speculative (i.e. planned and scheduled) actions which generate or increase income from mental health land through fair market value disposals. Other rights-of-way on mental health land, including those which facilitate revenue generation on other state lands, require compensation (see C-1).

*3. Less than fair market appraised value timber, firewood or houselog sales are allowable, even where they do not produce income for the trust, provided they facilitate forest management which will increase the future value of the timber resource or will enhance the value of the land (e.g. Rosie Creek timber sale of fire damaged trees).

*4. Millsite and tailings disposal permits, if the "reasonable charges" described in AS 38.05.255 are equal to fair market appraised value or better.

5. Temporary use permits (e.g. MLUP for Oil and Gas and Mining, LUP for other surface activities) and plans of operation, provided that they are conditioned to prohibit surface damage and/or to require the repair of any surface damage which may occur as a result. The department must take great care to ensure that no proprietary interest is inadvertently created with these permits. These permits should be made revocable without cause after a 30 day written notice.

6. Cooperative agreements, land classifications, area or management plans, land use designations and guidelines, provided they do not prohibit or constrict revenue production from the land (AS 38.04.065, 38.04.070, 38.05.300, 38.05.020(b)(2)). A rigorous evaluation of highest and best use and long term revenue production must be part of a land classification action. The department may also choose to exchange grant types for land which might be restricted.

*7. Concurrence with actions on mental health selected lands under section 906(k) of ANILCA may occur if the action would increase subsequent revenue generating potential for the trust.

C) Permitted actions

The following actions will be allowed by the department. However, the department must provide notice and allow sufficient time to contest these actions (see Requirement for Special Notice). Notice of actions in this category must be made to the Mental Health Land Officer well in advance of the expected completion date of the action (see page 10 and 11 for estimated time frames for notice). Findings required under AS 38.05.035(e) must show that an action in this category is in the best interest of the trust as well as the state.

*1. Rights-of-way (AS 38.05.850) may be granted on mental health land, provided that they generate at least fair market appraised value for the trust.

- *2. Amendments to existing sales, leases, or permits including unitization of oil and gas leases, provided that the amendment complies with this department order.
- *3. Fair market appraised value (or better) land sales that result in cash income for the trust. These land sales may be negotiated at current fair market appraised value (i.e. preference rights) or competitive, as long as fair market value is received. (See Category A for prohibited sales.).
- *4. Fair market value material or timber sales (AS 38.05.110). The value shall be based on a current appraisal or fee schedule.
- *5. Fair market appraised value land leases (AS 38.05.070) may be issued, provided they contain a reappraisal clause. Notwithstanding AS 38.05.085, reappraisals must occur no more than five years from the date of lease issuance, and no more than every five years thereafter, with no restriction on rate or dollar value increase. The reappraisal constraints of AS 38.05.085 do not apply to new leases as the intent of the federal act (to make money for the trust) and court decision take precedence over the statute.
- *6. Grazing leases are permitted when they generate at least appraised fair market value for the trust and are reappraised no more than every 5 years from the date of lease issuance.
- *7. Competitive leasable mineral sales and leases, e.g. oil & gas, coal, geothermal (AS 38.05.135-.184).
- *8. Other fair market value (rent/royalty) or better, mineral sales and leases (e.g. oil & gas, coal, geothermal).
- *9. Equal appraised fair market value land exchanges, provided that the acquired land is assigned to the trust and is not restricted in its ability to produce income for the trust (See Category B for exceptions) (AS 38.50.010-.170).
10. Actions under police-power and regulatory authorities (programs that apply without regard to land ownership): zoning, issuance of surface coal mining permits, burning permits, geothermal drilling permits, notice under Forest Practices Act, etc.
- *11. Reservation of easements and rights-of-way on and across land which is made available for private use, as necessary to preserve access (AS 38.04.055, AS 38.05.127; Article VIII, Sections 9 and 14, Alaska State Constitution).
- *12. Locatable mineral leases (AS 38.05.205) that generate a reasonable economic return for the trust (if a leasing system that will generate a reasonable economic return is developed, portions of mineral land may be opened to leasehold location).

13. Land reconveyance decisions may occur under AS 38.05.035(b)(9) if they constitute valid existing rights (as adjudicated by the federal Bureau of Land Management) that predate the state's selection of land. The state will be credited an equal amount of mental health land grant acreage from pending state mental health selections (over 100,000 acres remain under selection although federal and state records show the mental health entitlement more than fulfilled).

14. All mental health land within the boundaries of legislatively created units is considered by the department to be land which was not returned to the trust. Therefore actions may proceed under applicable legislative unit management practices. However, notice must be provided for all departmental actions occurring within these units on former mental health land as provided in this category. In addition, all departmental authorizations applicable to the units shall contain the following: "If a court of competent jurisdiction finds that any lands covered by this permit are mental health trust lands, the permittee shall compensate the trust at fair market value for the permitted uses."

(*15. Ministerial acts such as assignments, defaults, reinstatements, terminations and contract* and patent* issuance and amendments may continue.

*D. Actions implementing vested rights

The department may implement decisions which would otherwise be prevented by this order (e.g. decisions to convey at less than fair market value) which were made prior to October 4, 1985, if the applicant has already obtained an equitable interest. The department will stand behind those prior conveyance decisions which were entered into in good faith and which resulted in the creation of authorized improvements by the applicant (e.g. homesteads/homesites, rights-of-way), or the transfer of management authority (e.g. approved municipal conveyances). It is our intent to uphold these vested interests and prevent situations which would result in inequitable detriment to an applicant.

Because a determination that a right has vested must be made for each case, actions in this category require a finding that, although the action may not comply with the order, the case was authorized by the department prior to the Weiss decision and has resulted in the vesting of an equitable interest to an applicant. Because fair market value compensation for these decisions is part of the state's potential liability, the finding must either show the amount of the liability (e.g. appraised fair market value at time of sale and land sale discount) or explain how the liability can be ascertained (e.g. fair market value appraisal required).

Examples of permissible actions for vested cases follow:

Revised

- *1) Lease or patent issuance for public and charitable uses (AS 38.05.810) or the issuance of an ILMA may occur if all steps leading to issuance have been completed (preliminary decision, public notice, final finding) and improvements have been made under a letter of early entry or other departmental authorization.
- *2) Patent issuance for municipal conveyances which were approved prior to the Weiss decision.
- *3) Right-of-way permit issuance at less than fair market value (as reflected in the casefile), if the applicant has made authorized improvements and/or completed all statutory requirements prior to the issuance of the Weiss decision.
- *4) The issuance of patents for below fair market value preference right sales, provided that the sale contract was issued prior to the Weiss decision.
- *5) Remote parcel sale contracts or patents may be issued provided that the date of the remote parcel lease is prior to the Weiss decision.
- *6) Upon completion of all statutory requirements, patents may be issued to homesteads/homesites, provided that the entry permit was issued prior to the Weiss decision.
- *7) Patents may be issued for discounted land sales upon completion of all statutory requirements.
- *8) Production licenses (AS 38.05.207), provided discovery, location and filing have occurred prior to October 4, 1985.

II. Accounting

All receipts generated from the disposal of mental health land or resources which were returned to the trust are to be credited to the newly established mental health account. These revenues include:

- (a) rents
- (b) royalties
- (c) bonuses
- (d) payments on principal and interest for land sale contracts²
- (e) timber and material sale payments
- (f) civil fines, including trespass charges, foreclosure of performance bonds, or other penalties granted to the state
- (g) user fees, such as firewood permit fees
- (h) penalty and interest charges

²Please note that payments for land sales made (i.e. the contract was issued) on or before October 4, 1985 are to be credited to the general fund. These parcels are considered part of the state's possible liability.

All revenues received or earned after the date of the Supreme Court decision (October 4, 1985) must be transferred to the mental health account. Adjustments will be made for all revenues received after October 4, 1985 which were not properly credited to the mental health account at the time the deposit was recorded in the state accounting system.

Receipts for fees and other charges covering administrative costs will continue to be credited to the general fund. These funds include:

- (a) application fees
- (b) recording office fees
- (c) document handling fees
- (d) foreclosure of unearned deposits

Because federal law takes precedence over state law, mental health receipts will be recorded entirely to the mental health account, rather than being distributed to the various state trust funds (e.g. the Alaska Permanent Fund, the Reforestation Fund, and the Land Disposal Fund).

Specific procedures to implement this accounting direction will be developed in conjunction with the department's computerized revenue and billing system.

III. Implementation

This department order, as revised, takes effect immediately. Because we must act as, and be perceived as, prudent trust managers, it is important that it be strictly adhered to.

Actions listed in Category "A" are prohibited. Actions listed in Category B (or which are not covered by this order) are permissible only under certain circumstances and only with the concurrence of the plaintiffs and intervenor. Actions under Categories C and D are permissible, but require prior notice to the plaintiffs and intervenor through the Mental Health Land Officer (Officer). All departmental actions either to permit or deny an activity require notice to the Officer. That notice should be made at the end of each month on the attached reporting form and as follows:

Category A: You must notify the Officer of all departmental actions which have been formally denied (e.g. by letter) as a result of the Supreme Court decision and this departmental order.

Please keep in mind that the Mental Health Land Officer and the plaintiffs and intervenor must review actions in Categories B through D below before you finalize them. The review period is at least 30 days but the time required for review may be considerably longer (45-90 days) due to the following:

- 1) The 30 day review period begins on the date that the notice is received by the plaintiffs and intervenor.

2) Notice is made at the end of each month, not when each case is ready for review.

3) Additional information and/or time to review may be requested. (See page 3 "Requirement for Special Notice.")

Category B: Notice must be made prior to any formal action (see time line above). For example, interagency review should occur and a preliminary decision or a best interest finding be prepared and submitted with the reporting form prior to public notice under AS 38.05.945. Please keep in mind that the decision and finding must contain a special finding showing compliance with the MHEA and the court decision. You should provide a signature block on the finding for the Officer's concurrence and attach pertinent background information or, in complex cases, send a copy of the casefile. The Officer will transmit signed concurrence or denial to the initiating agency at the end of the review period.

Category C: Notice must be made prior to the execution of the proposed action (see time line above). You should include a copy of the decision authorizing the activity, or other pertinent information whenever appropriate. At the end of the review period the Officer will notify the initiating agency of the status of the review. Notice of police power actions (C-10) should include the expected date of execution or authorization thereof.

Category D: Again, notice must be made at least 30 days prior to the expected execution of the proposed action. You must include a finding that rights have vested prior to the Weiss decision, and which shows the state's potential liability or outlines a mechanism for finding that liability. You should provide a signature block for the Officer's concurrence and attach pertinent background information or in complex cases, send a copy of the file. The Officer will return the finding at the end of the review period and notify the initiating agency of the status of the review.

Notice for cases which have progressed without notice to the Officer (because they were begun prior to the court decision) must be provided at its current stage. That is, notice does not have to be provided at every juncture of the administrative process (e.g. preliminary decision, final finding, contract issuance, patent issuance) but rather at the earliest juncture. Therefore notice of such actions as contract or patent issuance for permitted cases would only occur if previous notice had not been made.

Response to Notice: You must send the reporting form and attachments to the Officer at the end of each month. The Officer will review the case and coordinate approval as necessary. You will receive a response at the end of the review period.

In addition to the monthly notice of pending actions, the Mental Health Land Officer will provide a monthly report of approved or completed actions to the plaintiffs and intervenor. That report will also be sent to the Governor's Office, Governor's Mental Health Advisory Council, the Attorney General's Office and other interested state officials. Copies will also be kept in my offices.

All public notices, factsheets or other written information concerning mental health land intended for public or agency distribution must be reviewed by the Officer prior to distribution.

You should also be aware that extensive audits of mental health land activities are being conducted by the Officer. If you need information of this nature, you should contact the Officer before initiating an audit of your own.

The Interim Mental Health Land Officer is Salli Slaughter, Division of Land and Water Management, Land Management Section, P.O. Box 7005, Anchorage, Alaska 99510, telephone 561-2020.

Attachment

MH Officer Only
 Date Sent _____
 End of 30 Day Review _____

The following are Departmental actions occurring or denied on mental health trust land in compliance with Department Order 121, issued December 11, 1985, and revised May, 1986, which sets out interim management guidelines for those lands. The order was issued in response to an Alaska State Supreme Court Decision issued October 4, 1985, which returned mental health lands to trust status.

D. O. Category	ANL #	Case Type	Current Case Action	Location (Brief Legal)	MH Acreage	Comments	*	MH Officer Use Only

* Finding attached? (All "B" and "D" category and special circumstance cases require a finding.)

MEMORANDUM State of Alaska
DEPARTMENT OF NATURAL RESOURCES, Office of the Commissioner

TO: Deputy Commissioners
Division Directors
Special Assistants

DATE: December 3, 1985

FILE NO:

TELEPHONE NO:

FROM: Esther C. Wunnicke
Commissioner

SUBJECT: DEPARTMENT ORDER 121:
Mental Health Land Interim
Management

OBSOLETE

Issue:

On October 4, 1985, the Alaska Supreme Court decided that the 1978 legislative redesignation of mental health grant land to general grant land was invalid. The court returned the land to trust status and ordered the state to reimburse the trust and devise a future land management program for the trust lands. This department order is intended to implement the court mandate on a interim basis and is open to amendment as necessary. We will continue to seek long term resolution in consultation with the Attorney General's office and the courts.

Introduction:

In July 1956, congress passed Alaska's Mental Health Enabling Act. The act established a public trust to be used primarily for the treatment of the mentally ill in Alaska. One million acres of federal land were granted to the Territory of Alaska to form the economic base for the trust. Any monies remaining after mental health program costs were met could be spent for other public purposes at the discretion of the legislature. Although a formal mental health trust fund was never established, income generated from mental health lands was tracked and the Alaska Legislature made appropriations for mental health programs.

Mental health grant land selections were subsequently made between 1956 and 1966, largely near centers of population (Anchorage, Fairbanks, Juneau, Kenai etc.), the railbelt, and other areas believed to be valuable for subsurface resources (Beluga coal, Kenai oil, etc.). State records show that approximately 983,100 acres have been transferred to state ownership. Some of this acreage has been conveyed by the state to other entities; the remainder is administered by the Department of Natural Resources.

In 1978, the legislature redesignated state trust lands (mental health, and school) as general statehood grant land. The redesignation provided for an undifferentiated land base which made the land easier and more cost effective to administer. The legislation also established separate trust funds for all the trusts. The mental health trust fund was to be financed by 1.5% of the annual receipts from all state land. However, the funding mechanism set out in the 1978 act was never implemented by the legislature, and mental health advocates sued the state in November, 1982 to restore the mental health trust (Weiss v. Alaska).

OBSOLETE

- 2 -

In September 1984, the State Superior Court directed the state to reimburse the trust for the full value of the land that was redesignated in 1978. The state produced an accounting of the land and its corresponding (1978) value to comply with that decision. The case was then appealed to the Alaska Supreme Court.

On October 4, 1985 the Alaska Supreme Court issued a decision which found that the legislature breached the mental health trust in 1978 when it redesignated the mental health trust land. The relief granted by the court returns the land remaining in state ownership to trust status and requires the state to reimburse the trust for land which has been conveyed, minus expenditures made for mental health programs. Mental health trust land is to continue to be managed by the Department of Natural Resources. The responsibility for defining details of the settlement, including land management responsibilities, was remanded to the Alaska Superior Court.

The resolution of remaining details may not occur for some time. Consequently, the state must provide for interim management of mental health trust land. The most important consideration in management of mental health land is to comply with the intent of the original grant.

Discussion:

The purpose of the Mental Health Enabling Act was to provide for an integrated mental health program for Alaska. Section 202(e) sets out the management parameters for the trust. That section states in part:

"Such lands, income, and proceeds shall be managed and utilized in such manner as the Legislature of Alaska may provide..."

That section additionally states that mental health land, and property acquired out of trust income or by exchange....

"may be sold, leased, mortgaged, exchanged, or otherwise disposed of in such manner as the Legislature of Alaska may provide, in order to obtain funds or other property to be invested, expended, or used by ... Alaska."

It is important that all decisions regarding interim management of mental health land be extremely prudent and within the parameters of the trust. Public notice for these decisions must specifically state that the land included is mental health trust land (negotiated timber and material sales exempted from public notice under AS 38.05.115 will continue to be exempt). The criteria to be used in making and evaluating these decisions, as well as associated accounting procedures, are outlined below. If disagreement regarding compliance occurs the case will be forwarded to my office for resolution.

Cases which include both mental health land and other land grant types, must be handled according to the provisions of this department order. In some instances, however, adjudicators and/or decision makers may wish to divide the acreage into separate cases in order to segregate the mental health land.

OBSOLETE

- 3 -

I. Criteria:

The Department of Natural Resources' land resource management activities are organized into categories for purposes of managing mental health land until the Alaska Superior Court can act on the recent Alaska Supreme Court decision concerning these lands. These categories are: a) actions which must be suspended or rejected as they do not comply, b) actions which may comply under certain circumstances, and c) actions which the department judges to comply with the Mental Health Enabling Act and the court's decision. These criteria apply to all actions occurring after the October 4, 1985 Supreme Court decision.

A) Actions which must be suspended:

1. Trapping cabin construction permits (AS 38.95.080). (Existing permits may be renewed for up to two year periods).
2. Homesteads/homesites (AS 38.09.020/AS 38.08.040). (If a homestead/homesite entry permit has been issued, see C) 1. No new applications will be accepted).
3. Personal use cabin permits.
4. Remote cabin permits (AS 38.05.079).
5. Public use cabin permits.
6. Free use permits.
7. Mining claims (AS 38.05.195). (All mental health land has been closed to mineral entry).
8. Land discounts, including veteran's discounts (AS 38.05.940) and credits for required appraisal and survey (unless the legislature is willing to compensate the trust fund for the discount). If the decision to sell the land was made prior to October 4, 1985, and an application for discount was made on or prior to October 4, 1985 or a discount was promised in a sales brochure issued prior to April 1, 1983, then a discount may be issued. The discount becomes part of the state's liability.
9. Interagency Land Management Assignments (ILMAs) and new legislative designations (e.g. marine parks) unless the fund is compensated either in money or land (see B.1.).

B) Actions on mental health trust lands which may continue under certain circumstances:

These actions require an additional finding which shows compliance with the intent of the act and court decision. That finding should be included in the best interest finding wherever possible. Please keep in mind that the highest and best use of trust land is to produce revenue. The finding should consider the reason for the decision, the results of the proposed actions and future uses of the land. Any action that will result in requiring monetary compensation to the trust must have prior approval and an associated appropriation from the legislature.

OBSOLETE

1. Less than fair market appraised value disposals (e.g. preference rights under AS 38.05.035(b)(5)) or those which place restrictions of the land's ability to produce revenue (e.g. land exchanges which restrict the revenue producing capacity of the newly acquired land); public and charitable use leases or sales (AS 38.05.810); Interagency Land Management Assignments (ILMA's); and approval of municipal/borough selections may occur only if the sale, lease, or transfer facilitates important policy goals and the fair market value of the transaction is replaced in the trust by money or land of equal value.
2. Rights-of-way (AS 38.05.850) may be granted on mental health land, provided that they generate revenue, increase the value of the land, or both. Rights-of-way which decrease the value of a parcel (e.g. a 300 foot right-of-way on a 350 foot wide parcel) are not allowed without compensation.
3. Fair market value land leases (AS 38.05.070) may be issued, provided they contain a reappraisal clause. Reappraisals must occur no more than 5 years from the date of lease issuance, and no more than every five years thereafter, with no restriction on rate or dollar value increase. The reappraisal constraints of AS 38.05.085 do not apply to new leases as the intent of the federal act (to make money for the trust) takes precedent over the state act.
4. Less than fair market appraised value timber, firewood or houselog sales are allowable even when they do not produce income for the trust, provided they facilitate forest management which will increase the future value of the timber resource or will enhance the value of the land (e.g. Rosie Creek timber sale of fire damaged trees).
5. Land reconveyance decisions under AS 38.05.035 (b)(9) provided the federal Bureau of Land Management credits the state for an equal amount of mental health selection acreage which may be obtained from pending state mental health selections or used for new mental health selections (assuming congressional authorization is obtained).
6. Locatable mineral leases (AS 38.05.205) only which can be shown to generate income for the trust. Only these leaseholders may apply for mining production licenses.
7. Millsite and tailings disposal permits, if the "reasonable charges" described in AS 38.05.255 are equal to fair market value or better.
8. Grazing leases which extract fair market value and have a maximum term of one year. The lease may be renewed if it is found to be in the best interest of the trust.
9. Temporary use permits (e.g. MLUP for Oil and Gas and Mining, LUP for other surface activities) and plans of operation, provided that they are conditioned to prohibit surface damage and/or to require the repair of any surface damage which may occur as a result. The department must take great care to ensure that no proprietary interest is inadvertently created with these permits. These permits should be made revokable without cause after a 30 day written notice.

10. Co-operative agreements, land classifications, area or management plans, land use designations and guidelines, provided they do not directly prohibit or constrict revenue production from the land. A rigorous evaluation of highest and best use and long term revenue production must be part of a land classification action. The department may also choose to exchange grant types for land which might be restricted.

C) Allowable actions which comply with the intent of the Act and the court's decision:

1. Implementation of land conveyance decisions (i.e. cases where the applicant has a valid existing right) made prior to October 4, 1985. Examples of such activities include assignments, defaults, reinstatements, terminations, contract and patent issuance. (Decisions to convey which were made prior to the Supreme Court decision are part of the state's potential liability.)
2. Amendments to existing sales or leases, including unitization of oil and gas leases, provided that the amendment complies with these guidelines.
3. Fair market appraised value (or better) land sales that result in cash income for the trust. These land sales may be negotiated at current fair market appraised value (i.e. preference rights) or competitive, as long as fair market value is received. (See Section A for prohibited sales.)
4. Fair market value material or timber sales (AS 38.05.110). The value may be based on a current appraisal or fee schedule.
5. Public and charitable use sales and leases for mental health purposes (i.e. mental health facilities).
6. Competitive leasable mineral sales and leases (e.g. oil & gas, coal, geothermal). (AS 38.05.135-.184).
7. Other fair market value (rent/royalty) or better, mineral sales and leases (e.g. coal, geothermal).
8. Mining leasehold locations if a leasehold location order is issued. All mental health land is closed to locatable mineral entry. Leasehold location orders may later be placed on mental health land in mineralized areas.
9. Equal appraised fair market value land exchanges, provided that the newly acquired land is assigned to the trust and is not restricted in its ability to produce income for the trust (See Section B for exceptions) (AS 38.50.010-.170).
10. Actions under police-power authorities (programs that apply without regard to land ownership): zoning, issuance of surface coal mining permits, burning permits, geothermal drilling permits, notice under Forest Practices Act, etc.).
11. Reservation of easements and rights-of-way on and across land which is made available for private use, as necessary to preserve access (AS 38.04.055, AS 38.05.127).

OBSOLETE

IV. Accounting:

All receipts generated from mental health land which was returned to the trust are to be credited to the newly established mental health account. These revenues include:

- (a) rents
- (b) royalties
- (c) bonuses
- (d) payments on principal and interest for land sale contracts.¹
- (e) timber and material sale payments
- (f) civil fines, including trespass charges, foreclosure of performance bonds, or other penalties granted to the state
- (g) permit fees, including firewood permit fees
- (h) penalty and interest charges

All revenues received or earned after the date of the Supreme Court decision (October 4, 1985) must be transferred to the mental health account. Adjustments will be made for all revenues received after October 4, 1985 which were not properly credited to the mental health account at the time the deposit was recorded in the state accounting system.

Receipts for fees and other charges covering administrative costs will continue to be credited to the general fund. These funds include:

- (a) application fees
- (b) recording office fees
- (c) document handling fees
- (d) foreclosure of unearned deposits

Because federal law takes precedent over state law, mental health receipts will be recorded entirely to the mental health account, rather than being distributed to the various state trust funds (e.g. the Alaska Permanent Fund, the Reforestation Fund, and the Land Disposal Fund).

Specific procedures to implement this accounting direction will be developed by the Division of Management together with the Mental Health Land Officer. These procedures will be distributed separately.

Implementation:

This Department Order takes effect immediately. Because we must act as, and be perceived as, prudent trust managers, it is important that it be followed closely. Actions listed in section "A" are prohibited. Any activity on mental health land listed in section "B", or anything not mentioned in section "C", must be submitted to the Mental Health Land Officer prior to any action being taken on the case. The Officer will coordinate a determination of whether the activity is permissible and specify stipulations, if necessary. Any action described in section "C" which is being taken on mental health land must be reported to the Officer. The Mental Health Land Officer is located within the Anchorage office of the Division of Land and Water Management, Land Management Section.

¹ Please note that payments for land sales (i.e. the decision to sell was issued) made on or before October 4, 1985 are to be credited to the general fund. These parcels are considered part of the state's possible liability.

MINERAL
CLOSURE
ORDER

MEMORANDUM

State of Alaska

DEPARTMENT OF NATURAL RESOURCES - Division of Land and Water Management

TO: DISTRIBUTION LIST

DATE: March 5, 1986

FILE NO: 9201.1

TELEPHONE NO: 762-4355

Tom Hawkins

FROM: Tom Hawkins
Director

SUBJECT: Mineral Closing Order
on Mental Health Lands

The emergency order signed November 5, 1985 closing all mental health lands to mineral location was due to expire on March 5, 1986. On March 3, 1986, an order signed by the court extended that closure on mental health lands. An unsigned copy of the order is attached.

Until further notice all mental health lands remain closed to mineral location. If you have any questions please contact Sallie Slaughter at 762-4346.

DISTRIBUTION LIST:

- Meg Hayes, DLWM, SCRO
- Paula Burgess, DLWM, SERO
- Rick Thompson, DLWM, NRO
- Linda Kruger, DOPOR, SERO
- Al Meiners, DOPOR, NRO
- Jack Wiles, DOPOR, SCRO
- Paul Maki, DOF, SERO
- Joe Wehrman, DOF, SCRO
- Les Fortune, DOF, NRO
- Sharon Barton, DOM, Director
- Ross Schaff, DGGs, Director
- John Sturgeon, DOF, Director
- Kay Brown, DOG, Director
- Pedro Denton, DDM, Director
- Bill Heim, DOA, Director
- Neil Johannsen, DOPOR, Director
- Jim Anderson, DTS, Director

1
2 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
3 FOURTH JUDICIAL DISTRICT

4 VERN T. WEISS, father and next)
5 friend of CARL WEISS, a minor)
6 child and EARL HILLIKER on)
7 behalf of themselves and all)
8 others similarly situated,)

9 Plaintiffs,)

10 vs.)

11 STATE OF ALASKA,)

12 Defendant.)

13 No. 4FA 82-2208

14 ORDER EXTENDING CLOSURE OF
15 MENTAL HEALTH LANDS TO MINERAL LOCATION

16 The parties have jointly moved for an order extending
17 the closure of mental health grant lands to mineral location.
18 Those lands currently are closed to mineral location under
19 11 AAC 06.010, an emergency regulaton which will expire on March
20 4, 1986. For the reasons set out in the Finding of Emergency
21 justifying the promulgation of 11 AAC 06.010 in the first place,
22 and for the futher reasons set out in the parties' joint motion,

23 IT IS ORDERED that the closure of mental health grant
24 lands to mineral location under 11 AAC 06.010 is hereby extended
25 pending further order of this court.

26 DATED: _____

27 _____
28 Superior Court Judge
29
30

FINDING OF EMERGENCY

The Department of Natural Resources finds that an emergency exists and that the attached regulation is necessary for the immediate preservation of the public peace, health, safety, or general welfare. A statement of the facts constituting the emergency is:

The attached regulation is necessary to protect the general welfare of the state and provides adequate safeguards to protect the mental health land grant trust.

In July 1956, congress passed Alaska's Mental Health Enabling Act. The act established a public trust fund to be used primarily for the treatment of the mentally ill in Alaska. Any monies left over after mental health program costs were met could be spent for other public purposes at the discretion of the legislature. One million acres of federal land were granted to the Territory of Alaska to form the economic base for the trust.

Mental health grant land selections were subsequently made by the territory and state (between 1956 and 1966), largely near centers of population (Anchorage, Fairbanks, Jureau, Kenai etc.), the railbelt, and other areas believed to be valuable for subsurface resources (Beluga coal, Kenai oil, etc.). State records show that approximately 983,100 acres have thus far been transferred to state ownership.

Although a formal trust fund was never established, income generated from the trust lands were tracked and the Alaska Legislature made appropriations for mental health programs. For example, total income produced from mental health land from 1959-1977 was \$25,110,430. Mental health expenditures in Alaska by the state for the same period of time were \$115,364,054, with an additional \$16,430,771 being spent on alcohol and drug abuse programs.

In 1978, the legislature passed a law which redesignated all state trust lands (mental health, school, and university) as general grant lands. The redesignation provided for an undifferentiated land base which made the land easier and more cost effective to administer. The legislation also established separate trust funds for all the trusts. The mental health trust fund was to be financed by 1.5% of the annual receipts for all state land. However, the funding mechanism set in the 1978 act was never implemented by the legislature, and mental health advocates sued the state in November, 1982 to restore the mental health trust (Weiss v. Alaska).

On October 4, 1985 the Alaska Supreme Court found that the legislature breached the mental health trust in 1978 when it redesignated trust land. The relief granted by the court returns the land remaining in state ownership to trust status and requires the state to reimburse the trust for land which has been conveyed, minus expenditures made for mental health programs. Mental health trust land was designated to be managed by the Department of Natural Resources. The responsibility for defining details of the settlement was remanded to the Alaska Superior Court. It will be several months before the lower court is able to take up this action.

The department, acting as trustee, must act expeditiously to protect the land and resource base of the trust and to prevent the possible accrual of any additional liability for the state. All department actions on mental health land have been temporarily suspended until an interim management plan acceptable to the plaintiffs and the court can be adopted. Locatable mineral claims, however, cannot be prohibited without a mineral closing order. In addition, such orders require 150 days to take effect (30 days for notice, 30 days to take effect, and 90 days to allow a mineral claimant to file a copy of the location certificate), an unacceptable timeframe given the courts direction for the department to immediately begin managing this land in accord with its trust status.

Immediate closure of mental health land is therefore necessary for the following reasons:

- 1) The mineral location system as presently operative does not ensure receipt of revenues reflecting the fair market values of the land. Therefore continued locatable mineral appropriation violates the intent of the trust.
- 2) The court decision returned the land to its original trust status. The continuation of mineral locations is incompatible with this status.
- 3) Mental health trust land may or may not be part of the state's public domain and subject to Title 38 of the Alaska Statutes. If it is not, any mining claims located on mental health trust land may be void. It is in the state's best interest to avoid the creation of additional third party interests which may later be found invalid.

Register ,

1986

NATURAL RESOURCES

11 AAC 06.010

11 AAC 06.010. MINERAL LOCATIONS ON MENTAL HEALTH GRANT LAND.
(a) All mental health grant land identified in state and federal records as of October 4, 1985 is immediately closed to mineral location under AS 38.05.185 - AS 38.05.275, and under the jurisdiction of AS 38.05.

(b) For the purposes of this section, mental health grant land is defined as land which has been patented, tentatively approved for patent, or selected by the state under the Mental Health Enabling Act of 1956. (Eff. / /85, Register)

Authority: AS 38.05.020

AS 38.05.185

Supreme Court Opinion

No. 2987 - October 4, 1985

Because no other reasonable mechanism exists under existing law to immediately protect trust land and resources which are intended to help finance programs for the health and well-being of all Alaskans, I hereby find that an emergency exists affecting the general welfare of the people of the state, and adopt the attached regulation, effective immediately.

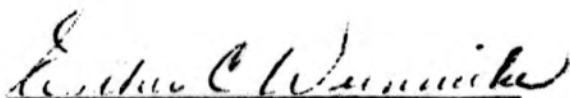
ADOPTION ORDER

Under authority of AS 38.05.020, the regulation is adopted as an emergency regulation to take effect immediately upon filing by the Lieutenant Governor as provided in AS 44.62.180(3).

This action is not expected to require an increased appropriation.

Date:

Nov 4, 1985
Anchorage, Alaska



Esther C. Wunnicke
Commissioner
Department of Natural Resources

FILING CERTIFICATION

I, _____, Lieutenant Governor for the State of Alaska, certify that on _____, 1985, at _____m., I filed the attached regulations according to the provisions of AS 44.62.

Lieutenant Governor

Effective November 5, 1985
Register 96, JANUARY 1986

FACT SHEETS

Department of Natural Resources
Mental Health Lands
Factsheet
July, 1986

Background

In 1956, one million acres of land in Alaska were granted by Congress to the Territory of Alaska to produce income to support mental health programs in Alaska. These lands were subsequently selected between 1956 and 1966 and include many valuable areas near the state's population centers and transportation routes. However, as the state's population grew, so did the pressure for use of these lands for purposes that might produce little or no revenue -- municipal expansion, public facilities, utilities, recreation and charitable uses.

In 1978, the Alaska Legislature redesignated the mental health grant land as general grant land, and authorized annual appropriations for mental health programs to be based upon revenues from all state land. The redesignation allowed the land to be managed by the department for general public purposes as well as revenue production. However, appropriations authorized in the 1978 act were never made by the legislature.

Weiss v. Alaska

A class action lawsuit was filed against the state in Fairbanks Superior Court on November 26, 1982 (Weiss v. Alaska). In September, 1984, that court ordered the state to reimburse the trust for the value of all lands which were redesignated by the 1978 action. Both parties appealed that decision to the Alaska Supreme Court but also worked toward a settlement. Although a settlement appeared possible in the fall of 1985, the Supreme Court issued its ruling on October 4, 1985. The court decided that the 1978 legislative redesignation of mental health grant land to general grant land was invalid, and ordered the state to return mental health lands to trust land status. In addition, the court said that the trust must be compensated for the value of any mental health land conveyed since 1978, minus expenditures made for mental health programs during the same time period. The Supreme Court decision also returned the case to the Superior Court so that the necessary findings could be made.

Response of the Department of Natural Resources

Responding to the court's decision, the Department of Natural Resources immediately suspended all actions on mental health lands, named an acting mental health lands officer, and began the task of identifying all lands returned to the trust and all mental health lands that were encumbered.

In December 1985, after careful review of the court's decision in consultation with the Attorney General, the department adopted Department Order 121 to provide guidelines for the management of mental health lands until such time as the court or legislature further defined how they should be managed. These guidelines were intended to prevent diminution of the trust, respect rights where vested, and allow actions that would produce at least a fair market value return for the trust. The order also established a special trust account for the deposit of funds deriving from mental health lands. After review by all parties to the suit, portions of the Department Order were revised.

At present, among the actions prohibited on mental health lands are offering of homesteads or homesites, remote cabin permits, personal use cabin permits, trapping cabin construction permits, land sale discounts and the staking of mining claims. Actions such as public rights-of-way, legislative designations for parks, wildlife refuges etc., inter-agency land management assignments for public facilities, public and charitable use sales and leases, and municipal conveyances which formerly occurred without charge now require current fair market value compensation (in money or replacement land) if they are to occur.

Consistent with the court's decision, the department is planning to account for all funds received during 1978-85 and to identify and appraise all less than fair market value transactions during the same period, subject to FY 1987 appropriations. The department will continue to oversee all transactions proposed affecting mental health lands to assure conformity with the court's decision.

Legislation

The 1986 Alaska State Legislature recently passed legislation affecting the administration of mental health land.

HCS CSSB 472 established an Interim Mental Health Trust Commission. All proposals for the sale, lease or exchange of mental health land or interest thereof must be reviewed and approved by the commission.

HCS CSSCR 36 established a Joint Special Committee on mental health trust land. This committee will hold public hearings and submit a proposal to the first session of the 15th State Legislature to resolve the mental health trust litigation, including appropriations adequate to fund future mental health programs in the state.

For further information regarding the department's mental health land management program, contact Tony Braden or Salli Slaughter, Division of Land and Water Management, Department of Natural Resources, P.O. Box 7005, Anchorage, Alaska 99510, (907) 561-2020. For information concerning the litigation (Weiss v. Alaska), contact Tom Koester, Assistant Attorney General, Department of Law, P.O. Box K, Juneau, Alaska 99811 (907) 465-3600.

TITLE REPORTS
/ MAPS

Mental Health Land Title Reports

The following reports are a compilation of the title status of lands which have been selected under the Mental Health Enabling Act (MHEA). Section 202(a) of the MHEA granted one million acres of land to the State (then territory) of Alaska. This land was to be selected by the state within ten years of enactment of the MHEA (July 28, 1956 to July 27, 1966) from vacant, unappropriated and unreserved public land. Because the land was not required to be surveyed at the time of selection, and survey is a requirement for patenting, an interim step was added. The state's selection is filed with the Federal Bureau of Land Management (BLM) who adjudicates it to ensure that the lands are available and the selection properly filed. The BLM then approves the selection and, upon completion of survey, issues patent.

The first report is an accounting of the lands which have been patented or approved for patent under the MHEA. It is the result of a joint state and federal audit of selections and conveyances made under the MHEA. This report shows 829,250 acres have been patented under MHEA, and 176,634 acres have been approved for patent. Although this shows an over conveyance of nearly 6,000 acres, it is expected that adjustments for such things as meanderable water bodies and reconveyances for (erroneously conveyed) Native allotments will reduce this figure by some 28,000 acres. This will leave an entitlement of approximately 22,000 acres yet to be fulfilled. More detailed information on these adjustments are found in the report.

The second report is an accounting and identification of the lands (approximately 136,000 acres) which have been selected but not yet approved for patent or patented. Since the selection period under the MHEA has lapsed, any remaining entitlement under this act will be satisfied from these lands. It is assumed that this report, coupled with information concerning the quality of land and resources in these areas, will be used to set priorities for these selections.

For more information regarding the title audit and report, please contact Bob Baker, Chief, Title Administration Unit. Questions regarding the second report should be addressed to Tony Braden, Mental Health Land Project. Both Mr. Baker and Mr. Braden can be reached at (907) 561-2020, P.O. Box 7005, Anchorage, Alaska 99510.

FINAL REPORT FOR THE AUDIT OF MENTAL HEALTH FILES

In November 1982 a class action lawsuit (Weiss et. al. v. State of Alaska) was filed in Alaska Superior Court. The basis for the lawsuit was the 1978 Legislative action (AS 37.14.070) redesignating trust lands to general grant status, thus eliminating the exchange process involved in Borough selections of Mental Health Lands. The lawsuit purported that this action was illegal and "violated the intent and purpose" of the Mental Health Act, PL 84-830, 70 Stat. 709, as confirmed by the Alaska Statehood Act, and sought to void AS 37.14.070, establish a trust for the receipt of funds generated from Mental Health lands, and arrange for the administration of the trust in accordance with applicable law.

The Weiss et. al. v. State of Alaska lawsuit resulted in an Alaska Supreme Court decision dated October 4, 1985, which found in favor of the plaintiffs and ordered the State to redesignate all Mental Health lands remaining in state ownership to trust status, to reimburse the trust for Mental Health Lands conveyed out of state ownership minus expenditures for Mental Health programs and remanded the case to the superior court to work out the details for managing the Mental Health trust. Departmental Order 121 has been initiated to provide for interim management of Mental Health lands.

Some time prior to the inception of the Weiss et. al. v. State of Alaska lawsuit, the Bureau of Land Management (BLM) had declared an informal moratorium on the conveyance of Mental Health selections to the State of Alaska. Based on a cursory audit of State MH conveyances, BLM determined the State was nearing the one million acre entitlement under this quantity grant. In furtherance of the conveyance process and as a final step in the adjudication process, BLM initiated a more in-depth audit of the Mental Health selections, sending their findings to Division of Technical Services (DTS) (Now Land Title Section - Division of Land and Water Management) for concurrence.

In conjunction with Land and Water Managements' effort to respond to the first set of interrogatories in the above lawsuit, BLM's audit effort, and also as part of a continuing effort on the part of the Division of Technical Services to identify and inventory all state lands in Alaska, DTS in October of 1984 undertook to do a full audit of all Mental Health selections in the state. The purpose of the audit was two fold:

1. To interface with the Bureau of Land Management's audit effort to determine exactly how much of our one million acre entitlement had already been conveyed to the state through the patenting and approval process, identify any conflicting claims for conveyed lands, and identify any remaining Mental Health selections requiring further adjudication and/or conveyance.
2. To offer technical support to Land and Water Management's efforts to respond to the Weiss v. State of Alaska lawsuit and provide a tool for more effective management of Mental Health lands through the manuscripted plats.

The audit process involved graphically portraying all status transactions in each Mental Health case file on the Bureau of Land Management Master Title Plats (BLM/MTPs). The Bureau's plats were used to manuscript our transactions as opposed to State's plats as this would be a better tool for identifying any conflicts with the State's title. Through a color-coding process the auditors identified and calculated acreages for patented, approved, selected, suspended, and rejected transactions. This information was encoded and entered on the State's computerized Lands Administration System (LAS). The auditors identified and calculated acreages for known conflicts with State's title in the form of Aguilar Native Allotments, and mining claims which pre-dated the State's selection which were not excluded from the State's conveyance. All mining claims filed prior to State selection will not necessarily be reconveyed. Reconveyance will be subject to the condition that the Federal mining claimant proceed to mineral survey and mineral patent and valid settlement claims must pre-date the State's selection. The auditors calculated acreage for potential conflicts i.e., Village and Regional selections whose outcome is dependent on the Seldovia V. Secretary of Interior lawsuit (Civ. A77-207).

The acreage was calculated for meanderable water bodies within patented lands, which pursuant to the submerged lands agreement of 3/28/84 between the Department of Interior and the State of Alaska, could result in an acreage credit to our Mental Health entitlement. There is some disagreement between the State and BLM as to whether or not Mental Health lands were to be included in the submerged lands agreement of 3/28/84. There appears to be no discrimination within the wording of the document as to grant type for which the agreement is applicable, unless one would construe the wording in the second paragraph of the agreement, "and charging the acreage against the State's land entitlement under the Alaska Statehood Act, as amended", to exclude Mental Health lands, which were granted under the Mental Health Enabling Act and confirmed by the Statehood Act. BLM was inconsistent in their treatment of this issue as regards Mental Health selection #133 for which an amended survey was done before issuance of patent to exclude according to a decision issued 2/29/84, "a lake over 50 acres in size". In light of this uncertainty regarding meanderable waters, we find it necessary to speak to the issue of navigable waters. The majority of our Mental Health selections had no navigability determinations done prior to conveyance. In the areas where the lands were surveyed into lots along the waterbodies this is a moot point as regards our chargeability. There are, however, approximately 18,342.00 acres of water which have been conveyed to the State and charged against our Mental Health entitlement without any determination having been made as to whether or not these waterbodies are navigable. Research on one selection (see Mental Health cases with actions pending resolution, MH-16) containing approximately 13,952.00 acres of patented waters indicates that some of these waters on which a navigability determination has since been made are indeed navigable, and a large portion of the area conveyed has yet to have a navigability determination done. This could work in the State's favor, if pursued, in that the State would have to pay for the recalculations to determine meanderability; however, the lack of navigability determinations on conveyed lands could fall under the concept of gross error on the part of BLM for which BLM would have to bear the brunt of the costs for recalculation. If the issue of navigability is pursued, this could result in a gain to the State of upland acreage.

The following figures are the culmination of a year and a half audit effort. The acreages shown for patented, approved and selected lands are the acreages agreed upon and signed off by BLM and the State. Adjustments are shown for BLM overcharges and undercharges where the patent document acreage did not match the survey acreage. Adjustments are shown for Aguilar Native Allotments, meanderable and/or navigable waters within patented lands, BLM administrative errors, which resulted in the State of Alaska quitclaiming title to other valid owners, without the state receiving any benefit from the use of the lands, however; the lands were counted as part of the State's entitlement. Also shown are the adjustments for village and regional selections which may or may not affect our selections. It should be kept in mind when viewing these figures, that Native allotments and mining claims are stationary on the ground, but the graphic portrayal is subject to movement spacially within the township grids until they are surveyed. Also, there are numerous Fanny Barr claims and reconstructed Native allotments which have yet to be noted to the plats that could surface as a conflicting claim in the future. At the end of this report is a list of each mental health case with actions pending. These pending actions are reflected in the adjustments on the following pages.

PATENTED ACREAGE

The adjustments shown for patented lands are indicative of the fact that at this point there is a figure representing lands conveyed under the Mental Health entitlement, however; there are also areas requiring further policy decisions before a true figure can be formulated. These decisions could affect not only the 27,621.88 acres requiring adjustment under the 1,000,000 acre Mental Health entitlement, (which represents one one-hundredth of the state's total entitlement), but could also be viewed as a scenario for the remaining 104,582,477 acres yet to be dealt with.

<u>Total patented</u>	<u>Patent Adjustments</u>
	829,250.341
	18,342.00 - protracted acreage for meanderable
	810,908.341 and/or navigable waters within patented lands.
829,250.341 - patented	810,908.341 - protracted acreage for Native allotments
804,731.966 - adjusted patented	5,366.10 within patented lands, not excluded from the conveyance
24,518.375 - difference	805,542.241 document.
	805,542.241 - protracted acreage for mining claims within
	266.000 patented lands, not excluded from the conveyance
	805,276.241 document.
	805,276.241
	321.76 - actual acreage patented to the State due to BLM
	804,954.481 administrative error.
	804,954.481
	440.255 - BLM overcharge on patented acreage.
	804,514.226
	804,514.226 - BLM undercharge on patented acreage.
	217.74 total patented acreage if State is to be credited
	804,731.966 for above adjustments.

(For Informational Purposes Only)

2,031.88 - village selections on patented lands.

27.91 - regional selections on patented lands.

APPROVAL ACREAGE

The approved acreage is a protracted figure, and can in no way be determined to be the final figure, as there are too many variables yet to be determined, such as, actual survey acreage, meanderable waters acreage, Native allotments, mining claims and village and regional selections. The auditors did not figure the acreage for meanderable water bodies on approved lands, as those will be figured before patent is issued according to current policy and will not affect the entitlement. Acreage was figured for Native allotments, mining claims and village and regional selections, which will be adjudicated before patent issues; however, they required identification and some tangible evidence as to how much the approved acreage figure could change.

<u>Total approved</u>	<u>Approval Adjustments</u>
176,633.997 - approved	176,633.997
<u>173,530.487</u> - adjusted approved	<u>2,561.30</u> - protracted acreage for Native allotments on approved lands, not excluded from the conveyance document.
<u>3,103.487</u> - difference	174,072.697
	174,072.697
	<u>420.000</u> - protracted acreage for mining claims within approved lands, not excluded from the conveyance document.
	173,652.697
	173,652.697
	<u>122.21</u> - actual acreage approved to State due to BLM administrative error.
	*173,530.487 - total approved acreage if State is to be credited for above adjustments.

(For informational purposes)

(The State prevailed recently in the Tyonek litigation. However, the Tyonek decision was appealed in May, 1986. These figures are included for informational purposes only.)

1,868.64 - village selections on approved lands

2,013.76 - regional selections on approved lands

*There is an unknown figure for meanderable and/or navigable waterbodies within approved lands, which should be kept in mind when contemplating approved acreage.

SUMMARY - PATENTED AND APPROVED

Results of Adjustments

829,250.341	- Patented
<u>176,633.997</u>	- Approved
1,005,884.333	- Total conveyance
804,731.966	- Adjusted patented
<u>173,530.487</u>	- Adjusted approved
978,262.453	- Total adjusted conveyance
1,005,884.333	- Total conveyance
<u>978,262.453</u>	- Total adjusted conveyance
27,621.88	- Difference
1,000,000.000	- Mental Health entitlement
<u>978,262.453</u>	- Total adjusted conveyance
21,737.547	- estimated entitlement remaining to be conveyed if the State is to be credited for the listed adjustments

SELECTED AND SUSPENDED ACREAGES

The selected and suspended acreage is again a protracted figure subject to the same variables as approved lands, plus one more, which is that they are still subject to the determination by BLM as to whether or not they are valid selections. Thus selected and suspended lands could be termed not selected lands, but lands requiring further adjudication. As evidenced by the report prepared by Land and Water Management for the conveyance priority list (copy attached) a good portion of the states remaining selected Mental Health lands have conflicting interests associated with them, and/or classifications potentially incompatible with the revenue generating purpose of Mental Health Lands, i.e., Chugach State Park. One other thing found on the selected lands which again requires further policy decisions to determine the outcome of these findings, is the instances where it appears that the state's selections could have attached prior to the present owner of record, however; through some adjudicative oversight the state selection was never shown to attach. The lands were conveyed to other entities and the history cannot be pieced together through the historical index to reflect any previous encumbrance which would have prevented the state selection from attaching.

Totals	Lands requiring further adjudication
115,456.395 - signed off "selected" acreage pending adjudication	(attached is a copy of a report completed by the acting Mental Health Lands Trust Officer, which details the status of pending state selections)

Following are potential administrative oversights requiring further adjudication by BLM.

	Description
MH-47 State selection filed 6/24/60 A-061046 Homestead application filed 4/24/61 Patent #50-70-0041 issued to A-061046	lot 11-b USS 3926 (T. 55 S., R. 63 E., C.R.M., Sec. 21)
*Japonski Island, Charcoal Island and portions of Sitka townsite within MH-47 appeared to be available for the State's selection and/or amendments to attach, however, they were quitclaimed to others by the Federal Government with no explanation to the State.	T. 55 S., R. 63 E., C.R.M. (Japonski Island) QCD issued 10/14/75 T. 56 S., R. 63 E., C.R.M. (Charcoal Island) QCD issued 6/2/80
MH-126 State selection filed 10/3/63 FF-000564 Homestead application filed 8/10/67 Patent #50-70-0082 issued to FF-000564	T. 1 S., R. 3 W., F.M., Sec. 11 S1/2SW1/4, Sec. 33 NE1/4NE1/4, Sec. 34 W1/2NW1/4.
MH-150 State selection filed 8/2/65 A-063613 Homestead application filed 9/21/65 Patent #50-72-0438 issued to A-063613	T. 14 N., R. 1 W., S.M., Sec. 28 SE1/4SE1/4, Sec. 33 NE1/4NE1/4, Sec. 34 W1/2NW1/4.

*Japonski Island is to be conveyed to the State by an Act of Congress, pursuant to PL 98-63, July 29, 1963 (97-Stat. 326) as amended by PL 98-396. We need documentation from BLM for our selection file regarding this disposition.

In summary, one would note that there are procedures in effect pursuant to AS 38.05.035 (b)(9) for reconveying lands "wrongfully or erroneously" conveyed to the State of Alaska, which provides for an acreage credit to the affected entitlement. There is also a procedure for crediting the State's entitlement pursuant to the submerged lands agreement of 3/28/84 for meanderable water bodies patented to the State prior to December 5, 1983.

There is at present no specific vehicle for reclaiming acreage credit for lands quitclaimed out of State ownership due to wrongful or erroneous conveyance prior to implementation of AS 38.05.035 (b)(9), nor is there any procedure set up for rectifying mathematical errors as regards acreage overcharges and undercharges on patent documents or for rectifying administrative oversights which resulted in a valid state mental health selection being set aside in favor of an inferior claim.

It would seem prudent in an effort to avoid breaching the State's fiduciary responsibility to the mental health trust, and also in an effort to avoid further lawsuits, that steps be taken to exercise all options available to realize the full benefit of the mental health entitlement.

Recommendations:

1. Continue reconveyance of lands wrongfully or erroneously conveyed to the State, pursuant to AS 38.05.035 (b)(9) as outlined in Decision Memo 83.
2. Take necessary steps to recalculate acreage on meanderable water bodies patented to the State prior to December 5, 1983 as outlined in the Submerged Lands Agreement of 3/28/84. (The State has to pay for these recalculations), or pursue the gross error concept regarding the conveyance of navigable waters.
3. Coordinate with BLM to develop procedures for rectifying mathematical errors on patent documents.
4. Coordinate with BLM to develop procedures for rectifying administrative oversights which resulted in the State's valid selection being set aside in favor of an inferior claim.
 - a. have BLM readjudicate the lands in question, and issue a decision of findings, then based on those findings take steps to either recover title and convey to the State if the State so requests.
5. Coordinate with BLM to develop procedures for crediting the State's entitlement on administrative errors which resulted in the entitlement being charged for lands from which the State received no benefit.
 - a. Upon State's submission of proof of conveyance to the valid owner, require BLM to issue a decision crediting the State's entitlement for the acreage conveyed.
6. Prioritize the remaining selections once adjustments are made to maximize the remaining entitlement.

MENTAL HEALTH CASES WITH ACTIONS PENDING RESOLUTION

Mental Health File #	Explanation	Conflicting Serial#	Description	Total Conflicting Acreage
MH-6	3 Native allotments in conflict with State's patented lands	AA-046631	T. 7 N., R. 12 W., S.M., Sec. 4	306.43
		AA-046632	T. 7 N., R. 12 W., S.M., Secs. 3 & 4	
		AA-051870	T. 7 N., R. 11 W., S.M., Sec. 8	
			T. 7 N., R. 12 W., S.M., Sec. 3	
MH-9	12 mining claims in conflict with State's patented lands	FF-057295	T. 1 S., R. 3 W., F.M., Sec. 13	86.00
		FF-057296	T. 1 S., R. 3 W., F.M., Sec. 14	
		FF-057297	T. 1 S., R. 3 W., F.M., Sec. 13	
		FF-057298	T. 1 S., R. 3 W., F.M., Sec. 13	
		FF-057709	T. 1 S., R. 3 W., F.M., Sec. 13	
		FF-057710	T. 1 S., R. 3 W., F.M., Sec. 13	
		FF-057711	T. 1 S., R. 3 W., F.M., Secs. 12 & 13	
		FF-057712	T. 1 S., R. 3 W., F.M., Sec. 12	
		FF-057713	T. 1 S., R. 3 W., F.M., Sec. 12	
		FF-057714	T. 1 S., R. 3 W., F.M., Sec. 13	
		FF-057715	T. 1 S., R. 3 W., F.M., Sec. 13	
FF-057716	T. 1 S., R. 3 W., F.M., Sec. 13			
MH-16	22 Native allotments in conflict with State's patented lands	A-003821	T. 26 S., R. 56 E., C.R.M., Sec. 8	2,576.39
		*AA-006618	T. 27 S., R. 55 E., C.R.M., Secs. 22 & 23	
		*AA-007884	T. 27 S., R. 55 E., C.R.M., Secs. 22 & 23	
		AA-008022	T. 27 S., R. 55 E., C.R.M., Sec. 26	
		*AA-008035	T. 27 S., R. 55 E., C.R.M., Secs. 14, 15, 22, 23	
		*AA-008036	T. 27 S., R. 55 E., C.R.M., Secs. 22, 23, 26, 27	
		A-061288	T. 28 S., R. 53 E., C.R.M., Sec. 24	
		A-062053	T. 28 S., R. 54 E., C.R.M., Secs. 15, 22	
		AA-006615	T. 28 S., R. 54 E., C.R.M., Secs. 15, 22	
		A-004612	T. 28 S., R. 55 E., C.R.M., Sec. 29	
		A-018101	T. 28 S., R. 56 E., C.R.M., Sec. 30 &	
			T. 28 S., R. 55 E., C.R.M., Sec 25	
		A-060922	T. 28 S., R. 55 E., C.R.M., Sec 27	
		AA-006602	T. 29 S., R. 56 E., C.R.M., Sec. 12	
		AA-006603	T. 29 S., R. 56 E., C.R.M., Secs. 11, 12	
		AA-007927	T. 29 S., R. 56 E., C.R.M., Secs. 11, 12	
		AA-007928	T. 29 S., R. 56 E., C.R.M., Sec. 12	

*These Native allotments have already been conveyed pursuant to AS 38.05.035(b)(9) QCD #837-841.

MENTAL HEALTH CASES WITH ACTIONS PENDING RESOLUTION

Mental Health File #	Explanation	Conflicting Serial#	Description	Total Conflicting Acreage
MH-16		AA-007929	T. 29 S., R. 56 E., C.R.M., Secs. 12, 13 & T. 29 S., R. 57 E., C.R.M., Secs. 7, 18	
		AA-007944	T. 29 S., R. 56 E., C.R.M., Sec. 11	
		AA-007946	T. 29 S., R. 56 E., C.R.M., Secs. 12, 13 & T. 29 S., R. 57 E., C.R.M., Secs. 7, 18	
		*AA-006135	T. 29 S., R. 57 E., C.R.M., Sec. 4	
		AA-007020	T. 29 S., R. 57 E., C.R.M., Sec. 18	
		A-061035	T. 29 S., R. 57 E., C.R.M., Sec. 36 & T. 29 S., R. 58 E., C.R.M., Sec. 31	
*These Native allotments have already been conveyed pursuant to AS 38.05.035 (b)(9) QCU #837-841.				
MH-16	9 mining claims in conflict with State's patented lands	AA-037566	T. 29 S., R. 54 E., C.R.M., Sec. 1	180.00
		AA-037567	T. 29 S., R. 54 E., C.R.M., Sec. 1	
		AA-037568	T. 29 S., R. 54 E., C.R.M., Sec. 1	
		AA-037569	T. 29 S., R. 54 E., C.R.M., Sec. 1	
		AA-037570	T. 29 S., R. 54 E., C.R.M., Sec. 1	
		AA-037571	T. 29 S., R. 54 E., C.R.M., Sec. 1, 12	
		AA-037572	T. 29 S., R. 54 E., C.R.M., Sec. 1, 12	
		AA-037573	T. 29 S., R. 54 E., C.R.M., Secs. 11, 12	
AA-037574	T. 29 S., R. 54 E., C.R.M., Secs. 11, 12			
MH-16	meanderable and/or navigable waterbodies within State's patented lands			13,952.000
*MH-16	No navigability determination Chilkat River navigable No navigability determination No navigability determination No navigability determination Kleheini River navigable No navigability determination No navigability determination		T. 26 S., R. 54 E., C.R.M. T. 26 S., R. 55 E., C.R.M. T. 26 S., R. 56 E., C.R.M. T. 27 S., R. 54 E., C.R.M. T. 27 S., R. 55 E., C.R.M. T. 28 S., R. 53 E., C.R.M. T. 28 S., R. 54 E., C.R.M. T. 28 S., R. 55 E., C.R.M. T. 28 S., R. 56 E., C.R.M.	undetermined

MENTAL HEALTH CASES WITH ACTIONS PENDING RESOLUTION

Mental Health Conflicting File #	Explanation	Conflicting Serial#	Description	Total Acreage
	No navigability determination		T. 29 S., R. 54 E., C.R.M.	
	No navigability determination		T. 29 S., R. 55 E., C.R.M.	
	Chilkat River and Chilkat Lake navigable		T. 29 S., R. 56 E., C.R.M.	
	Chilkat River, Chilkat Lake and Tsirku River navigable		T. 29 S., R. 57 E., C.R.M.	
	No navigability determination		T. 30 S., R. 56 E., C.R.M.	
	No navigability determination		T. 30 S., R. 57 E., C.R.M.	
	Chilkat River navigable		T. 30 S., R. 58 E., C.R.M.	
*The information regarding navigability was obtained from the navigability section of BLM, as there was no navigability information in our Mental Health selection file. This information was not gathered for any other selections containing patented waters. This information is presented as an example to aid in making further decisions regarding patented navigable waters within Mental Health selections.				
MH-16	BLM undercharge for State's patent # 50-65-0019			20.00
MH-23	BLM overcharge for State's patent # 1227066			1.12
MH-25	17 Native allotments in conflict with State's patented lands	AA-40056 AA-40051 AA-47907 AA-49960 AA-40053 AA-51864 AA-49959 AA-40054 AA-51869 AA-49958 AA-47905 AA-47907 AA-6625	T. 5 N., R. 8 W., S.M. T. 5 N., R. 8 W., S.M. T. 7 N., R. 11 W., S.M. T. 7 N., R. 11 W., S.M. T. 7 N., R. 11 W., S.M. T. 7 N., R. 11 W., S.M. T. 7 N., R. 11 W., S.M. T. 7 N., R. 11 W., S.M. T. 8 N., R. 10 W., S.M. T. 8 N., R. 10 W., S.M. T. 8 N., R. 10 W., S.M. T. 8 N., R. 10 W., S.M. T. 8 N., R. 11 W., S.M.	1,552.20

MENTAL HEALTH CASES WITH ACTIONS PENDING RESOLUTION

Mental Health File #	Explanation	Conflicting Serial#	Description	Total Conflicting Acreage
		AA-46550	T. 8 N., R. 11 W., S.M.	
		AA-47908	T. 8 N., R. 11 W., S.M.	
		AA-50503	T. 8 N., R. 11 W., S.M.	
		AA-51856	T. 8 N., R. 11 W., S.M.	
MH-25	26 Native allotments in conflict with State's approved lands	AA-50152	T. 5 N., R. 10 W., S.M.	2,201.30
		AA-8251	T. 7 N., R. 11 W., S.M.	
		AA-8249	T. 7 N., R. 11 W., S.M.	
		AA-7803	T. 7 N., R. 11 W., S.M.	
		AA-8286	T. 7 N., R. 11 W., S.M.	
		AA-8262	T. 7 N., R. 11 W., S.M.	
		AA-49957	T. 7 N., R. 11 W., S.M.	
		AA-4592	T. 7 N., R. 11 W., S.M.	
		AA-8123	T. 7 N., R. 11 W., S.M.	
		AA-8216	T. 7 N., R. 11 W., S.M.	
		AA-8238	T. 7 N., R. 11 W., S.M.	
		AA-40052	T. 7 N., R. 11 W., S.M.	
		AA-8297	T. 7 N., R. 11 W., S.M.	
		AA-8119	T. 7 N., R. 11 W., S.M.	
		AA-5974	T. 7 N., R. 11 W., S.M.	
		AA-51870	T. 7 N., R. 11 W., S.M.	
		AA-49957	T. 7 N., R. 11 W., S.M.	
		AA-8121	T. 7 N., R. 11 W., S.M.	
		AA-6371	T. 7 N., R. 11 W., S.M.	
		AA-4592	T. 7 N., R. 11 W., S.M.	
		AA-5936	T. 7 N., R. 11 W., S.M.	
		AA-8202	T. 7 N., R. 11 W., S.M.	
		AA-5936	T. 7 N., R. 11 W., S.M.	
		AA-51864	T. 7 N., R. 11 W., S.M.	
		AA-8297	T. 7 N., R. 11 W., S.M.	

MENTAL HEALTH CASES WITH ACTIONS PENDING RESOLUTION

Mental Health File #	Explanation	Conflicting Serial#	Description	Total Conflicting Acreage
MH-25	BLM overcharge for State's patent # 50-65-0096			35.00
MH-25	BLM undercharge for State's patent # 1232789			225.65
MH-25	village selection in conflict with State's patented lands	AA-6698-B	T. 8 N., R. 11 W., S.M.	117.60
MH-25	Federal patent 1126684 to Marvin E. Smith in conflict with State's patented lands due to BLM administrative error. State quitclaimed to other patentee QCD #19	A-011832	T. 5 N., R. 10 W., S.M., Sec. 31	9.68
MH-25	Federal patent 1219252 to Tharon E. Saunders in conflict with State's patented lands due to BLM administrative error.	A-027942	T. 5 N., R. 9 W., S.M., Sec. 13	40.00
MH-25	Federal patent # 1230433 to William A. Peterkin in conflict with State's patented lands due to BLM administrative error. State quitclaimed to other patentee QCD# 18	A-032049	T. 5 N., R. 10 W., S.M., Sec. 7	19.21
MH-25	Federal Patent 50-66-0013 to George J. Sehm in conflict with State's patented lands due to BLM administrative error.	A-047583	T. 8 N., R. 11 W., S.M., Secs. 33 & 34	3.48

MENTAL HEALTH CASES WITH ACTIONS PENDING RESOLUTION

Mental Health File #	Explanation	Conflicting Serial#	Description	Total Conflicting Acreage
MH-25	Federal Patent #50-77-0124 to William T. See, Jr. in conflict with State's approved lands, due to BLM administrative error.	AA-000812	T. 7 N., R. 12 W., S.M., Secs. 2 & 3	120.00
MH-29	1 Native allotment in conflict with State's approved lands	F-014281	T. 1 S., R. 4 E., F.M., Sec. 9	40.00
MH-32	4 Native allotments in conflict with State's patented lands	F-002401 FF-014138 F-017139 F-09022	T. 4 S., R. 8 W., F.M., Secs. 3 & 10 T. 4 S., R. 8 W., F.M., Secs. 32 & 33 T. 5 S., R. 8 W., F.M., Sec 5 T. 4 S., R. 8 W., F.M., Sec. 10 & 11 T. 4 S., R. 8 W., F.M., Sec. 24	126.84
MH-32	BLM overcharge for State's patent #1232047			79.32
MH-33	BLM overcharge for State's patent #1220531			2.00
MH-36	7 mining claims in conflict with State's approved land	F-58553 F-58554 F-58555 F-58556 F-58557 F-58558 F-58561	T. 9 S., R. 5 W., F.M., Sec. 34 T. 9 S., R. 5 W., F.M., Sec. 34 T. 9 S., R. 5 W., F.M., Sec. 34 T. 9 S., R. 5 W., F.M., Sec. 27 T. 9 S., R. 5 W., F.M., Sec. 34 T. 9 S., R. 5 W., F.M., Sec. 34 T. 9 S., R. 5 W., F.M., Sec. 34 T. 10 S., R. 5 W., F.M., Sec. 3	240.00
MH-41	1 Native allotment in conflict with State's patented lands	AA-8015	T. 76 S., R. 91 E., C.R.M., Sec. 5	160.00

MENTAL HEALTH CASES WITH ACTIONS PENDING RESOLUTION

Mental Health File #	Explanation	Conflicting Serial#	Description	Total Conflicting Acreage
MH-42	1 Native allotment in conflict with State's patented lands	J-011252	T. 76 S., R. 91 E., C.R.M., Sec. 8	155.00
MH-42	Federal patent #1208522 issued to Thomas Moore in conflict with State's patented lands due to BLM administrative error. State quitclaimed lands to other patentee QCD #14	A-010240	Lot 1 USS 3536	.50
MH-44	BLM overcharge for patent #50-64-0220			52.00
MH-47	Federal patent #50-69-0098 issued to Seth D. Mills in conflict with State's approved land due to BLM administrative error.	A-060898	T. 56 S., R. 64 E., C.R.M. Lot 165, USS 3926	.48
MH-55	village selection in conflict with State's patented lands	AA-8485-B2	T. 17 N., R. 4 W., S.M., Sec. 30	10.00
MH-55	meanderable and/or navigable waterbodies within State's patented lands			531.00
MH-55	Federal patent #1231827, issued to Clifford R. Hartman in conflict with State's patented lands due to BLM administrative error.	A-047187	T. 17 N., R. 4 W., S.M., Sec. 31 NW1/4NW1/4SW1/4SE1/4.	4.23
MH-57	meanderable and/or navigable waterbodies within State's patented lands			430.00

MENTAL HEALTH CASES WITH ACTIONS PENDING RESOLUTION

Mental Health File #	Explanation	Conflicting Serial#	Description	Total Conflicting Acreage
MH-58	meanderable and/or navigable waterbodies within State's patented lands			110.00
MH-59	meanderable and/or navigable waterbodies within State's patented lands			110.00
MH-61	meanderable and/or navigable waterbodies within State's patented lands			325.00
MH-61	1 Native allotment in conflict with State's patented lands	A-053444	T. 13 N., R. 11 W., S.M., Secs. 30-34	149.24
MH-67	meanderable and/or navigable waterbodies within State's patented lands			280
MH-72	meanderable and/or navigable waterbodies within State's patented lands			45.00
MH-76	regional selection in conflict with State's patented lands	AA-8098-69	T. 13 N., R. 3 W., S.M., Sec. 7	27.91
MH-82	Federal patent 1210756 issued to Ketchikan Independent School District in conflict with State's patented lands due to BLM administrative error	A-028334	Lot R2 USS 2554 (T. 74 S., R. 90 E., C.R.M., Sec. 7)	.95
MH-85	1 Native allotment in conflict with State's patented lands	AA-6585	T. 64 S., R. 84 E., C.R.M., Sec. 5	120.00
MH-86	meanderable and/or navigable waterbodies within State's patented lands			800.00

MENTAL HEALTH CASES WITH ACTIONS PENDING RESOLUTION

Mental Health File #	Explanation	Conflicting Serial#	Description	Total Conflicting Acreage
MH-87	meanderable and/or navigable waterbodies within State's patented lands			495.00
MH-93	2 Native allotments in conflict with State's patented lands	AA-7606 AA-6619	T. 31 S., R. 59 E., C.R.M., Secs. 2 & 11 T. 31 S., R. 59 E., C.R.M., Sec. 11	220.00
MH-108	2 Native allotments in conflict with State's approved lands	FF-001268 FF-001282	T. 12 S., R. 24 W., F.M., Sec. 7 and USS 3315 T. 12 S., R. 25 W., F.M., Sec. 12	120.00
MH-110	meanderable and/or navigable waterbodies within State's patented lands			215.00
MH-112	meanderable and/or navigable waterbodies within State's patented lands			200.00
MH-119	regional selection in conflict with State's approved lands	AA-8098-10	T. 16 N., R. 2 E., S.M., Secs. 17, 19, 20, 30, 31	2,013.76
MH-121	BLM undercharge for patent #50-65-0216			.09
MH-122	meanderable and/or navigable waterbodies within State's patented lands			170.00
MH-124	meanderable and/or navigable waterbodies within State's patented lands			579.00
MH-125	village selection in conflict with State's approved lands	AA-8489-A	T. 20 N., R. 5 E., S.M., Secs. 5-7 & 30	4,419.29

MENTAL HEALTH CASES WITH ACTIONS PENDING RESOLUTION

Mental Health File #	Explanation	Conflicting Serial#	Description	Total Conflicting Acreage
MH-126	11 mining claims in conflict with State's approved lands	F-57295 F-57297 F-57298 F-57709 F-57710 F-57711 F-57712 F-57713 F-57714 F-57715 F-57716	T. 1 S., R. 3 W., F.M., Sec. 13 T. 1 S., R. 3 W., F.M., Sec. 13 T. 1 S., R. 3 W., F.M., Sec. 13 T. 1 S., R. 3 W., F.M., Sec. 13 T. 1 S., R. 3 W., F.M., Sec. 13 T. 1 S., R. 3 W., F.M., Sec. 12, 13 T. 1 S., R. 3 W., F.M., Sec. 12 T. 1 S., R. 3 W., F.M., Sec. 12 T. 1 S., R. 3 W., F.M., Sec. 13 T. 1 S., R. 3 W., F.M., Sec. 13 T. 1 S., R. 3 W., F.M., Sec. 13	180.00
MH-126	BLM overcharge for patent #50-66-0449			2.815
MH-126	Federal patent #1221891 issued to Bennet Zeller in conflict with State's patented lands. State quitclaimed lands to other patentee QCD #82	F-016890	T. 1 S., R. 2 W., F.M., Sec. 10	240.588
MH-126	Federal patent #1231168 issued to Hal Bernette in conflict with State's patented lands. State quitclaimed lands to other patentee QCD #74	F-022248	T. 1 S., R. 2 W., F.M., Sec. 10	
MH-126	Federal patent #1029551 issued to U.S. Smelting Refining & Mining Co. in conflict with State's patented lands. State quitclaimed lands to other patentee QCD #141	F-001747	U.S. 1992 (T. 1 S., R. 2 W., F.M., Sec. 7)	

MENTAL HEALTH CASES WITH ACTIONS PENDING RESOLUTION

Mental Health File #	Explanation	Conflicting Serial#	Description	Total Conflicting Acreage
MH-126	Federal patent #1194025 issued to Hubert Gilbert in conflict with State's patented lands. State quitclaimed lands to other patentee QCD #96	F-012403	T. 1 S., R. 2 W., F.M., Sec. 10	
MH-128	1 Native allotment in conflict with State's approved lands	AA-8185	T. 8 S., R. 13 W., S.M., Sec. 2	110.00
MH-128	village selection in conflict with State's approved lands	AA-6701-E & G	T. 8 S., R. 13 W., S.M., Sec. 2	110.00
MH-128	Soldiers additional homestead issued to Bernard R. Martin in conflict with State's patented lands. State quit-claimed lands to other applicant. Unnumbered QCD issued 9/16/64	A-033309	lot 2 USS 3924 (T. 8 S., R. 13 W., S.M., Sec. 17)	3.12
MH-129	1 Native allotment in conflict with State's approved lands	AA-7603	T. 7 S., R. 13 W., S.M., Sec. 35	90.00
MH-129	Federal patent #1231356 issued to Wesley M. Bjornsgard in conflict with State's approved lands	A-031671	USS 3912 (T. 7 S., R. 13 W., S.M., Sec. 35)	1.73
MH-167	village selection in conflict with State's patented lands	AA-8485-A	T. 18 N., R. 1 W., S.M., Secs. 18, 20, 28, 29	1,904.28
MH-170	village selection in conflict with State's approved lands	AA-8485-A	T. 14 N., R. 4 W., S.M., Sec. 12	14.34
MH-173	meanderable and/or navigable waterbodies within State's patented lands			100.00



Department of Natural Resources
Report of Land Remaining under Selection
by the State of Alaska Pursuant to
the Mental Health Enabling Act of 1956

June, 1986

This report is part of the inventory performed of mental health trust lands by the Department of Natural Resources following the Alaska Supreme Court decision of October 4, 1985 in Weiss v. State. The objective of this report is to provide the department and other interested parties with information to be used when making recommendations for conveyances to fulfill any remaining entitlement due the state under the Mental Health Enabling Act of 1956.

The selection inventory is a compilation of data from federal and state status plats, the department's (LAS) computer system, and the department's Land Title Section 1984-1986 audit of mental health selection records. No effort was made here to adjudicate selections. The values of the selection acreages described here are subject to change as a result of ongoing adjudication by state and federal agencies.

The report is broken into seven tables:

"1: Mental Health Selections Without Conflict," i.e. selections with no apparent adjudication problems.

"2: Mental Health Selections Needing Adjudication," i.e. mental health selections which have aparent adjudication problems.

"3: Mental Health Selections on Lands Already Conveyed" i.e. selections which have not yet been rejected although the land covered by the selection has already been conveyed from the federal government to either state or non-state entities.

"4: Mental Health Selections with Coexistent Selections," i.e. mental health land selections which are also covered by another selection such as a general statehood selection made by the state, or a native corporation selection.

"5: Mental Health Selections within Pre-Existing State Encumbrances," i.e. selected land which has been encumbered by a legislative designation such as a state park or game refuge or a state mining claim which will take effect should the land come into state ownership.

"6: Suspended Mental Health Selections," i.e. mental health selections which have been suspended by the Bureau of Land Management (BLM).

"7: Mental Health Selections Affected by NALA," i.e. those mental health selections which are included in the North Anchorage Land Agreement (NALA).

The tables are ordered first by meridian, (i.e. Copper River Meridian (CRM), Fairbanks Meridian (FM), and Seward Meridian (SM)), and then by township within the meridian and section that has pending selections. The state's mental health selection file number (MH #) is also listed for each selection. The total selection acreage within each section follows the selection file number. Wherever acreage values are accompanied by "±" it has been visually estimated from the BLM master title plat. Each of the seven tables has additional columns which are explained at the beginning of the section. Following the tables is a summary cross reference listing of all mental health selections.

There are a total of 146,503.02 acres of pending selections made under the Mental Health Enabling Act of 1956, including the selections affected by NALA. The breakdown of selection acreages are summarized below.

Since certain acreages have been counted in more than one category, i.e. a selection with a state co-selection, may also be pre-encumbered by state park designation, the sum of the individual columns is greater than the value of the total selection column.

	1	2	3	4	5	6	7
Total Selections	Selections Free of Conflict	Selection Requiring Adjudication	Selections Conveyed by Other Action	Selections with State or Native Co-Selection	Preenumbered Selections	Suspended Selections	Selections Affected by NALA
146,503.02	28,418.56	8,126.88	2,434.46	69,512.29	42,301.39	4,060.85	24,236.62

In addition to this report corresponding sets of BLM master title plats and state status plats were color coded to show the locations of these pending mental health land selections. The color coded plats distinguish these selections into the same categories as this report. Mental health selections on lands included in NALA are shown on separate plats. These plats may be inspected at the central office of the department's Division of Land and Water Management, Anchorage, Alaska.

1: Mental Health Selections Without Conflict

This table details all pending mental health selections which do not appear to conflict with any valid existing rights according to information depicted on BLM master title plats and state land stauts plats. As with all of the tables in this report, the information is organized by meridian, township, range, and section. The columns which follow contain the mental health selection file number, total selection acreage within a section and the non-conflicting acreage within the selection by section. Whenever the "non-conflicting acreage" for any section is less than the "total selection acreage", the remaining acreage is accounted for in one or more of the remaining tables.

1: MENTAL HEALTH SELECTIONS WITHOUT CONFLICT

Page 1 of 3

<u>M - T - R - S</u>		<u>MH #</u>	<u>Total Selection Acreage</u>	<u>Non-conflicting Acreage</u>
CRM 50S 74E	Sec. 1	179	4.51	4.51
CRM 55S 63E	Sec. 21	47	76.63	56.87
CRM 55S 63E	Sec. 25	47	100.00	100.00
CRM 55S 63E	Sec. 28	47	30.94	20.94
CRM 55S 63E	Sec. 36	47	9.59	9.59
CRM 56S 63E	Sec. 2	47	77.48	6.42
CRM 56S 63E	Sec. 3	47	20.59	8.59
CRM 56S 63E	Sec. 11	47	4.54	4.54
CRM 68S 75E	Sec. 22	172	5.03	5.03
FM 6S 7W	Sec. 4	35	636.00	636.00
FM 6S 7W	Sec. 5	35	637.00	637.00
FM 6S 7W	Sec. 8	35	637.00	637.00
FM 6S 7W	Sec. 9	35	636.00	636.00
FM 6S 7W	Sec. 16	35	636.00	636.00
FM 6S 7W	Sec. 17	35	637.00	637.00
FM 6S 7W	Sec. 20	35	637.00	637.00
FM 6S 7W	Sec. 21	35	636.00	636.00
FM 6S 7W	Sec. 28	35	636.00	636.00
FM 6S 7W	Sec. 29	35	637.00	637.00
FM 6S 7W	Sec. 32	35	638.49	638.49
FM 6S 7W	Sec. 33	35	636.00	636.00
FM 10S 6W	Sec. 5	36	320.09	320.09
FM 10S 6W	Sec. 8	36	160.00	160.00
FM 10S 6W	Sec. 10	36	320.00	320.00
FM 10S 6W	Sec. 15	36	200.00	40.00
FM 9S 5W	Sec. 1	36	640.00	640.00
FM 9S 5W	Sec. 2	36	640.00	640.00
FM 9S 5W	Sec. 3	36	640.00	640.00
FM 9S 5W	Sec. 4	36	640.00	640.00
FM 9S 5W	Sec. 5	36	698.64	698.64
FM 9S 5W	Sec. 6	36	698.64	698.64
FM 9S 6W	Sec. 1	36	694.00	694.00
FM 9S 6W	Sec. 2	36	693.52	693.52
FM 9S 6W	Sec. 3	36	693.04	693.04
FM 9S 6W	Sec. 4	36	692.52	692.52
FM 9S 6W	Sec. 5	36	692.00	692.00
FM 9S 6W	Sec. 6	36	641.87	641.87
FM 9S 6W	Sec. 15	36	160.00	80.00

1: MENTAL HEALTH SELECTIONS WITHOUT CONFLICT

Page 2 of 3

<u>M - T - R - S</u>		<u>MH #</u>	<u>Total Selection Acreage</u>	<u>Non-conflicting Acreage</u>
FM 9S 6W	Sec. 17	36	160.00	160.00
FM 9S 6W	Sec. 20	36	320.00	240.00
FM 9S 6W	Sec. 22	36	320.00	320.00
FM 9S 6W	Sec. 27	36	320.00	320.00
FM 9S 6W	Sec. 29	36	320.00	320.00
FM 9S 6W	Sec. 32	36	320.00	320.00
FM 9S 6W	Sec. 34	36	320.00	320.00
FM 12S 7W	Sec. 8	121	108.95	108.95
FM 12S 7W	Sec. 17	121	191.70	191.70
FM 12S 7W	Sec. 20	121	147.16	147.16
FM 12S 7W	Sec. 28	121	51.03	51.03
FM 12S 7W	Sec. 29	121	16.28	16.28
FM 12S 7W	Sec. 32	121	56.62	56.62
FM 18S 8W	Sec. 17	149	640.00	640.00
FM 18S 8W	Sec. 19	149	612.32	612.32
FM 18S 8W	Sec. 22	149	639.93	319.93
FM 18S 8W	Sec. 29	149	319.94	319.94
FM 18S 8W	Sec. 30	149	214.22	214.22
FM 18S 8W	Sec. 34	149	479.00	479.00
FM 18S 8W	Sec. 35	149	520.00	520.00
FM 18S 8W	Sec. 36	149	521.20	521.20
FM 1N 3W	Sec. 12	126	1.36	1.36
FM 1N 3W	Sec. 13	126	17.00	17.00
SM 16N 1E	Sec. 19	90	246.62	246.62
SM 4S 1E	Tract A	156	27.00	27.00
SM 7S 13W	Sec. 22	129	5.00	5.00
SM 27S 21W	Sec. 7	175	2.00	2.00
SM 27S 21W	Sec. 18	175	93.00	93.00
SM 27S 21W	Sec. 19	175	307.00	307.00
SM 27S 21W	Sec. 20	175	422.00	422.00
SM 27S 21W	Sec. 21	175	210.00	210.00
SM 27S 21W	Sec. 27	175	5.00	5.00
SM 27S 21W	Sec. 28	175	440.00	440.00
SM 27S 21W	Sec. 29	175	640.00	640.00
SM 27S 21W	Sec. 30	175	628.50	628.50
SM 27S 21W	Sec. 31	175	630.03	630.03
SM 27S 21W	Sec. 32	175	640.00	640.00

1: MENTAL HEALTH SELECTIONS WITHOUT CONFLICT

Page 3 of 3

<u>M - T - R - S</u>		<u>MH #</u>	<u>Total Selection Acreage</u>	<u>Non-conflicting Acreage</u>
SM 27S 21W	Sec. 33	175	640.00	640.00
SM 27S 21W	Sec. 34	175	65.00	65.00
SM 5N 8W	Sec. 8	25	160.00	160.00
SM 5N 9W	Sec. 4	25	40.00	40.00
SM 5N 9W	Sec. 5	25	160.40	160.40
			<u>29,160.77</u> Total	<u>28,418.56</u> Total

2: Mental Health Selections Needing Adjudication

Table 2 lists all mental health selections that may not be valid due to possible conflicts with a pre-existing Public Land Order (PLO), Executive Order (EO), Native allotment (NA) or federal mining claim; or are the subject of a BLM-State record discrepancy. If there is an acreage discrepancy, state figures are used in this report. No attempt is made here to adjudicate these cases, but only to identify them.

The reader will note that acreage values for selections which conflict with federal mining claims are lacking. Generally, federal mining claimants only file a generalized location map and describe the claim location to the nearest quarter-section. Therefore conflicting acreage within a particular section cannot be readily determined.

Of particular interest are selections which encompass portions of the Richardson Highway and Denali National Park and Preserve.

An initial title report prepared² by Department of Natural Resources, Division of Technical Services, Title Administration Unit found that the state's selection on 6,095 acres in FM, 18S, 8W within the expanded boundaries of Denali National Park and Preserve appear to be valid.

2: MENTAL HEALTH SELECTIONS NEEDING ADJUDICATION

Page 1 of 1

<u>M - T - R - S</u>	<u>MH #</u>	<u>Total Selection Acreage</u>	<u>Adjudication Acreage</u>	<u>Conflict</u>
FM 1S 4E Sec. 3	28	101.56	101.56	BLM shows 262.63 acres selected, State shows 222 acres selected
FM 1S 4E Sec. 10	28	120.00	120.00	BLM shows 262.63 acres selected, State shows 222 acres selected
FM 6S 4E Sec. 12	44	310.77	75.70	Conflict with PLO 963
FM 10S 6W Sec. 3	36	319.75		Federal mining claims
FM 10S 6W Sec. 4	36	640.04		Federal mining claims
FM 10S 6W Sec. 9	36	640.00		Federal mining claims
FM 10S 6W Sec. 18	36	264.13		Federal mining claims
FM 4S 8W Sec. 14	32	263.22	27.06	Native Allotment apIn F-035085
FM 4S 8W Sec. 24	32	9.96	4.00	Native Allotment apIn F-09022
FM 9S 6W Sec. 21	36	640.00		Federal mining claims
FM 9S 6W Sec. 28	36	640.00		Federal mining claims
FM 18S 8W Sec. 1	149	716.29	430.00±	Inside Denali National Park and Preserve
FM 18S 8W Sec. 2	149	640.00	640.00	Inside Denali National Park and Preserve
FM 18S 8W Sec. 3	149	640.00	640.00	Inside Denali National Park and Preserve
FM 18S 8W Sec. 4	149	640.00	640.00	Inside Denali National Park and Preserve
FM 18S 8W Sec. 5	149	640.00	640.00	Inside Denali National Park and Preserve
FM 18S 8W Sec. 6	149	607.00	607.00	Inside Denali National Park and Preserve
FM 18S 8W Sec. 7	149	608.00	608.00	Inside Denali National Park and Preserve
FM 18S 8W Sec. 8	149	640.00	640.00	Inside Denali National Park and Preserve
FM 18S 8W Sec. 9	149	640.00	640.00	Inside Denali National Park and Preserve
FM 18S 8W Sec. 18	149	610.00	610.00	Inside Denali National Park and Preserve
FM 18S 8W Sec. 31	149	678.00	258.56	Conflict with Rev/Rest apIn 012915
FM 1N 3W Sec. 20	126	480.00	310.00	Conflict with PLO 963
SM 3S 1W Sec. 35	156	50.00	50.00	Conflict with PLO 3881/E04223
SM 3S 1W Sec. 36	156	50.00	30.00	Conflict with PLO 3881/E04223
SM 4S 1W Tract A	156	990.00	990.00	Conflict with PLO 3881/E04223
SM 16N 1W Sec. 24	90	614.61	65.00±	Conflict with PLO 2259
		<u>13,193.33</u>	<u>8,126.88±</u> Total	

3: Mental Health Selections on Lands Already Conveyed

Table 3 lists all mental health selections which are pending on lands that have already been conveyed to state or non-state entities. The fourth column of this table shows the acreage amount already conveyed within each township, section, and mental health number. Conveyance may have been made by patent, tentative approval, interim conveyance, or quit claim deed (QCD). The comments column gives information concerning the conveyance. Because these lands have already been conveyed, they are unavailable for conveyance to the state under the Mental Health Enabling Act. Therefore these selections need to be relinquished by the state or rejected by BLM in order to close the case files.

3: MENTAL HEALTH SELECTIONS ON LANDS CONVEYED BY OTHER ACTION

Page 1 of 1

<u>M - T - R - S</u>	<u>MH #</u>	<u>Total Selection Acreage</u>	<u>Conveyed Selection Acreage</u>	<u>Comments</u>
CRM 28S 53E Sec. 24	16	44.49	44.49	Patented to non-state
CRM 28S 54E Sec. 16	16	100.00	100.00	Patented to non-state
CRM 28S 54E Sec. 21	16	117.37	94.88	Patented to non-state
CRM 55S 63E Sec. 21	47	76.63	19.76	Patented to non-state
CRM 55S 63E Sec. 28	47	30.94	10.00	Patented to non-state
CRM 55S 63E Sec. 34	47	101.78	50.00±	QCD to non-state (AA 9909)
CRM 55S 63E Sec. 35	47	75.00	9.70	QCD to non-state (AA 9909)
CRM 56S 63E Sec. 1	47	3.56	1.61	QCD to non-state (AA 39660 and AA 39596)
CRM 56S 63E Sec. 2	47	77.48	13.10	QCD from US (AA 50236)
CRM 56S 63E Sec. 3	47	20.59	10.00	QCD from US (AA 9907)
FM 2N 7E Sec. 1	116	35.00±	35.00±	Patented to non-state
FM 2N 7E Sec. 12	116	12.00±	12.00±	Patented to non-state
FM 6S 4E Sec. 2	44	325.75	42.92	25' wide QCD to non-state; and Omnibus Act conveyed to state (F 13508)
FM 6S 4E Sec. 10	44	1.35	1.35	Omnibus Act conveyed to State
FM 6S 4E Sec. 11	44	361.04	15.44	25' wide QCD to non-state; and Omnibus Act conveyed to state (F 13508)
FM 6S 4E Sec. 25	44	5.00±	5.00	25' wide QCD to non-state; and Omnibus Act conveyed to state (F 13508)
FM 1N 3W Sec. 20	126	480.00	310.00	Native Interim Conveyances and Patents
FM 1S 3W Sec. 1	126	200.15	79.73	Patented Under GS-36
FM 1S 3W Sec. 9	126	5.00	5.00	Patented Under GS-36
FM 2S 5W Sec. 26	9	60.00±	43.00	Tentatively Approved under GS-17
FM 2S 5W Sec. 26	9	60.00±	17.00	Conveyed by Cert of Allot 60-66-0488
FM 4S 8W Sec. 14	32	263.22	10.55	Patented to non-state
SM 16N 1E Sec. 19	90	246.62	146.62	Native Interim Conveyances and Patents
SM 19N 3E Sec. 24	124	271.21	2.17	QCD to non-state (AA 55130)
SM 7N 12W Sec. 24	25	160.00	160.00	Patented to non-state
SM 8N 10W Sec. 28	25	40.00	40.00	Patented to non-state
SM 8N 10W Sec. 24	25	160.00	160.00	Patented to non-state
SM 13N 11W Sec. 30	62	10.00	10.00	Mineral estate patented to non-state (Lot 1 USS 3964)
SM 16N 1W Sec. 23	90	203.84	161.98	Conveyed to non-state
SM 16N 1W Sec. 24	90	614.61	406.51	Native Interim Conveyances and Patents
SM 16N 1W Sec. 25	90	465.00	465.00	Native Interim Conveyances and Patents
		<u>4,627.64</u>	<u>2,434.46</u> Total	

4: Mental Health Selections with Coexistent Selections

Table 4 lists all mental health selections which are also under selection either by the state under its statehood entitlement (GS or ME), or by village or regional Native corporations under the Alaska Native Claim Settlement Act (ANCSA) entitlements. The fourth column shows the acreage for that portion of a mental health selection covered by coexistent selections, and the fifth column describes the coexistent selection as state (S) or Native (N). The comments column gives some details about the state or Native selections obtained from the BLM master title plats, BLM computer and state LAS computer system. ANCSA selection applications are described either as village selection applications (Vil/Sel apln) or regional selection applications (Reg/Sel apln) and are followed by the name of the organization making the selection.

Certain state co-selections are described as "Top filed" in the comments column (i.e. GS-15). Top filing was authorized under the Alaska National Interest Lands Conservation Act (ANILCA). Top filing was generally applied to entire townships and allowed the state to select any lands available on the date of top filing or any lands that became available after the date of top filing. Therefore, anywhere mental health selections co-exist with state top filed selections the state has the option of exercising either selection. However, wherever mental health selections coexist with state selections which are not top filings the selection filed first is the valid selection.

4: MENTAL HEALTH SELECTIONS WITH COEXISTENT SELECTIONS

Page 1 of 5

<u>M - T - R - S</u>	<u>MH #</u>	<u>Total Selection Acreage</u>	<u>Coexistent Selection Acreage</u>	<u>Coexistent Selection Type</u>	<u>Comments</u>
- CRM 55S 63E Sec. 34	47	101.78	51.78±	N	Vil/Sel ap'n AA-9206-A, Shee Atika, Inc.
CRM 55S 63E Sec. 35	47	75.00	65.30±	N	Vil/Sel ap'n AA-9206-A, Shee Atika, Inc.
CRM 56S 63E Sec. 2	47	77.48	58.00±	N	Vil/Sel ap'n AA 9206-A, Shee Atika, Inc.
CRM 56S 63E Sec. 3	47	20.59	2.00±	N	
FM 1S 4E Sec. 3	28	101.56	101.56	S	GS-537 and GS-1208 top filing 8/17/81
FM 1S 4E Sec. 10	28	120.00	120.00	S	GS-537 and GS-1208 top filing 8/17/81
FM 6S 4E Sec. 2	44	325.75	325.75	S	GS-2274 top filing 8/17/81
FM 6S 4E Sec. 11	44	361.04	361.04	S	GS-2274 top filing 8/17/81
FM 6S 4E Sec. 12	44	310.77	310.77	S	GS-2274 top filing 8/17/81
FM 6S 4E Sec. 13	44	40.00	40.00	S	GS-2274 top filing 8/17/81
FM 6S 4E Sec. 25	44	5.00	5.00	S	GS-2274 top filing 8/17/81
FM 1S 2W Sec. 3	126	86.00	86.00	S	GS-509 top filing 8/17/81
FM 1S 2W Sec. 4	126	146.55	146.55	S	GS-509 top filing 8/17/81
FM 1S 2W Sec. 5	126	353.16	353.16	S	GS-509 top filing 8/17/81
FM 1S 2W Sec. 6	126	309.18	309.18	S	GS-509 top filing 8/17/81
FM 1S 2W Sec. 7	126	15.02	15.02	S	GS-509 top filing 8/17/81
FM 1S 2W Sec. 8	126	32.21	32.21	S	GS-509 top filing 8/17/81
FM 1S 2W Sec. 9	126	23.41	23.41	S	GS-509 top filing 8/17/81
FM 1S 2W Sec. 10	126	1.04	1.04	S	GS-509 top filing 8/17/81
FM 1S 3W Sec. 1	126	200.15	80.23	S	GS-36 top filing 8/17/81
FM 1S 3W Sec. 2	126	80.00	80.00	S	GS-36 top filing 8/17/81
FM 1S 3W Sec. 11	126	80.00	80.00	S	GS-36 top filing 8/17/81
FM 1S 3W Sec. 12	126	80.00	80.00	S	GS-36 top filing 8/17/81
FM 1S 3W Sec. 13	126	80.00	80.00	S	GS-36 top filing 8/17/81
FM 4S 8W Sec. 14	32	263.22	263.22	S & N	GS-4; top filing 8/17/81, Vil/Sel ap'l F-14903-A, Toghettehele Corp.
FM 4S 8W Sec. 15	32	80.00	80.00	N	Vil/Sel ap'n F-14903-A, Toghettehele Corp.
FM 4S 8W Sec. 22	32	79.32	79.32	N	Vil/Sel ap'n F-14903-A, Toghettehele Corp.
FM 4S 8W Sec. 24	32	9.96	9.96	N	Vil/Sel ap'n F-14903-A, Toghettehele Corp.
FM 4S 8W Sec. 26	32	40.00	40.00	N	Vil/Sel ap'n F-14903-A, Toghettehele Corp.
FM 4S 8W Sec. 34	32	84.56	84.56	N	Vil/Sel ap'n F-14903-A, Toghettehele Corp.

4: MENTAL HEALTH SELECTIONS WITH COEXISTENT SELECTIONS

Page 2 of 5

<u>M - T - R - S</u>	<u>MH #</u>	<u>Total Selection Acreage</u>	<u>Coexistent Selection Acreage</u>	<u>Coexistent Selection Type</u>	<u>Comments</u>	
FM 6S 7W	Sec. 1	35	636.00	636.00	S	GS-3603 top filing 10/29/81
FM 6S 7W	Sec. 2	35	636.00	636.00	S	GS-3603 top filing 10/29/81
FM 6S 7W	Sec. 3	35	636.00	636.00	S	GS-3603 top filing 10/29/81
FM 6S 7W	Sec. 6	35	588.04	588.04	N	Vil/Sel ap'n F-14903-E, Togh Corp.
FM 6S 7W	Sec. 7	35	477.08	477.08	N	Vil/Sel ap'n F-14903-E, Togh Corp.
FM 6S 7W	Sec. 10	35	636.00	636.00	S	GS-3603 top filing 10/29/81
FM 6S 7W	Sec. 11	35	636.00	636.00	S	GS-3603 top filing 10/29/81
FM 6S 7W	Sec. 12	35	636.00	636.00	S	GS-3603 top filing 10/29/81
FM 6S 7W	Sec. 13	35	636.00	636.00	S	GS-3603 top filing 10/29/81
FM 6S 7W	Sec. 14	35	636.00	636.00	S	GS-3603 top filing 10/29/81
FM 6S 7W	Sec. 15	35	636.00	636.00	S	GS-3603 top filing 10/29/81
FM 6S 7W	Sec. 18	35	614.43	614.43	N	Vil/Sel ap'n F-14903-E, Togh Corp.
FM 6S 7W	Sec. 19	35	227.40	227.40	N	Vil/Sel ap'n F-14903-E, Togh Corp.
FM 6S 7W	Sec. 22	35	636.00	636.00	S	GS-3603 top filing 10/29/81
FM 6S 7W	Sec. 23	35	636.00	636.00	S	GS-3603 top filing 10/29/81
FM 6S 7W	Sec. 24	35	636.00	636.00	S	GS-3603 top filing 10/29/81
FM 6S 7W	Sec. 25	35	636.00	636.00	S	GS-3603 top filing 10/29/81
FM 6S 7W	Sec. 26	35	636.00	636.00	S	GS-3603 top filing 10/29/81
FM 6S 7W	Sec. 27	35	636.00	636.00	S	GS-3603 top filing 10/29/81
FM 6S 7W	Sec. 30	35	527.72	527.72	N	Vil/Sel ap'n F-14903-E, Togh Corp.
FM 6S 7W	Sec. 31	35	615.79	615.79	N	Vil/Sel ap'n F-14903-E, Togh Corp.
FM 6S 7W	Sec. 34	35	636.00	636.00	S	GS-3603 topfiling 10/29/81 a
FM 6S 7W	Sec. 35	35	636.00.	636.00	S	GS-3603 topfiling 10/29/81 a
FM 6S 7W	Sec. 36	35	636.00	636.00	S	GS-3603 topfiling 10/29/81 a
FM 6S 8W	Sec. 29	34	640.00	640.00	S	GS-15 top filing 8/17/81
FM 6S 8W	Sec. 30	34	465.45	465.45	S	GS-15 top filing 8/17/81
FM 6S 8W	Sec. 31	34	281.08	281.08	S	GS-15 top filing 8/17/81
FM 6S 8W	Sec. 4	34	640.00	640.00	S	GS-15 top filing 8/17/81
FM 6S 8W	Sec. 9	34	640.00	640.00	S	GS-15 top filing 8/17/81
FM 6S 8W	Sec. 15	34	50.00	50.00	S	GS-15 top filing 8/17/81
FM 6S 8W	Sec. 16	34	640.00	640.00	S	GS-15 top filing 8/17/81
FM 6S 8W	Sec. 17	34	388.40	388.40	S	GS-15 top filing 8/17/81
FM 6S 8W	Sec. 19	34	138.84	138.84	S	GS-15 top filing 8/17/81
FM 6S 8W	Sec. 20	34	622.65	622.65	S	GS-15 top filing 8/17/81

4: MENTAL HEALTH SELECTIONS WITH COEXISTENT SELECTIONS

Page 3 of 5

<u>M - T - R - S</u>	<u>MH #</u>	<u>Total Selection Acreage</u>	<u>Coexistent Selection Acreage</u>	<u>Coexistent Selection Type</u>	<u>Comments</u>
FM 6S 8W Sec. 21	34	480.00	480.00	S	GS-15 top filing 8/17/81
FM 18S 8W Sec. 1	149	716.29	286.29	N	Vi1/Sel apln F-14844-A and A2, Yadetena Corp.
FM 18S 8W Sec. 10	149	640.00	640.00	N	Vi1/Sel apln F-14844-A2, Yadetena Corp.
FM 18S 8W Sec. 11	149	640.00	640.00	N	Vi1/Sel apln F-14844-A and A2, Yadetena Corp.
FM 18S 8W Sec. 12	149	716.29	716.29	N	Vi1/Sel apln F-14844-A, Yadetena Corp.
FM 18S 8W Sec. 13	149	716.00	716.00	N	Vi1/Sel apln F-14844-A, Yadetena Corp.
FM 18S 8W Sec. 14	149	640.00	640.00	N	Vi1/Sel apln F-14844-A, Yadetena Corp.
FM 18S 8W Sec. 15	149	640.00	640.00	N	Vi1/Sel apln F-14844-A, Yadetena Corp.
FM 18S 8W Sec. 16	149	640.00	640.00	N	Vi1/Sel apln F-14844-A and A2, Yadetena Corp.
FM 18S 8W Sec. 20	149	364.82	364.82	N	Vi1/Sel apln F-14844-A2, Yadetena Corp.
FM 18S 8W Sec. 21	149	545.42	545.42	N	Vi1/Sel apln F-14844-A, Yadetena Corp.
FM 18S 8W Sec. 22	149	639.93	320.00	N	Vi1/Sel apln F-14844-A, Yadetena Corp.
FM 18S 8W Sec. 23	149	640.00	640.00	N	Vi1/Sel apln F-14844-A2, Yadetena Corp.
FM 18S 8W Sec. 24	149	716.00	716.00	N	Vi1/Sel apln F-14844-A2, Yadetena Corp.
FM 18S 8W Sec. 25	149	820.00	820.00	N	Vi1/Sel apln F-14844-A2, Yadetena Corp.
FM 18S 8W Sec. 26	149	758.00	758.00	N	Vi1/Sel apln F-14844-A2, Yadetena Corp.
FM 18S 8W Sec. 27	149	758.00	758.00	N	Vi1/Sel apln F-14844-A, Yadetena Corp.
FM 18S 8W Sec. 28	149	627.03	627.03	N	Vi1/Sel apln F-14844-A, Yadetena Corp.
FM 18S 8W Sec. 31	149	678.00	419.44	N	Vi1/Sel apln F-14844-A and A2, Yadetena Corp.
FM 18S 8W Sec. 32	149	758.00	758.00	N	Vi1/Sel apln F-14844-A, Yadetena Corp.
FM 18S 8W Sec. 33	149	819.00	819.00	N	Vi1/Sel apln F-14844-A, Yadetena Corp.
FM 1N 2W Sec. 22	126	40.00	40.00	S	GS-958 topfiling 8/17/81
FM 1N 2W Sec. 30	126	348.28	268.28	S	GS-958 topfiling 8/17/81
FM 1N 3W Sec. 20	126	310.00	310.00	S	GS-30 topfiling 8/17/81
SM 3S 1W Sec. 25	156	200.00	200.00	S	ME apln A-058732 State selected mineral estate only
SM 3S 1W Sec. 35	156	50.00	50.00	S	ME State selected mineral estate only
SM 3S 1W Sec. 36	156	50.00	50.00	S	ME State selected mineral estate only
SM 4S 1W Tract	156	990.00	990.00	S	ME State selected mineral estate only
SM 5N 10W Sec. 5	25	40.00	40.00	N	Reg/Sel apln AA-11153-23 and AA 20298, CIRI
SM 6N 11W Sec. 4	25	200.00	200.00	N	Reg/Sel apln AA-20297, CIRI
SM 6N 11W Sec. 5	25	240.00	240.00	N	Reg/Sel apln AA-20297, CIRI
SM 6N 11W Sec. 7	25	400.00	80.00	N	Reg/Sel apln AA-20297, CIRI

4: MENTAL HEALTH SELECTIONS WITH COEXISTENT SELECTIONS

Page 4 of 5

<u>M - T - R - S</u>	<u>MH #</u>	<u>Total Selection Acreage</u>	<u>Coexistent Selection Acreage</u>	<u>Coexistent Selection Type</u>	<u>Comments</u>
SM 6N 11W Sec. 8	25	480.00	480.00	N	Reg/Sel apIn AA-20297, CIRI
SM 6N 11W Sec. 9	25	280.00	280.00	N	Reg/Sel apIn AA-20297, CIRI
SM 13N 1W Sec. 1	154	239.77	239.77	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 2	154	640.00	640.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 3	154	600.00	600.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 4	154	100.00	100.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 5	154	600.00	600.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 6	154	355.49	355.49	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 7	154	635.82	635.82	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 8	154	640.00	640.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 9	154	470.00	470.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 10	154	342.50	342.50	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 11	154	625.00	625.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 12	154	640.00	640.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 13	154	640.00	640.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 14	154	600.00	600.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 15	154	230.00	230.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 16	154	640.00	640.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 17	154	640.00	640.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 18	154	638.05	638.05	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 19	154	640.27	640.27	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 20	154	640.00	640.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 21	154	640.00	640.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 22	154	460.00	460.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 23	154	410.00	410.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 24	154	635.00	635.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 25	154	625.00	625.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 26	154	640.00	640.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 27	154	640.00	640.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 28	154	640.00	640.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 29	154	640.00	640.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 30	154	642.50	642.50	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 31	154	644.73	644.73	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 32	154	640.00	640.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 33	154	640.00	640.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 34	154	640.00	640.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 35	154	640.00	640.00	S	GS-2868 top filing 10/29/81
SM 13N 1W Sec. 36	154	540.00	540.00	S	GS-2868 top filing 10/29/81
SM 13N 11W Sec. 30	62	10.00	10.00	S	ME State selected mineral estate only
SM 14N 1W Sec. 1	150	640.00	640.00	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 2	150	640.00	640.00	S	GS-2871 top filing 10/29/81

4: MENTAL HEALTH SELECTIONS WITH COEXISTENT SELECTIONS

Page: 5 of 5

<u>M - T - R - S</u>	<u>MH #</u>	<u>Total Selection Acreage</u>	<u>Coexistent Selection Acreage</u>	<u>Coexistent Selection Type</u>	<u>Comments</u>
SM 14N 1W Sec. 3	150	480.00	480.00	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 4	150	640.00	640.00	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 5	150	392.89	392.89	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 9	150	40.00	40.00	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 10	150	640.00	640.00	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 11	150	640.00	640.00	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 12	150	640.00	640.00	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 13	150	640.00	640.00	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 14	150	500.00	500.00	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 15	150	280.00	280.00	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 24	150	450.00	450.00	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 27	150	90.00	90.00	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 28	150	70.00	70.00	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 29	150	520.00	520.00	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 30	150	628.60	628.60	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 31	150	551.23	551.23	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 32	150	640.00	640.00	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 33	150	160.00	160.00	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 34	150	400.91	400.91	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 35	150	230.84	230.85	S	GS-2871 top filing 10/29/81
SM 14N 1W Sec. 36	150	160.00	160.00	S	GS-2871 top filing 10/29/81
SM 16N 1W Sec. 23	90	203.84	41.86	N	Vil/Sel apIn AA-6661-C; Eklutna, Inc.
SM 16N 1W Sec. 24	90	614.61	208.10	N	Vil/Sel apIn AA-6661-C; Eklutna, Inc.
SM 19N 3E Sec. 24	124	271.21	271.21	N	Vil/Sel apIn AA 8489-A, Chikaloon Vil. Corp.
SM 19N 3E Sec. 26	124	<u>80.00</u>	80.00	N	Vil/Sel apIn AA 8489-A, Chikaloon Vil. Corp.

71,707.26 Total

263.22 Both State and Native Coexistent Selections
 51,342.23 Coexistent State Selections
 17,906.84 Coexistent Native Selections
69,512.29 Sum Total Co-Existent Selections

5: Mental Health Selections with Pre-Existing State Encumbrances

Table 5 lists all mental health selections which have pre-existing state created encumbrances. The fourth column of the table lists the encumbered selection acreage and the fifth column gives the encumbrance type. The encumbrance types fall into two categories; state mining claims, and Chugach State Park. Selections encumbered by the North Anchorage Land Agreement (NALA) are listed separately in table 7 and certain of these are further encumbered by Chugach State Park or Palmer Hay Flats designations.

Mining claims can be staked on state selected land under AS 38.04.275. Section 11 AAC 86.115 of the Alaska Administrative Code clarifies that these claims are simply preference rights which vest with tentative approval of the selection unless precluded from doing so by the tentative approval or a state mineral closure. All mental health lands are currently closed to mineral entry by court order.

In some mining claim cases the encumbered acreage value shown is less than expected assuming 40 acres per claim for any given number of claims. In these instances mining claims overlap and the given value represents the actual encumbered acreage, not the product of the number of mining claims times 40 acres. Additionally, some claims are actually smaller than 40 acres.

In the cases where selections are encumbered as Chugach State Park, the legislature has already designated these as park land under AS 41.21.121 should the state ever gain title to these lands.

5: MENTAL HEALTH SELECTIONS WITH PRE-EXISTING STATE ENCUMBRANCES

Page 1 of 3

<u>M - T - R - S</u>		<u>MH #</u>	<u>Total Selection Acreage</u>	<u>Encumbered Acreage</u>	<u>Encumbrance</u>
FM 1S 3W	Sec. 1	126	200.15	159.96	Four state mining claims
FM 1S 3W	Sec. 13	126	80.00	40.00	One state mining claim
FM 9S 6W	Sec. 20	36	320.00	80.00	Three state mining claims
FM 9S 6W	Sec. 21	36	640.00	200.00	Six state mining claims
FM 9S 6W	Sec. 28	36	640.00	280.00	Seven state mining claims
FM 9S 6W	Sec. 15	36	160.00	80.00	Three state mining claims
FM 10S 6W	Sec. 4	36	640.04	199.97	Five state mining claims
FM 10S 6W	Sec. 9	36	640.00	280.00	Seven state mining claims
FM 10S 6W	Sec. 15	36	200.00	160.00	Four state mining claims
FM 10S 6W	Sec. 17	36	280.00	280.00	Seven state mining claims
FM 10S 6W	Sec. 18	36	264.13	264.13	Seven state mining claims
FM 10S 6W	Sec. 22	36	240.00	240.00	Six state mining claims
FM 10S 6W	Sec. 27	36	240.00	240.00	Six state mining claims
FM 10S 6W	Sec. 28	36	40.00	40.00	One state mining claims
SM 15N 2E	Sec. 1	176	640.00	640.00	Chugach State Park
SM 15N 2E	Sec. 2	176	640.00	640.00	Chugach State Park
SM 15N 2E	Sec. 3	176	640.00	640.00	Chugach State Park
SM 15N 2E	Sec. 12	176	640.00	640.00	Chugach State Park
SM 15N 2E	Sec. 19	176	614.48	614.48	Chugach State Park
SM 15N 2E	Sec. 20	176	640.00	640.00	Chugach State Park
SM 15N 2E	Sec. 21	176	640.00	640.00	Chugach State Park
SM 15N 2E	Sec. 27	176	640.00	640.00	Chugach State Park
SM 15N 2E	Sec. 28	176	640.00	640.00	Chugach State Park
SM 15N 2E	Sec. 29	176	640.00	640.00	Chugach State Park
SM 15N 2E	Sec. 30	176	616.24	616.24	Chugach State Park
SM 15N 2E	Sec. 31	176	618.00	618.00	Chugach State Park
SM 15N 2E	Sec. 32	176	640.00	640.00	Chugach State Park
SM 15N 2E	Sec. 33	176	640.00	640.00	Chugach State Park
SM 15N 2E	Sec. 34	176	640.00	640.00	Chugach State Park
SM 13N 1W	Sec. 1	154	239.77	239.77	Chugach State Park
SM 13N 1W	Sec. 2	154	640.00	640.00	Chugach State Park
SM 13N 1W	Sec. 3	154	600.00	600.00	Chugach State Park
SM 13N 1W	Sec. 4	154	100.00	100.00	Chugach State Park
SM 13N 1W	Sec. 5	154	600.00	600.00	Chugach State Park
SM 13N 1W	Sec. 6	154	355.49	355.49	Chugach State Park
SM 13N 1W	Sec. 7	154	635.82	635.82	Chugach State Park
SM 13N 1W	Sec. 8	154	640.00	640.00	Chugach State Park

5: MENTAL HEALTH SELECTIONS WITH PRE-EXISTING STATE ENCUMBRANCES

Page 2 of 3

<u>M - T - R - S</u>		<u>M/A #</u>	<u>Total Selection Acreage</u>	<u>Encumbered Acreage</u>	<u>Encumbrance</u>
SM 13N 1W	Sec. 9	154	470.00	470.00	Chugach State Park
SM 13N 1W	Sec. 10	154	342.50	342.50	Chugach State Park
SM 13N 1W	Sec. 11	154	625.00	625.00	Chugach State Park
SM 13N 1W	Sec. 12	154	640.00	640.00	Chugach State Park
SM 13N 1W	Sec. 13	154	640.00	640.00	Chugach State Park
SM 13N 1W	Sec. 14	154	600.00	600.00	Chugach State Park
SM 13N 1W	Sec. 15	154	230.00	230.00	Chugach State Park
SM 13N 1W	Sec. 16	154	640.00	640.00	Chugach State Park
SM 13N 1W	Sec. 17	154	640.00	640.00	Chugach State Park
SM 13N 1W	Sec. 18	154	638.05	638.05	Chugach State Park
SM 13N 1W	Sec. 19	154	640.27	640.27	Chugach State Park
SM 13N 1W	Sec. 20	154	640.00	640.00	Chugach State Park
SM 13N 1W	Sec. 21	154	640.00	640.00	Chugach State Park
SM 13N 1W	Sec. 22	154	460.00	460.00	Chugach State Park
SM 13N 1W	Sec. 23	154	410.00	410.00	Chugach State Park
SM 13N 1W	Sec. 24	154	635.00	635.00	Chugach State Park
SM 13N 1W	Sec. 25	154	625.00	625.00	Chugach State Park
SM 13N 1W	Sec. 26	154	640.00	640.00	Chugach State Park
SM 13N 1W	Sec. 27	154	640.00	640.00	Chugach State Park
SM 13N 1W	Sec. 28	154	640.00	640.00	Chugach State Park
SM 13N 1W	Sec. 29	154	640.00	640.00	Chugach State Park
SM 13N 1W	Sec. 30	154	642.50	642.50	Chugach State Park
SM 13N 1W	Sec. 31	154	644.73	644.73	Chugach State Park
SM 13N 1W	Sec. 32	154	640.00	640.00	Chugach State Park
SM 13N 1W	Sec. 33	154	640.00	640.00	Chugach State Park
SM 13N 1W	Sec. 34	154	640.00	640.00	Chugach State Park
SM 13N 1W	Sec. 35	154	640.00	640.00	Chugach State Park
SM 13N 1W	Sec. 36	154	540.00	540.00	Chugach State Park
SM 14N 1W	Sec. 1	150	640.00	640.00	Chugach State Park
SM 14N 1W	Sec. 2	150	640.00	640.00	Chugach State Park
SM 14N 1W	Sec. 3	150	480.00	480.00	Chugach State Park
SM 14N 1W	Sec. 4	150	640.00	640.00	Chugach State Park
SM 14N 1W	Sec. 5	150	392.89	332.89	Chugach State Park
SM 14N 1W	Sec. 10	150	640.00	640.00	Chugach State Park
SM 14N 1W	Sec. 11	150	640.00	640.00	Chugach State Park
SM 14N 1W	Sec. 12	150	640.00	640.00	Chugach State Park
SM 14N 1W	Sec. 13	150	640.00	640.00	Chugach State Park
SM 14N 1W	Sec. 14	150	500.00	480.00	Chugach State Park

5: MENTAL HEALTH SELECTIONS WITH PRE-EXISTING STATE ENCUMBRANCES

Page 3 of 3

<u>M - T - R - S</u>		<u>MH #</u>	<u>Total Selection Acreage</u>	<u>Encumbered Acreage</u>	<u>Encumbrance</u>
SM 14N 1W	Sec. 15	150	280.00	280.00	Chugach State Park
SM 14N 1W	Sec. 24	150	450.00	450.00	Chugach State Park
SM 14N 1W	Sec. 27	150	90.00	90.00	Chugach State Park
SM 14N 1W	Sec. 28	150	70.00	70.00	Chugach State Park
SM 14N 1W	Sec. 29	150	520.00	520.00	Chugach State Park
SM 14N 1W	Sec. 30	150	628.60	628.60	Chugach State Park
SM 14N 1W	Sec. 31	150	551.23	551.23	Chugach State Park
SM 14N 1W	Sec. 32	150	640.00	640.00	Chugach State Park
SM 14N 1W	Sec. 33	150	160.00	160.00	Chugach State Park
SM 14N 1W	Sec. 34	150	400.91	400.91	Chugach State Park
SM 14N 1W	Sec. 35	150	230.85	230.85	Chugach State Park
SM 14N 1W	Sec. 36	150	160.00	160.00	Chugach State Park
			<u>44,001.65</u>	Total	

2,544.06 State Mining Claims
 39,757.33 Chugach State Park
42,301.39 Sum Total Encumbered Acreage

6: Suspended Acreages

Table six lists all mental health selections that were suspended by BLM. Rather than reject or approve the mental health selection, the BLM suspended the selection pending adjudication of the land availability. BLM uses this action inconsistently and therefore this table does not necessarily include all mental health selections in need of adjudication.

6: SUSPENDED MENTAL HEALTH SELECTIONS

Page 1 of 1

<u>M - T - R - S</u>		<u>MH #</u>	<u>Total Selection Acreage</u>	<u>Suspended Acreage</u>
CRM 28S 53E	Sec. 24	16	44.49	44.49
CRM 28S 53E	Sec. 16	16	100.00	100.00
CRM 28S 54E	Sec. 21	16	117.37	94.88
CRM 28S 54E	Sec. 22	16	33.37	33.37
CRM 28S 55E	Sec. 22	16	50.00	50.00
CRM 28S 55E	Sec. 25	16	26.36	26.36
CRM 28S 55E	Sec. 27	16	67.99	67.99
CRM 28S 56E	Sec. 29	16	7.17	7.17
CRM 28S 56E	Sec. 30	16	9.18	9.18
CRM 28S 56E	Sec. 31	16	28.69	28.69
FM 1N 2W	Sec. 21	126	230.51	230.51
FM 1N 2W	Sec. 30	126	348.28	120.00
FM 1N 2W	Sec. 31	126	120.00	120.00
FM 1N 3W	Sec. 15	126	148.48	148.48
FM 1N 3W	Sec. 20	126	480.00	170.00
FM 1N 3W	Sec. 21	126	560.00	560.00
FM 1N 3W	Sec. 22	126	380.76	380.76
FM 1S 2W	Sec. 3	126	86.00	86.00
FM 1S 2W	Sec. 4	126	146.55	146.55
FM 1S 2W	Sec. 5	126	353.16	353.16
FM 1S 2W	Sec. 6	126	309.18	309.18
FM 1S 2W	Sec. 7	126	15.02	15.02
FM 1S 2W	Sec. 8	126	32.21	32.21
FM 1S 2W	Sec. 9	126	23.41	23.41
FM 1S 2W	Sec. 10	126	1.04	1.04
FM 1S 3W	Sec. 1	126	200.15	40.19
FM 1S 3W	Sec. 2	126	80.00	80.00
FM 1S 3W	Sec. 11	126	80.00	80.00
FM 1S 3W	Sec. 12	126	80.00	80.00
SM 19N 3E	Sec. 24	124	271.21	268.97
SM 19N 3E	Sec. 26	124	80.00	80.00
SM 19N 3E	Sec. 28	124	47.58	47.58
SM 19N 3E	Sec. 32	124	225.66	225.66
			<u>4,783.82</u>	<u>4,060.85</u> Total

7: Mental Health Selections Affected by NALA

The North Anchorage Land Agreement (NALA) made on March 15, 1982 provided for the settlement of certain claims and litigation arising from the Alaska Native Claims Settlement Act and allowed for the consolidation of land ownership by the State of Alaska, Municipality of Anchorage, and Eklutna, Inc.

Approximately 24,236.52 acres of mental health selections were affected by NALA. According to the agreement 16,031.06 acres of these selected lands are to be conveyed to the state, and 8,205.46 acres are to be conveyed to Eklutna, Inc. (see column five). In the agreement the state agreed to relinquish certain mental health selections so that BLM can convey these lands to Eklutna, Inc. In exchange, Eklutna, Inc. agreed to relinquish certain of its selection in order to allow the land to be conveyed to the state under the Mental Health Enabling Act (see column four). A portion of the land that the state is receiving is predesignated as Chugach State Park or Palmer Hay Flats State Game Refuge under AS 41.21.121 and AS 16.20.032 respectively.

7: MENTAL HEALTH SELECTIONS AFFECTED BY NALA

Page 1 of 2

<u>M - T - R - S</u>	<u>MH #</u>	<u>Total Selection Acreage Affected by NALA</u>	<u>Affected Selection Acreage To State</u>	<u>Affected Selection Acreage To Eklutna</u>	<u>Comments</u>
SM 15N 2E Sec. 4	176	640.00	640.00		Chugach State Park
SM 15N 2E Sec. 6	176	347.60	347.70		Chugach State Park
SM 15N 2E Sec. 7	176	529.44	529.44		Chugach State Park
SM 15N 2E Sec. 9	176	80.00	80.00		Chugach State Park
SM 15N 2E Sec. 10	176	485.00	485.00		Chugach State Park
SM 15N 2E Sec. 11	176	640.00	640.00		Chugach State Park
SM 15N 2E Sec. 13	176	600.00	600.00		Chugach State Park
SM 15N 2E Sec. 14	176	200.00	200.00		Chugach State Park
SM 15N 2E Sec. 15	176	40.00	40.00		Chugach State Park
SM 15N 2E Sec. 16	176	320.00	320.00		Chugach State Park
SM 15N 2E Sec. 17	176	600.00	600.00		Chugach State Park
SM 15N 2E Sec. 18	176	612.72	612.72		Chugach State Park
SM 15N 2E Sec. 22	176	560.00	560.00		Chugach State Park
SM 15N 2E Sec. 23	176	120.00	120.00		Chugach State Park
SM 15N 2E Sec. 24	176	280.00	280.00		Chugach State Park
SM 15N 2E Sec. 26	176	520.00	520.00		Chugach State Park
SM 15N 2E Sec. 35	176	640.00	640.00		Chugach State Park
SM 15N 2E Sec. 36	176	80.00	80.00		Chugach State Park
SM 16N 1E Sec. 1	90	435.25		435.25	
SM 16N 1E Sec. 2	90	392.87	30.00	362.87	
SM 16N 1E Sec. 3	90	494.41	465.41*	29.00*	ARR on these lands
SM 16N 1E Sec. 4	90	635.33	635.33		Palmer Hay Flats State Game Refuge
SM 16N 1E Sec. 5	90	639.02	639.02		Palmer Hay Flats State Game Refuge
SM 16N 1E Sec. 6	90	597.84	597.84		Palmer Hay Flats State Game Refuge
SM 16N 1E Sec. 7	90	276.07	276.07		Palmer Hay Flats State Game Refuge
SM 16N 1E Sec. 8	90	319.00	319.00		Palmer Hay Flats State Game Refuge
SM 16N 1E Sec. 9	90	158.64	158.64		Palmer Hay Flats State Game Refuge
SM 16N 1E Sec. 10	90	288.53	259.03	29.50	ARR on these lands
SM 16N 1E Sec. 11	90	457.00		457.00	ARR on these lands
SM 16N 1E Sec. 12	90	469.00		469.00	
SM 16N 1E Sec. 13	90	54.03		54.03	
SM 16N 1E Sec. 14	90	463.00		463.00	
SM 16N 1E Sec. 15	90	463.55		463.55	ARR on these lands
SM 16N 1E Sec. 16	90	268.79		268.79	ARR on these lands

7: MENTAL HEALTH SELECTIONS AFFECTED BY NALA

<u>M - T - R - S</u>	<u>MH #</u>	<u>Total Selection Acreage Affected by NALA</u>	<u>Affected Selection Acreage To State</u>	<u>Affected Selection Acreage To Eklutna</u>	<u>Comments</u>
SM 16N 1E	Sec. 17 90	33.67		33.67	
SM 16N 1E	Sec. 20 90	619.54		619.54	
SM 16N 1E	Sec. 21 90	640.00	120.00	520.00	
SM 16N 1E	Sec. 22 90	640.00	160.00	480.00	
SM 16N 1E	Sec. 23 90	640.00	160.00	480.00	
SM 16N 1E	Sec. 24 90	640.00	160.00	480.00	
SM 16N 1E	Sec. 25 90	640.00	640.00		
SM 16N 1E	Sec. 26 90	620.00	620.00		Chugach State Park
SM 16N 1E	Sec. 27 90	240.00	170.00*	70.00	Chugach State Park
SM 16N 1E	Sec. 28 90	50.00		50.00	
SM 16N 1E	Sec. 29 90	20.00		20.00	
SM 16N 1E	Sec. 31 90	609.28	609.28		Chugach State Park
SM 16N 1E	Sec. 32 90	475.00±	360.00*	115.00±	*Chugach State Park
SM 16N 1E	Sec. 33 90	320.00±	160.00*	160.00±	*Chugach State Park
SM 16N 1E	Sec. 34 90	60.00±		60.00±	
SM 16N 1E	Sec. 35 90	80.00±	25.00±*	55.00±	*Chugach State Park
SM 16N 1E	Sec. 36 90	600.00	600.00		Chugach State Park
SM 16N 1W	Sec. 1 90	528.32	528.32		Palmer Hay Flats State Game Refuge
SM 16N 1W	Sec. 2 90	176.65	176.65		Palmer Hay Flats State Game Refuge
SM 16N 1W	Sec. 3 90	17.48	17.48		Palmer Hay Flats State Game Refuge
SM 16N 1W	Sec. 10 90	328.55	328.55		Palmer Hay Flats State Game Refuge
SM 16N 1W	Sec. 11 90	376.10	376.10		Palmer Hay Flats State Game Refuge
SM 16N 1W	Sec. 12 90	144.58	144.58		Palmer Hay Flats State Game Refuge
SM 16N 1W	Sec. 25 90	160.00	16,031.16 Total	160.00	See table 3 for additional mental health selections in Sec. 25
SM 16N 1W	Sec. 26 90	400.00		400.00	
SM 16N 1W	Sec. 27 90	491.49		491.49	
SM 16N 1W	Sec. 28 90	154.32		154.32	
SM 16N 1W	Sec. 32 90	184.45		184.45	
SM 16N 1W	Sec. 34 90	640.00		640.00	
		24,236.62 Total		8,205.46 Total	

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

1531.4 SCOMM 56A: JNT. SPEC. MENTAL HEALTH TRUST LAND, 1987 356

MASTER LIST OF MENTAL HEALTH SELECTIONS
WITH REFERENCE TO REPORT TABLES*

<u>M - T - R</u>	<u>Section</u>	<u>MH #</u>	<u>Total Acreage</u>	<u>Table #</u>
CRM 28S 53E	Sec. 24	16	44.49	3, 6
CRM 28S 54E	Sec. 16	16	100.00	3, 6
CRM 28S 54E	Sec. 21	16	117.37	3, 6
CRM 28S 54E	Sec. 22	16	33.37	6
CRM 28S 55E	Sec. 22	16	50.00	6
CRM 28S 55E	Sec. 25	16	26.36	6
CRM 28S 55E	Sec. 27	16	67.99	6
CRM 28S 56E	Sec. 29	16	7.17	6
CRM 28S 56E	Sec. 30	16	28.69	6
CRM 28S 56E	Sec. 31	16	9.18	6
CRM 50S 74E	Sec. 1	179	4.51	1
CRM 55S 63E	Sec. 21	47	76.63	1, 3
CRM 55S 63E	Sec. 25	47	100.00	1
CRM 55S 63E	Sec. 28	47	30.49	1, 3
CRM 55S 63E	Sec. 34	47	101.78	3, 4
CRM 55S 63E	Sec. 35	47	75.00	3, 4
CRM 55S 63E	Sec. 36	47	9.59	1
CRM 56S 63E	Sec. 1	47	3.56	3
CRM 56S 63E	Sec. 2	47	77.48	1, 3, 4
CRM 56S 63E	Sec. 3	47	20.59	1, 3, 4
CRM 56S 63E	Sec. 11	47	4.54	1
CRM 68S 75E	Sec. 22	172	5.03	1
FM 2N 7E	Sec. 1	116	35.00±	3
FM 2N 7E	Sec. 12	116	12.00±	3
FM 1S 4E	Sec. 3	28	101.56	2, 4
FM 1S 4E	Sec. 10	28	120.00	2, 4
FM 6S 4E	Sec. 2	44	325.75	3, 4
FM 6S 4E	Sec. 10	44	1.35	3
FM 6S 4E	Sec. 11	44	361.04	3, 4
FM 6S 4E	Sec. 12	44	310.77	2, 4
FM 6S 4E	Sec. 13	44	40.00	4
FM 6S 4E	Sec. 25	44	5.00	3, 4
FM 1S 2W	Sec. 3	126	86.00	4, 6
FM 1S 2W	Sec. 4	126	146.55	4, 6
FM 1S 2W	Sec. 5	126	353.16	4, 6
FM 1S 2W	Sec. 6	126	309.18	4, 6
FM 1S 2W	Sec. 7	126	15.02	4, 6
FM 1S 2W	Sec. 8	126	32.21	4, 6
FM 1S 2W	Sec. 9	126	23.41	4, 6
FM 1S 2W	Sec. 10	126	1.04	4, 6
FM 1S 3W	Sec. 1	126	200.15	3, 4, 5, 6
FM 1S 3W	Sec. 2	126	80.00	4, 6
FM 1S 3W	Sec. 9	126	5.00	3
FM 1S 3W	Sec. 11	126	80.00	4, 6
FM 1S 3W	Sec. 12	126	80.00	4, 6
FM 1S 3W	Sec. 13	126	80.00	4, 6
FM 2S 5W	Sec. 26	9	60.00±	3

Table Number: 1, no conflict; 2, needs adjudication; 3, already conveyed
4, coexistent; 5, pre-encumbered; 6, suspended; 7, NALA

MASTER LIST OF MENTAL HEALTH SELECTIONS
WITH REFERENCE TO REPORT TABLES*

<u>M - T - R</u>	<u>Section</u>	<u>MH #</u>	<u>Total Acreage</u>	<u>Table #</u>
FM 4S 8W	Sec. 14	32	263.22	4
FM 4S 8W	Sec. 15	32	80.00	4
FM 4S 8W	Sec. 22	32	79.32	4
FM 4S 8W	Sec. 24	32	9.96	4
FM 4S 8W	Sec. 26	32	40.00	4
FM 4S 8W	Sec. 34	32	84.56	4
FM 6S 7W	Sec. 1	35	636.00	4
FM 6S 7W	Sec. 2	35	636.00	4
FM 6S 7W	Sec. 3	35	636.00	4
FM 6S 7W	Sec. 4	35	636.00	1
FM 6S 7W	Sec. 5	35	637.00	1
FM 6S 7W	Sec. 6	35	588.04	4
FM 6S 7W	Sec. 7	35	477.08	4
FM 6S 7W	Sec. 8	35	637.00	1
FM 6S 7W	Sec. 9	35	636.00	1
FM 6S 7W	Sec. 10	35	636.00	4
FM 6S 7W	Sec. 11	35	636.00	4
FM 6S 7W	Sec. 12	35	636.00	4
FM 6S 7W	Sec. 13	35	636.00	4
FM 6S 7W	Sec. 14	35	636.00	4
FM 6S 7W	Sec. 15	35	636.00	4
FM 6S 7W	Sec. 16	35	636.00	1
FM 6S 7W	Sec. 17	35	637.00	1
FM 6S 7W	Sec. 18	35	614.43	4
FM 6S 7W	Sec. 19	35	227.40	4
FM 6S 7W	Sec. 20	35	637.00	1
FM 6S 7W	Sec. 21	35	636.00	1
FM 6S 7W	Sec. 22	35	636.00	4
FM 6S 7W	Sec. 23	35	636.00	4
FM 6S 7W	Sec. 25	35	636.00	4
FM 6S 7W	Sec. 26	35	636.00	4
FM 6S 7W	Sec. 27	35	636.00	4
FM 6S 7W	Sec. 28	35	636.00	1
FM 6S 7W	Sec. 29	35	637.00	1
FM 6S 7W	Sec. 30	35	527.72	4
FM 6S 7W	Sec. 31	35	615.79	4
FM 6S 7W	Sec. 32	35	638.49	1
FM 6S 7W	Sec. 33	35	636.00	1
FM 6S 7W	Sec. 34	35	636.00	4
FM 6S 7W	Sec. 35	35	636.00	4
FM 6S 7W	Sec. 36	35	636.00	4
FM 6S 8W	Sec. 4	34	640.00	4
FM 6S 8W	Sec. 9	34	640.00	4
FM 6S 8W	Sec. 15	34	50.00	4
FM 6S 8W	Sec. 16	34	640.00	4

Table Number: 1, no conflict; 2, needs adjudication; 3, already conveyed
4, coexistent; 5, pre-encumbered; 6, suspended; 7, NALA

MASTER LIST OF MENTAL HEALTH SELECTIONS
WITH REFERENCE TO REPORT TABLES*

<u>M - T - R</u>	<u>Section</u>	<u>MH #</u>	<u>Total Acreage</u>	<u>Table #</u>
FM 6S 8W	Sec. 17	34	388.40	4
FM 6S 8W	Sec. 19	34	138.84	4
FM 6S 8W	Sec. 20	34	622.65	4
FM 6S 8W	Sec. 21	34	480.00	4
FM 6S 8W	Sec. 29	34	640.00	4
FM 6S 8W	Sec. 30	34	465.45	4
FM 6S 8W	Sec. 31	34	281.08	4
FM 9S 5W	Sec. 1	36	640.00	1
FM 9S 5W	Sec. 2	36	640.00	1
FM 9S 5W	Sec. 3	36	640.00	1
FM 9S 5W	Sec. 4	36	640.00	1
FM 9S 5W	Sec. 5	36	698.64	1
FM 9S 5W	Sec. 6	36	698.64	1
FM 9S 6W	Sec. 1	36	694.00	1
FM 9S 6W	Sec. 2	36	693.52	1
FM 9S 6W	Sec. 3	36	693.04	1
FM 9S 6W	Sec. 4	36	692.52	1
FM 9S 6W	Sec. 6	36	641.87	1
FM 9S 6W	Sec. 15	36	160.00	1, 5
FM 9S 6W	Sec. 17	36	160.00	1
FM 9S 6W	Sec. 20	36	320.00	1, 5
FM 9S 6W	Sec. 21	36	640.00	5
FM 9S 6W	Sec. 22	36	320.00	1
FM 9S 6W	Sec. 27	36	320.00	1
FM 9S 6W	Sec. 28	36	40.00	5
FM 9S 6W	Sec. 29	36	320.00	1
FM 9S 6W	Sec. 32	36	320.00	1
FM 9S 6W	Sec. 34	36	320.00	1
FM 10S 6W	Sec. 4	36	640.04	5
FM 10S 6W	Sec. 5	36	320.09	1
FM 10S 6W	Sec. 8	36	160.00	1
FM 10S 6W	Sec. 9	36	640.00	5
FM 10S 6W	Sec. 10	36	320.00	1
FM 10S 6W	Sec. 15	36	200.00	1, 5
FM 10S 6W	Sec. 17	36	280.00	5
FM 10S 6W	Sec. 22	36	240.00	5
FM 10S 6W	Sec. 27	36	240.00	5
FM 10S 6W	Sec. 28	36	40.00	5
FM 12S 7W	Sec. 8	121	108.95	1
FM 12S 7W	Sec. 17	121	191.70	1
FM 12S 7W	Sec. 20	121	147.16	1
FM 12S 7W	Sec. 28	121	51.03	1
FM 12S 7W	Sec. 29	121	16.28	1
FM 12S 7W	Sec. 32	121	56.62	1
FM 18S 8W	Sec. 1	149	716.29	2, 4
FM 18S 8W	Sec. 10	149	640.00	4
FM 18S 8W	Sec. 11	149	640.00	4
FM 18S 8W	Sec. 12	149	716.29	4

Table Number: 1, no conflict; 2, needs adjudication; 3, already conveyed
4, coexistent; 5, pre-encumbered; 6, suspended; 7, NALA

MASTER LIST OF MENTAL HEALTH SELECTIONS
WITH REFERENCE TO REPORT TABLES*

<u>M - T - R</u>	<u>Section</u>	<u>MH #</u>	<u>Total Acreage</u>	<u>Table #</u>
FM 18S 8W	Sec. 13	149	716.00	4
FM 18S 8W	Sec. 14	149	640.00	4
FM 18S 8W	Sec. 15	149	640.00	4
FM 18S 8W	Sec. 16	149	640.00	4
FM 18S 8W	Sec. 17	149	640.00	1
FM 18S 8W	Sec. 19	149	612.32	1
FM 18S 8W	Sec. 20	149	364.82	4
FM 18S 8W	Sec. 21	149	545.42	4
FM 18S 8W	Sec. 22	149	639.93	1, 4
FM 18S 8W	Sec. 23	149	640.00	4
FM 18S 8W	Sec. 24	149	716.00	4
FM 18S 8W	Sec. 25	149	820.00	4
FM 18S 8W	Sec. 26	149	758.00	4
FM 18S 8W	Sec. 27	149	758.00	4
FM 18S 8W	Sec. 28	149	627.03	4
FM 18S 8W	Sec. 29	149	319.94	1
FM 18S 8W	Sec. 30	149	214.22	1
FM 18S 8W	Sec. 31	149	678.00	4
FM 18S 8W	Sec. 32	149	758.00	4
FM 18S 8W	Sec. 33	149	819.00	4
FM 18S 8W	Sec. 34	149	479.00	1
FM 18S 8W	Sec. 35	149	520.00	1
FM 18S 8W	Sec. 36	149	521.20	1
FM 1N 2W	Sec. 21	126	230.51	6
FM 1N 2W	Sec. 22	126	40.00	4
FM 1N 2W	Sec. 30	126	348.28	4, 6
FM 1N 2W	Sec. 31	126	120.00	6
FM 1N 3W	Sec. 12	126	1.36	1
FM 1N 3W	Sec. 13	126	17.00	1
FM 1N 3W	Sec. 15	126	148.48	6
FM 1N 3W	Sec. 20	126	480.00	6
FM 1N 3W	Sec. 21	126	560.00	6
FM 1N 3W	Sec. 22	126	380.76	6
SM 15N 2E	Sec. 1	176	640.00	5
SM 15N 2E	Sec. 2	176	640.00	5
SM 15N 2E	Sec. 3	176	640.00	5
SM 15N 2E	Sec. 4	176	640.00	7
SM 15N 2E	Sec. 6	176	347.60	7
SM 15N 2E	Sec. 7	176	529.44	7
SM 15N 2E	Sec. 9	176	80.00	7
SM 15N 2E	Sec. 10	176	485.00	7
SM 15N 2E	Sec. 11	176	640.00	7
SM 15N 2E	Sec. 12	176	640.00	5
SM 15N 2E	Sec. 13	176	600.00	7
SM 15N 2E	Sec. 14	176	200.00	7

Table Number: 1, no conflict; 2, needs adjudication; 3, already conveyed
4, coexistent; 5, pre-encumbered; 6, suspended; 7, NALA

MASTER LIST OF MENTAL HEALTH SELECTIONS
WITH REFERENCE TO REPORT TABLES*

<u>M - T - R</u>	<u>Section</u>	<u>MH #</u>	<u>Total Acreage</u>	<u>Table #</u>
SM 15N 2E	Sec. 15	176	40.00	7
SM 15N 2E	Sec. 16	176	320.00	7
SM 15N 2E	Sec. 17	176	600.00	7
SM 15N 2E	Sec. 18	176	612.72	7
SM 15N 2E	Sec. 19	176	614.48	5
SM 15N 2E	Sec. 20	176	640.00	5
SM 15N 2E	Sec. 21	176	640.00	5
SM 15N 2E	Sec. 22	176	560.00	7
SM 15N 2E	Sec. 23	176	120.00	7
SM 15N 2E	Sec. 24	176	280.00	7
SM 15N 2E	Sec. 25	176	520.00	7
SM 15N 2E	Sec. 27	176	640.00	5
SM 15N 2E	Sec. 28	176	640.00	5
SM 15N 2E	Sec. 29	176	616.24	5
SM 15N 2E	Sec. 30	176	618.00	5
SM 15N 2E	Sec. 31	176	640.00	5
SM 15N 2E	Sec. 32	176	640.00	5
SM 15N 2E	Sec. 33	176	640.00	5
SM 15N 2E	Sec. 34	176	640.00	5
SM 15N 2E	Sec. 35	176	640.00	7
SM 15N 2E	Sec. 36	176	80.00	7
SM 16N 1E	Sec. 1	90	435.25	7
SM 16N 1E	Sec. 2	90	392.87	7
SM 16N 1E	Sec. 3	90	494.41	7
SM 16N 1E	Sec. 4	90	635.33	7
SM 16N 1E	Sec. 5	90	639.02	7
SM 16N 1E	Sec. 6	90	597.84	7
SM 16N 1E	Sec. 7	90	276.07	7
SM 16N 1E	Sec. 8	90	319.00	7
SM 16N 1E	Sec. 9	90	158.64	7
SM 16N 1E	Sec. 10	90	288.53	7
SM 16N 1E	Sec. 11	90	457.00	7
SM 16N 1E	Sec. 12	90	469.00	7
SM 16N 1E	Sec. 13	90	54.03	7
SM 16N 1E	Sec. 14	90	463.00	7
SM 16N 1E	Sec. 15	90	463.55	7
SM 16N 1E	Sec. 16	90	268.79	7
SM 16N 1E	Sec. 17	90	33.67	7
SM 16N 1E	Sec. 19	90	246.62	1, 3
SM 16N 1E	Sec. 20	90	619.54	7
SM 16N 1E	Sec. 21	90	640.00	7

Table Number: 1, no conflict; 2, needs adjudication; 3, already conveyed
4, coexistent; 5, pre-encumbered; 6, suspended; 7, NALA

MASTER LIST OF MENTAL HEALTH SELECTIONS
WITH REFERENCE TO REPORT TABLES*

<u>M - T - R</u>	<u>Section</u>	<u>MH #</u>	<u>Total Acreage</u>	<u>Table #</u>
SM 16N 1E	Sec. 22	90	640.00	7
SM 16N 1E	Sec. 23	90	640.00	7
SM 16N 1E	Sec. 24	90	640.00	7
SM 16N 1E	Sec. 25	90	640.00	7
SM 16N 1E	Sec. 26	90	620.00	7
SM 16N 1E	Sec. 27	90	240.00	7
SM 16N 1E	Sec. 28	90	50.00	7
SM 16N 1E	Sec. 29	90	20.00	7
SM 16N 1E	Sec. 31	90	609.28	7
SM 16N 1E	Sec. 32	90	475.00+	7
SM 16N 1E	Sec. 33	90	320.00+	7
SM 16N 1E	Sec. 34	90	60.00+	7
SM 16N 1E	Sec. 35	90	80.00+	7
SM 16N 1E	Sec. 36	90	600.00	7
SM 4S 1E	Tract A	156	27.00	1
SM 7S 13W	Sec. 22	129	5.00	1
SM 27S 21W	Sec. 7	175	2.00	1
SM 27S 21W	Sec. 18	175	93.00	1
SM 27S 21W	Sec. 19	175	307.00	1
SM 27S 21W	Sec. 20	175	422.00	1
SM 27S 21W	Sec. 21	175	210.00	1
SM 27S 21W	Sec. 27	175	5.00	1
SM 27S 21W	Sec. 28	175	440.00	1
SM 27S 21W	Sec. 29	175	640.00	1
SM 27S 21W	Sec. 30	175	628.50	1
SM 27S 21W	Sec. 31	175	630.03	1
SM 27S 21W	Sec. 32	175	640.00	1
SM 27S 21W	Sec. 33	175	640.00	1
SM 27S 21W	Sec. 34	175	65.00	1
SM 27S 21W	Sec. 7	175	2.00	1
SM 5N 8W	Sec. 8	25	160.00	1
SM 5N 9W	Sec. 4	25	40.00	1
SM 5N 9W	Sec. 5	25	160.00	1
SM 5N 10W	Sec. 5	25	40.00	4
SM 6N 11W	Sec. 4	25	200.00	4
SM 6N 11W	Sec. 5	25	240.00	4
SM 6N 11W	Sec. 7	25	400.00	4
SM 6N 11W	Sec. 8	25	480.00	4
SM 6N 11W	Sec. 9	25	280.00	4
SM 7N 12W	Sec. 24	25	160.00	3
SM 8N 10W	Sec. 24	25	160.00	3
SM 8N 10W	Sec. 28	25	40.00	3
SM 13N 1W	Sec. 1	154	239.77	4, 5

Table Number: 1, no conflict; 2, needs adjudication; 3, already conveyed
4, coexistent; 5, pre-encumbered; 6, suspended; 7, NALA

MASTER LIST OF MENTAL HEALTH SELECTIONS
WITH REFERENCE TO REPORT TABLES*

<u>M - T - R</u>	<u>Section</u>	<u>MH #</u>	<u>Total Acreage</u>	<u>Table #</u>
SM 13N 1W	Sec. 2	154	640.00	4, 5
SM 13N 1W	Sec. 3	154	600.00	4, 5
SM 13N 1W	Sec. 4	154	100.00	4, 5
SM 13N 1W	Sec. 5	154	600.00	4, 5
SM 13N 1W	Sec. 6	154	355.49	4, 5
SM 13N 1W	Sec. 7	154	635.82	4, 5
SM 13N 1W	Sec. 8	154	640.00	4, 5
SM 13N 1W	Sec. 9	154	470.00	4, 5
SM 13N 1W	Sec. 10	154	342.50	4, 5
SM 13N 1W	Sec. 11	154	625.00	4, 5
SM 13N 1W	Sec. 12	154	640.00	4, 5
SM 13N 1W	Sec. 13	154	640.00	4, 5
SM 13N 1W	Sec. 14	154	600.00	4, 5
SM 13N 1W	Sec. 15	154	230.00	4, 5
SM 13N 1W	Sec. 16	154	640.00	4, 5
SM 13N 1W	Sec. 17	154	640.00	4, 5
SM 13N 1W	Sec. 18	154	638.05	4, 5
SM 13N 1W	Sec. 19	154	640.27	4, 5
SM 13N 1W	Sec. 20	154	640.00	4, 5
SM 13N 1W	Sec. 21	154	640.00	4, 5
SM 13N 1W	Sec. 22	154	460.00	4, 5
SM 13N 1W	Sec. 23	154	410.00	4, 5
SM 13N 1W	Sec. 24	154	635.00	4, 5
SM 13N 1W	Sec. 25	154	625.00	4, 5
SM 13N 1W	Sec. 26	154	640.00	4, 5
SM 13N 1W	Sec. 27	154	640.00	4, 5
SM 13N 1W	Sec. 28	154	640.00	4, 5
SM 13N 1W	Sec. 29	154	640.00	4, 5
SM 13N 1W	Sec. 30	154	642.50	4, 5
SM 13N 1W	Sec. 31	154	644.73	4, 5
SM 13N 1W	Sec. 32	154	640.00	4, 5
SM 13N 1W	Sec. 33	154	640.00	4, 5
SM 13N 1W	Sec. 34	154	640.00	4, 5
SM 13N 1W	Sec. 35	154	640.00	4, 5
SM 13N 1W	Sec. 36	154	540.00	4, 5
SM 13N 11W	Sec. 30	62	10.00	3, 4
SM 14N 1W	Sec. 1	150	640.00	4, 5
SM 14N 1W	Sec. 2	150	640.00	4, 5
SM 14N 1W	Sec. 3	150	480.00	4, 5
SM 14N 1W	Sec. 4	150	640.00	4, 5
SM 14N 1W	Sec. 5	150	392.89	4, 5
SM 14N 1W	Sec. 9	150	40.00	4, 5

Table Number: 1, no conflict; 2, needs adjudication; 3, already conveyed
4, coexistent; 5, pre-encumbered; 6, suspended; 7, NALA

MASTER LIST OF MENTAL HEALTH SELECTIONS
WITH REFERENCE TO REPORT TABLES*

<u>M - T - R</u>	<u>Section</u>	<u>MH #</u>	<u>Total Acreage</u>	<u>Table #</u>
SM 14N 1W	Sec. 10	150	640.00	4, 5
SM 14N 1W	Sec. 11	150	640.00	4, 5
SM 14N 1W	Sec. 12	150	640.00	4, 5
SM 14N 1W	Sec. 13	150	640.00	4, 5
SM 14N 1W	Sec. 14	150	500.00	4, 5
SM 14N 1W	Sec. 15	150	280.00	4, 5
SM 14N 1W	Sec. 24	150	450.00	4, 5
SM 14N 1W	Sec. 27	150	90.00	4, 5
SM 14N 1W	Sec. 28	150	70.00	4, 5
SM 14N 1W	Sec. 29	150	520.00	4, 5
SM 14N 1W	Sec. 30	150	628.60	4, 5
SM 14N 1W	Sec. 31	150	551.23	4, 5
SM 14N 1W	Sec. 32	150	640.00	4, 5
SM 14N 1W	Sec. 33	150	160.00	4, 5
SM 14N 1W	Sec. 34	150	400.91	4, 5
SM 14N 1W	Sec. 35	150	230.85	4, 5
SM 14N 1W	Sec. 36	150	160.00	4, 5
SM 16N 1W	Sec. 1	90	528.32	7
SM 16N 1W	Sec. 2	90	176.65	7
SM 16N 1W	Sec. 3	90	17.48	7
SM 16N 1W	Sec. 11	90	376.10	7
SM 16N 1W	Sec. 12	90	144.58	7
SM 16N 1W	Sec. 23	90	203.84	3, 4
SM 16N 1W	Sec. 24	90	614.61	3, 4
SM 16N 1W	Sec. 25	90	625.00	3, 7
SM 16N 1W	Sec. 26	90	400.00	7
SM 16N 1W	Sec. 27	90	491.49	7
SM 16N 1W	Sec. 28	90	154.32	7
SM 16N 1W	Sec. 34	90	640.00	7
SM 16N 1W	Sec. 32	90	184.45	7

Table Number: 1, no conflict; 2, needs adjudication; 3, already conveyed
4, coexistent; 5, pre-encumbered; 6, suspended; 7, NALA

STATUS PLAT DRAFTING HANDBOOK

STANDARDS
PROCEDURES
REFERENCES



Department of Natural Resources
Division of Technical Services
Land Title Records Section

Revised 11-14-80

Note: The following pages taken from the Handbook titled above are applicable to the "Title Plat Concept". The complete Handbook is a most useful document and is available upon request.

J. LAND DESCRIPTIONS AND SURVEYS

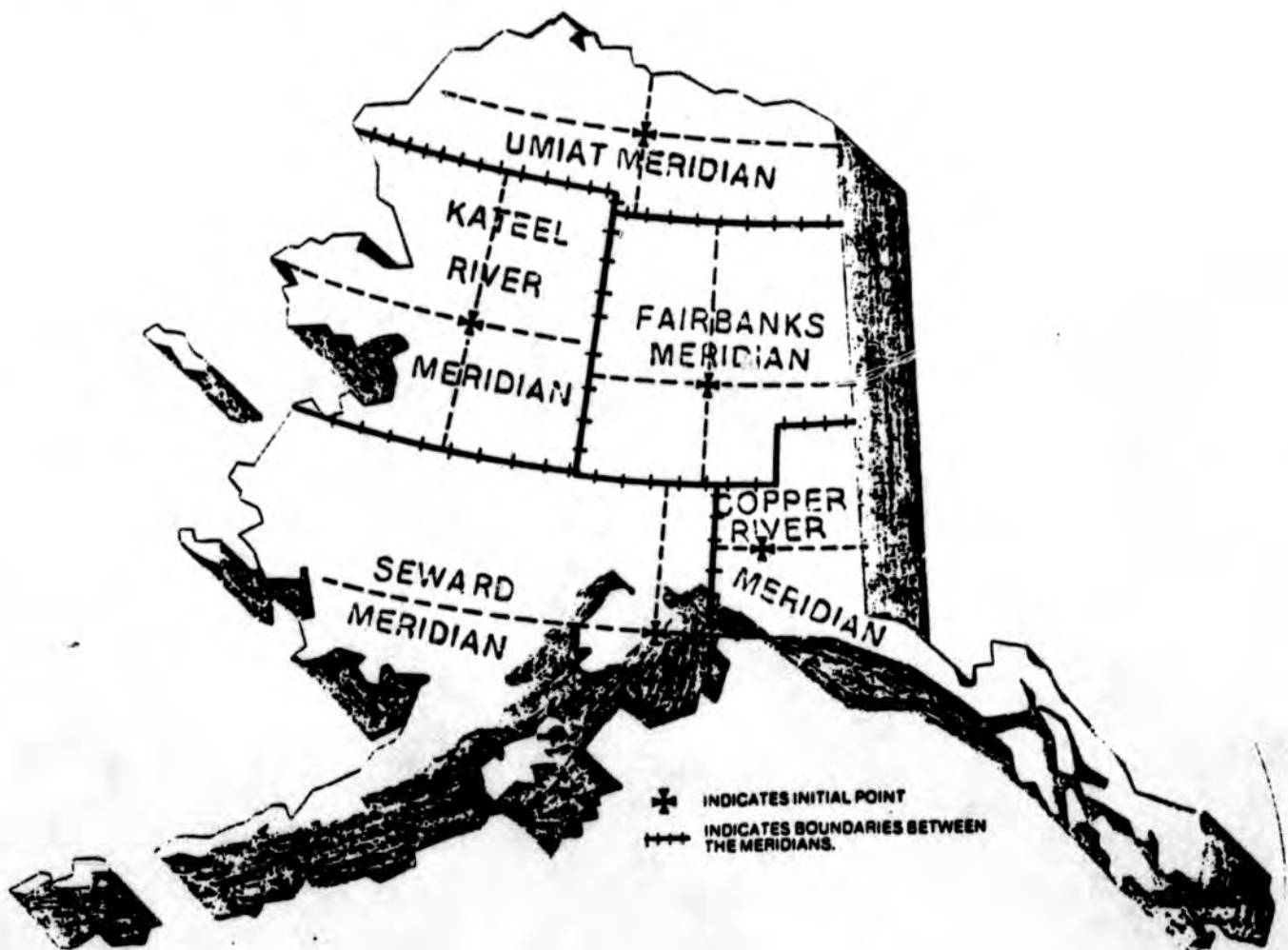
A basic knowledge of land description is essential in order to use land status records. The Division Land Records are set up by Meridian, Township and Range. A particular parcel of land may be described by Metes & Bounds, Aliquot Parts and Lots, Section Number, Township Range and Meridian, and Meridian area. An explanation of these terms follows:

MERIDIAN

All surveys in Alaska start from one of the five initial points shown. These points give their names to the meridian units:

the Seward Meridian (SM); the Fairbanks Meridian (FM); the Copper River Meridian (CRM); the Kateel River Meridian (KRM); and the Umiat Meridian (UM).

The dash lines on the map extending east and west of the initial point of each meridian is the base line for that meridian while the line running north and south through the point is the prime meridian. The initial or starting point of each meridian is shown as a cross on the map. The surveys in this rectangular system are located by township and range within a meridian, with the townships numbered north and south of the initial point, and the ranges east and west of the same point.



J. LAND DESCRIPTIONS AND SURVEYS continued

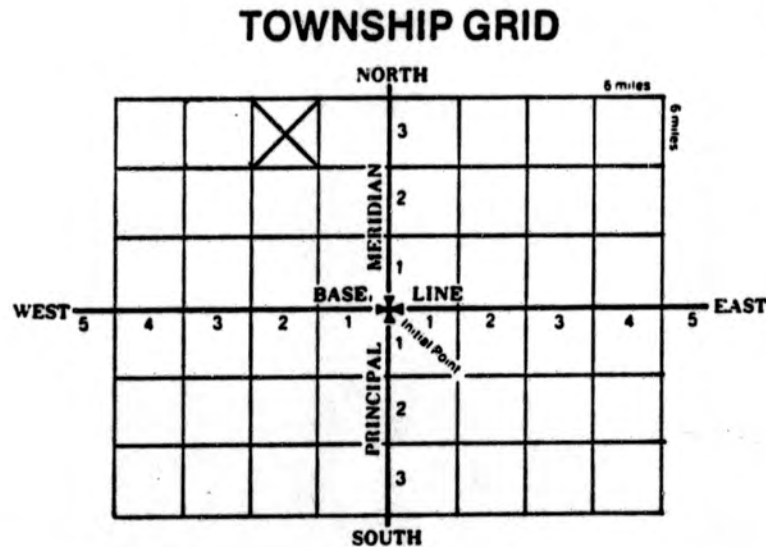
TOWNSHIP AND RANGE

In land description, the word "township" is used both to describe a unit of land and as a location guide. The words township and range indicate the horizontal and vertical coordinates of a township unit.

Townships are numbered north and south of the base lines, ranges are east and west of the meridian line. Township 3 North, Range 2 West, Fairbanks Meridian (usually written T.2N, R.3W., F.M.) will be the third township north of the initial point and in the second range west of the same point in the Fairbanks Meridian.

The X on the township grid pictured here shows the location of the township described, and would be in the identical position in any of the meridians.

Because the method of location is the same for all meridians, the name of the meridian (i.e., Fairbanks Meridian) is essential to each land description to properly identify the land.



J. LAND DESCRIPTIONS AND SURVEYS continued

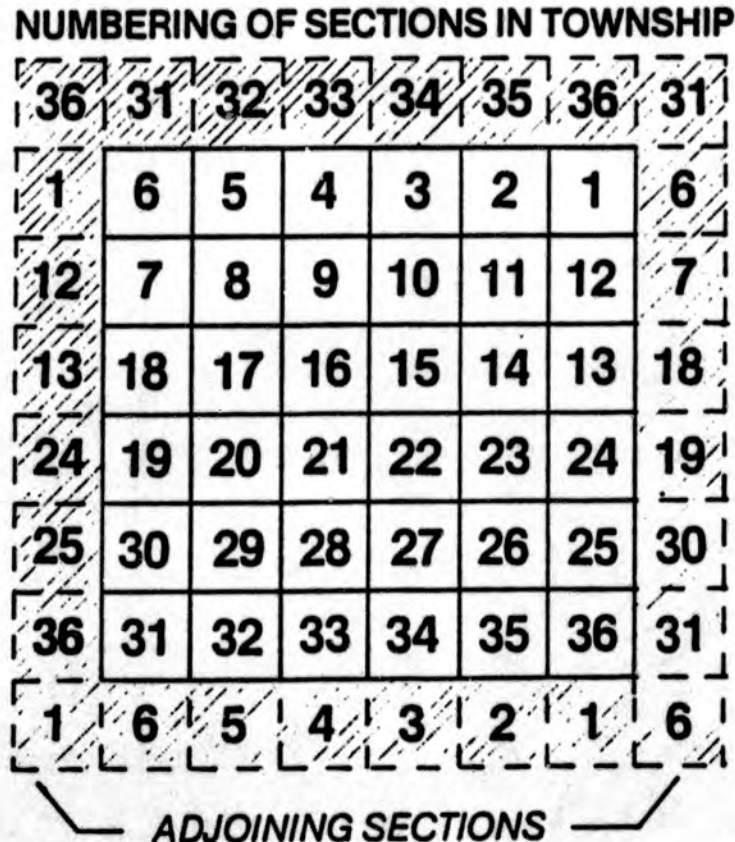
SECTIONS

A township is a unit of land measure six miles by six miles containing 36 square miles. Each one of these 36 square miles is known as a section (usually 640 acres), numbered from 1 to 36 to designate the location of each section in the township.

The sections are numbered 1-36 in a set pattern or sequence beginning at the northeast corner section and numbering to the left across the top or the north tier of sections; then dropping to the tier below with section 7 directly south of section 6; then numbering to the right, and continuing thus as shown by the township plat below.

Remembering the numbering pattern or sequence will enable a person to locate any section by number on a map showing the township grid even though the sections do not have the numbers on them.

The township plat on this page has the numbered sections of the adjoining townships shown shaded.



J. LAND DESCRIPTIONS AND SURVEYS continued

ALIQUOT PARTS OF A SECTION

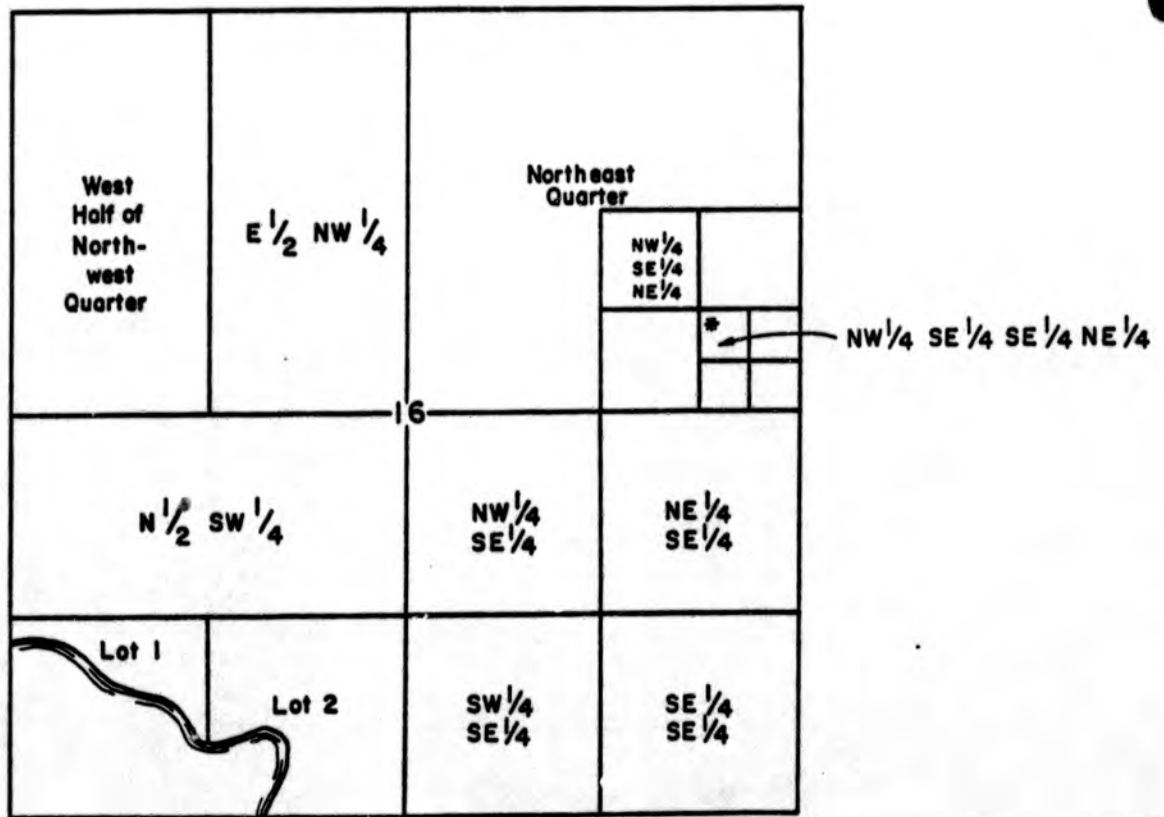
Aliquot parts of a section are the divisions and subdivisions of a section described in relation to the four points of the compass; north, south, east and west. Sections may be divided into halves of 320 acres with compass designations of $N\frac{1}{2}$, $S\frac{1}{2}$, $E\frac{1}{2}$ and $W\frac{1}{2}$. These halves may be divided into 160 acres described $N\frac{1}{4}$, $S\frac{1}{4}$, $E\frac{1}{4}$, $W\frac{1}{4}$, etc.

Sections are more often divided into quarters of 160 acres each with each quarter section identified by its compass position or direction: $NE\frac{1}{4}$, $SE\frac{1}{4}$, $NW\frac{1}{4}$, $SW\frac{1}{4}$.

A quarter section may again be divided into 4 quarters or quarter-quarters of 40 acres each described as: $NW\frac{1}{4}SE\frac{1}{4}$; $NW\frac{1}{4}NW\frac{1}{4}$; etc. The quarters may be divided into halves of 80 acres: $S\frac{1}{2}NE\frac{1}{4}$, $W\frac{1}{2}SW\frac{1}{4}$, etc.

A quarter section divided into quarter-quarters of 40 acres, or "40's" as they are often called, may be further divided into areas of 10 acres, 5 acres, $2\frac{1}{2}$ acres or $1\frac{1}{2}$ acre by quartering and halving in different ways, always preserving the compass descriptions.

The illustration shows a few of the ways in which a quarter and a quarter-quarter of "40" may be divided.



J. LAND DESCRIPTION AND SURVEYS continued

READING AND WRITING IN ALIQUOT PARTS

Aliquot part divisions are listed from the smallest to the largest. To be most easily understood the land description aliquot parts must be read backward, from right to left, in order to determine the correct location. To locate land described as $NW\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}NE\frac{1}{4}$, section 16, start of the far right of the aliquot parts and work backwards to the left:

1. Locate section 16, then the $NE\frac{1}{4}$ - 160 acres;
2. Next the $SE\frac{1}{4}$ of the $NE\frac{1}{4}$ - 40 acres;
3. Then the $SE\frac{1}{4}$ of the $SE\frac{1}{4}$ of the $NE\frac{1}{4}$ - 10 acres; and
4. Last, the $NW\frac{1}{4}$ of the $SE\frac{1}{4}$ of the $SE\frac{1}{4}$ of the $NE\frac{1}{4}$ - $2\frac{1}{2}$ acres. (see * in sec 16 on the previous page

Normally the NE part is listed first, and then other parts in counter clockwise sequence.

J. LAND DESCRIPTIONS AND SURVEYS continued

ACRES

An acre is 43,560 square feet (10 square chains) in any configuration. An aliquot part 5 acre parcel is normally 33' x 660', but any shape that yields 217,000 square feet is also 5 acres. For example, 5 acres are 50 sq. chains (5 x 10 sq. ch.) so 5ch x 10ch or 3ch x 3.3ch all equal 5 ac.

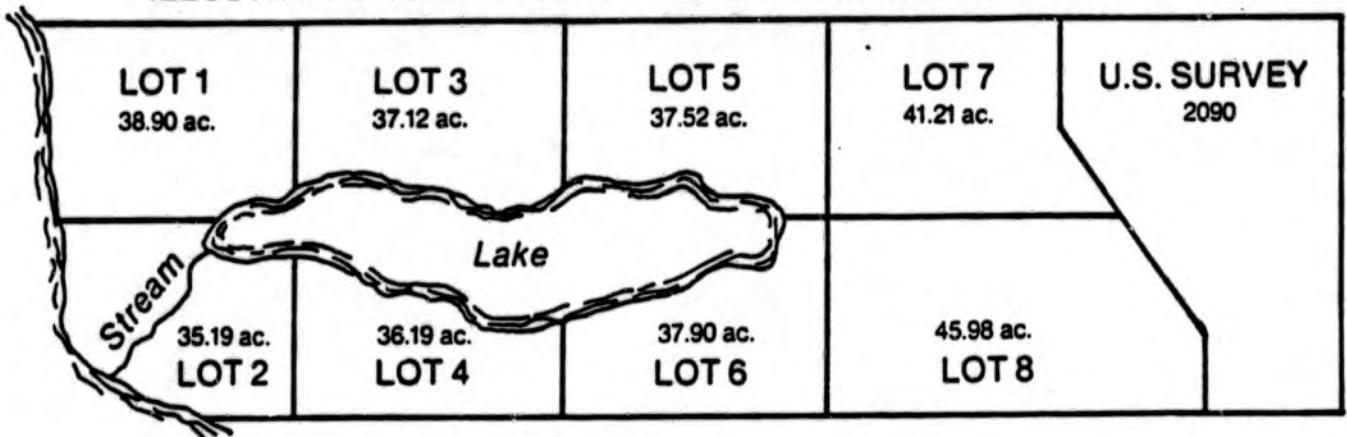
J. LAND DESCRIPTION AND SURVEYS continued

LOTS IN A LAND DESCRIPTION

The word "lot" is used to describe irregular sizes and shapes of land areas which cannot be accurately described by means of aliquot parts, or in legal subdivisions where the parcels are odd shapes and sizes. Lots may be found on the shorelines of lakes, rivers, and other bodies of water or the irregular boundaries of special or mining surveys, as well as city, recreational and industrial subdivisions.

If a township is larger or smaller than the standard 23,040 acres, then lots, which are larger or smaller than the standard 40 acres will be placed along the north or west sides of the townships so that the other sections may be described in aliquot parts.

ILLUSTRATIONS OF LOTS ON WATER AND AROUND SURVEYS



ILLUSTRATIONS OF SUBDIVISION LOTS

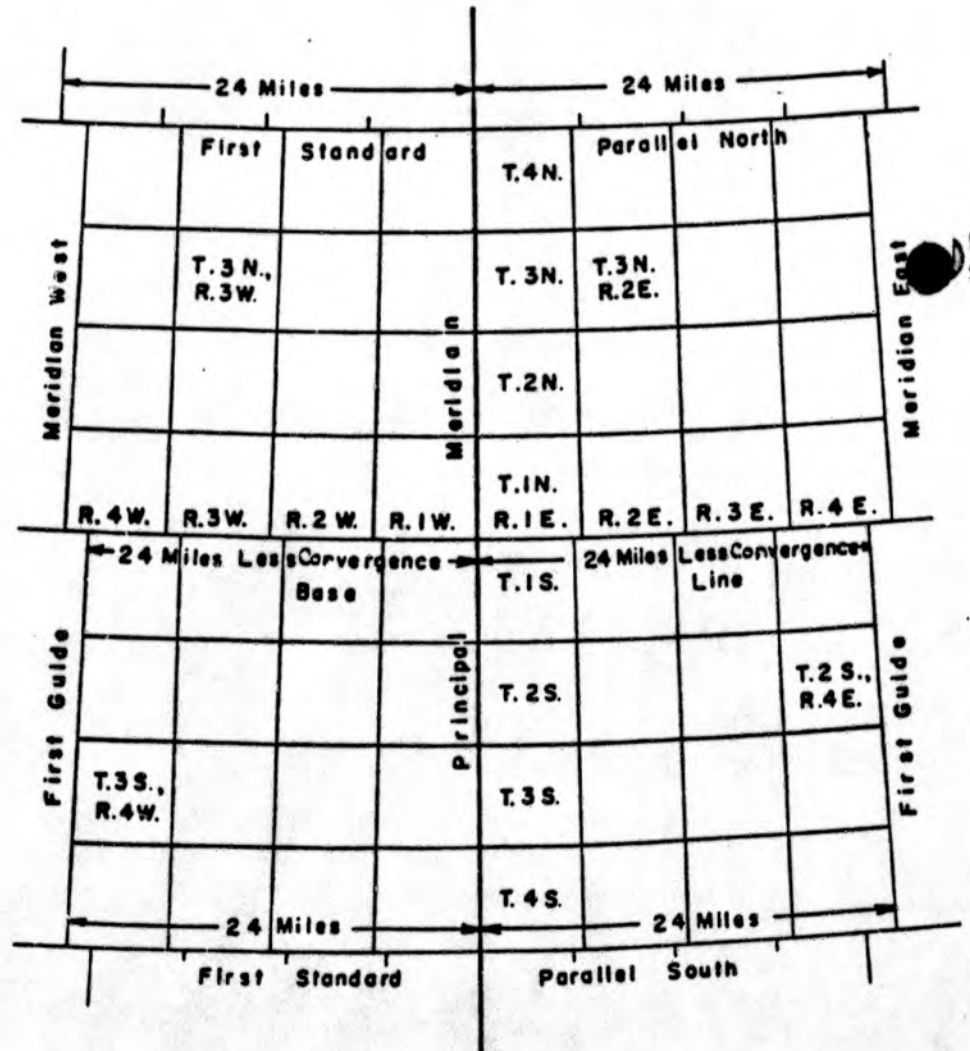
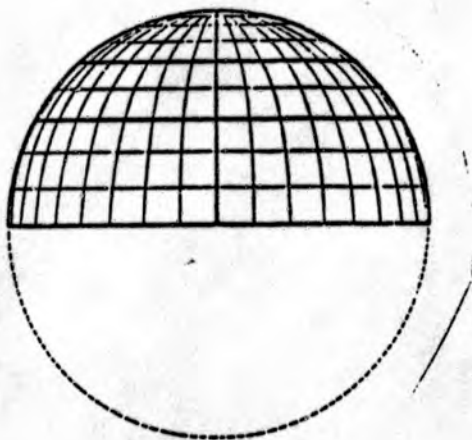
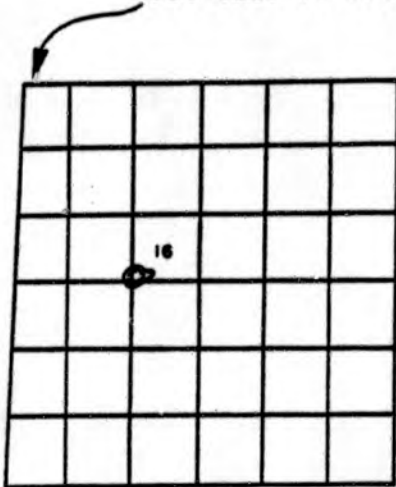


J. LAND DESCRIPTIONS AND SURVEYS continued

RANGE LINE OFFSETS

Range lines are offset to compensate or correct for the convergence as the range lines conform to the curvature of the earth. The principal meridians come closer together as they extend toward the North and South poles because of the curvature of the earth; therefore, adjustment or correction lines are made every 24 miles, or four townships. Therefore, offsets will be found between every fourth twp and the next twp. Some additional offsets are created at the boundry between meridians and by the mismatch of some early twp surveys.

Within the township the section lines are parallel to the East range line so that most sections are approximately 640 acres. The convergence of the North pointing range line causes a narrowing of townships northwards of the standard parallels; this narrowing results in less than 640 acres in the west tier of section.



STANDARD PARALLELS AND GUIDE MERIDIANS

J. LAND DESCRIPTIONS AND SURVEYS continued

PROTRACTED SURVEYS

Township and range lines are protracted or drawn on maps even though the boundaries may not have been surveyed and monumented on the ground. Section lines may be protracted as well as the township and range lines. These protracted lines are established from computations using latitude and longitude. The protracted surveys provide means for recording land actions and information, simplify mineral leasing, and aid in setting up management plans for areas not covered by the cadastral surveys.

It is impossible to accurately locate and pinpoint land without the aliquot parts description, the section number, the township and range numbers and the meridian. Sometimes the number of an Alaska State Land Survey (ASLS) a U.S. special or Mineral Survey, a subdivision name with block and lot number may be necessary in place of, or in addition to the above information.

The U.S. Geological Survey topographic maps (USGS), scale one inch to a mile, are excellent for use in determining the approximate legal location of land. These topographic maps show surveys or protracted surveys of townships, physical features of the land, cities, roads, airports, and other man-made structures.

K. HOW TO READ STATUS PLATS

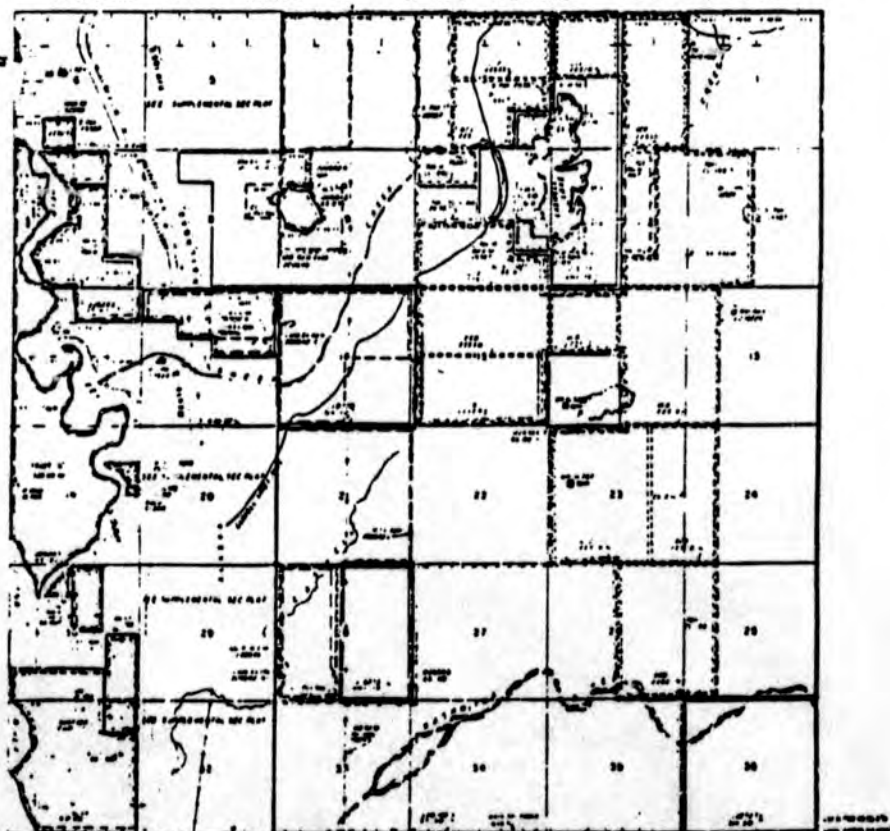
STATUS PLATS

State status plats are filed in the same scheme as the surveys described in the previous section. That is, the status plats covering each individual meridian are filed separately, within binders according to Townships and Ranges within those meridians. An individual status plat is prepared for each Township in which the state has sufficient interest.

The "Status Plat" shows all state interest on the one plat, as opposed to separating into "Land, Water, & Mineral Estates." The status plat shows the acquisition and disposal of interests rights, as well as classifications, related surveys, boundries, etc.

The status plat itself is not the official record of transactions of title or other actions that take place on the state interest lands, but is rather the graphic representation of how those title changes and other actions affect the rights and ownership patterns within that Township. It also provides a reference to the source of entry. For instance, on the example status plat the notion "Sch.-50" in Section 36 indicates that the land was acquired as part of the school grant pre-dating statehood. By checking the appropriate file, the document which actually transferred title to that section can be found. Another example might be a water right. The ADL number would lead back to the serial page and the case file itself. Or the classification identity will lead back to the official document and description. The same systems of notation leads you to the specific document that supports every status plat entry. The Remarks Column may contain information not drawn on the plat.

TOWNSHIP 22 N RANGE 4 W OF THE SEWARD MERIDIAN, ALASKA



K. HOW TO READ STATUS PLATS continued**TRANSACTION SHOWN**

There are four major categories of transactional documents that are reflected on the status plat. The first are acquisition documents showing how the land was acquired by the state. Acquisition is indicated by the solid line around a given area on the plat, with a notation such as "GS-80", which indicates the land was selected under Section 6(b) of the Statehood Act as general grant land. University and school land acquisitions are similarly noted. The status of a title is also indicated by the numbering system. A tentative approval is noted by a "GS," (or "CG") but a patent from the federal government is indicated by an eight digit number, or an older six-digit number, by which an interested researcher may locate the specific document which transfer title.

The second category is classification actions, which are graphic representations of the planning process conducted by the Division of Lands. These classifications are noted by a dot-dash line, and an abbreviation to indicate the classification applied. They are filed by serial number now and township and range previously. A new classification that overlaps a previous classification is understood to displace that previous classification.

The third category is disposals of interest in the land. This includes a wide variety of actions, ranging from selection and transfer to the borough (shown by a thin line with "x"s) to sale, lease, I.L.M.A., or other disposal (Shown by dashed lines). The type of disposals is indicated by an abbreviation, and another number, which combined will give both the type of disposal and the case file number for locating the actions which lead to the decision to dispose of that parcel, (for instance, QCD 55280).

Another category which appears on the status plat is related to water rights. An application for water rights is shown with an open symbol. When the permit is issued an "X" is added and when a Certificate of Appropriation is issued, the symbol is filled.

There are two sets of written documents which support the status plats. The Historical Index is a large page in the status plat book next to the plat it covers. It shows, by legal description of the land locations, and in chronological order, the history of most of the transactions which affected the land. This is the very valuable source of information that is most often neglected by inexperienced users.

SUPPLEMENTAL STATUS PLATS

In many cases, the amount of information to be shown on the status plat is so detailed that it is not possible to get it all on the Township scale of the main status plat. In this case supplemental status plats are prepared to show those entries. This is usually the case when a section is subdivided into parcels small enough to qualify for Open-to-Entry, Homesite, and other small lot disposals. A supplemental status plat is created at whatever scale is necessary to provide the detail for a given transaction.

HISTORICAL INDEX

The Historical Index is a chronological listing of entries affecting title within the Township shown on the status plat. It gives a complete listing of all the actions which affect status within the Township, with the exception of applications which are not acted upon, and are therefore not shown. They also provide a reference to the source document from which the entry is made. It is the only reference to all of the actions on that plat that have been closed.

MINERAL ESTATE vs LAND ESTATE vs WATER ESTATE

Under state law the surface and subsurface titles are severable. This means that the state may not dispose of subsurface title when land is sold to an individual, or otherwise transferred to a different owner. A separate status plat showing the mineral estate is created for townships where there is sufficient mineral activity. The "Status Plat" is then replaced by the separate "Land Estate" and "Mineral and Tidelands Estate" plats. These status plats show the same types of information as on the surface estate. Information on acquisition and disposal which affects the title will be shown. Supplemental plats may be created for the mineral estate in the same manner as for the surface estate. Water estates are new and normally will not show other unrelated status.










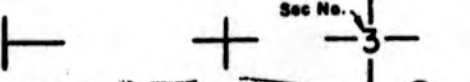










SERIAL REGISTER

The Serial Register is a series of binders which are kept at the same place as the status plat books. Upon the first application or assignment of a piece of state land a serial number is assigned. This number then stays with that land, and is used in all subsequent transactions. The Serial Register has a separate page for each serial number, and entries are made onto these pages whenever any action is taken. Using this register it is possible to reconstruct the history of any piece of land.




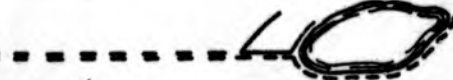














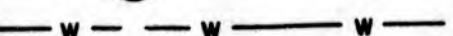
OTHER DOCUMENTS

The Division of Lands also keeps on file all other official documents which have affected state land. Examples are: title documents, classification orders, acquisition papers and records of disposals. These files are available to the public during regular office hours.

OFFICIAL RECORDS DRAFTING SYMBOLS

LAND STATUS SYMBOLS & CULTURAL FEATURES SYMBOLS	REPRESENTS: Labels: slope & 80 temp except as noted	PEN SIZE	SIZES: (Approx. & in proportion to the area in 30 ch/in scale)
	Title & Acquisition Line	3	All title lines must close on a plat.
	Limited State Holding (LSH) Title	2	Dash 10-40, #80 template, must close on plat.
	Classification	2	Dash 15 (7-20), Sp 3, must close on plat.
	Disposal Line (Apln, Lse Sale, Avigation Esmt, Min C, Tbr Sale, Mat Sale Apln, Etc)	2	Dash 5-10, Sp 2
	Borough & Municipal Lands	000	Sp 10-20
	Boundaries: Corp, Parks, Res, Fed Wdl, PLO, etc. with Formal or Accurate descriptions (Vert caps, Horiz 100 Temp)	1	Dash 5 & 20-30, Sp 3
	Boundaries of area informally or loosely described. (Vert caps)	00	
	Section Lines	00 or 0	Dash 12-15, Sp 7-10 (4/secs.)
	Survey Lines (Vert 80+ temp)	00	
	Lot Corner (Vert 60 temp)		Dash 8-15
Apln  Per  Cert 	Ground Water (well)	000	1/8" circle
Apln  Per  Cert 	Surface Water (lakes & streams)	000	1/8" square
Apln  Appvd  Completed 	Diversion Dam or Ditch (Major Installation)	000	1/8" hexigon
	Cabin Permit	0	2-3/32 Triangles

48
OFFICIAL RECORDS DRAFTING SYMBOLS

LAND STATUS SYMBOLS & CULTURAL FEATURES SYMBOLS	REPRESENTS: Labels: slope & 80 temp except as noted	PEN SIZE	SIZES: (Approx. & in proportion to the area in 30 ch/in scale)
	Major Roads (Vert caps 100 temp)	3	Dash 10-20
	Highways showing width on official plat (Vert caps 100 temp)	00	SIZES: (Approx. & in proportion Width at scale)
	Secondary Roads (Vert caps)	1	
	Access Roads & Easements (if not serialized, Vert caps 60 temp)	00	Dash 2-3, sp 1-2
	Trails (Vert caps 60 temp)	00	Dash 4-5, sp 1-2
	Electrical Power Line	000	1/16" circle sp 15-30
	Telephone or Telegraph Line	000	1/16" circle sp 10-20
	Railroad (Vert 100 temp)	000	2-3 sp 10-15
	Pipeline	000	2-3, sp 2-3 & 10-15
	Brackets = Limits on continuous line (Vert 80 temp)	00	3 x 5
	Triangulation Station	000	1/8" triangle
	U.S. Land Monument	000	1/8" circle
	Boundary Monument (Land grant, etc.) (Label slant in proportion to area)	000	1/8" square
	Shorelines on Lakes, River & Seashore (Straight for survey meanders)	00	
	Water lines (always freehand)	0000	Sp 1, Dash 10-15, Sp 3-8
	Streams & Creeks	00	
	Tidal Limit	3	
	Special Use Lands (No longer used)	1	
	Watershed (No longer used)	00	

ABBREVIATIONS
AUTHORIZED FOR STATE STATUS RECORDS

Ac	Acre or Acres
Acq	Acquired or Acquisition
Act of Cong	Act of Congress
Addl	Additional
Adj	Adjacent
ADL	Alaska Division of Lands
Adm Juris	Administrative Jurisdiction
Adm S	Administrative Site
ADP	Alaska Division of Parks
AF	Air Force
Afd	Acre Feet per day
Afy	Acre Feet per year
Agri	Agriculture
Agt	Agreement
Ak	Alaska
Amend or Am	Amendment
ANCSA	Alaska Native Claims Settlement Act
ANS	Air Navigation Site
Apln	Application
Aport	Airport
App	Approval
Approp	Appropriate or Appropriation
Approx	Approximate
Appvd	Approved
Asgn	Assignment
ASLS	Alaska State Land Survey
ATS	Alaska Tideland Survey
Auth	Authorization
Av	Aviation
Avail	Available
Avig Esmt	Avigation & Hazardous Easement
Bdy, Bdrs	Boundary, Boundaries
Blk	Block
BLM	Bureau of Land Management
BOR	Bureau of Outdoor Recreation
Boro	Borough
Canc	Cancelled or Cancellation
CC (Use only when space limited)	Case Closed
CDGMU	Copper Delta Game Management Unit
CDIF	Control Document Index File
Cert	Certify, Certified
Cfd	Cubic feet per day
Cfs	Cubic feet per second
CG	Community Grant
Chg	Change
Ck or Cr	Creek
CIRI	Cook Inlet Region Inc.

C-Ind	Commercial-Industrial
C/L or C	Centerline
Cl	Classification
Clr Lst	Clear List
Coal Pr Per	Coal Prospecting Permit
Com	Commercial
Comp	Competitive
Cond	Conditional
Cont'd	Continued
Corp	Corporation, Corporate
C Per	Cabin Permit
CRA	Civil Rights Act
CRM	Copper River Meridian
Cur Pat	Curative Patent
D/C	Ditches and/or Canals
Declar	Declaration
Ded	Dedication
Def	Deficiency
Dept	Department
Dept of Agri	Department of Agriculture
Dept of Comm	Department of Commerce
Dept of Ed	Department of Education
Dept of Hwys	Department of Highways
Dept of Nat Res	Department of Natural Resources
Dept of Pub Works	Department of Public Works
Dept of Rev	Department of Revenue
Des	Designated or Designation
Desc	Description
Dev	Development
DF	District Forester
Dist	District
Distr	Distribution
do	Ditto
Doc	Document
DOT	Deed of Title
D T S	Division of Technical Services
E	East
EV	Easement Vacation
Eff	Effective
Elec	Electric
Elim	Eliminate or Eliminated
Engr	Engineer
Enlgmt	Enlargement
EO	Executive Order
EPF	Engineering Plat File
Esc	Escheated Land
Esmt	Easement
Ex	Exchange or Exchanged
Excl	Exclude, Excluding
Exp	Expire, expired
Ext	Extended, Extension, Extend
Not Abbreviated	Exterior

Fcl	Foreclosure
Fed	Federal
FG	Forest Grants
F & GCH	Fish & Game Critical Habitat Area
Fis	Fissionable Materials
507 Site	Campground
FM	Fairbanks Meridian
FPA	Federal Power Act
Frac	Fractional
FSAU	Forest Service Authorized Use
FSRP	Forest Services Rights/Permittee
FUP	Free Use Permit
GAA	Greater Anchorage Area
Gd	Gold
Geol Str	Geologic Structure
Govt	Government
Gp	Group
Gpd	Gallons per day
Gpm	Gallons per minute
Gps	Gallons per second
Gr	Grazing
Gr Lse	Grazing Lease
Grnbt	Greenbelt
GS	General Selections
Hdq S	Headquarters Site
HE	Homestead Entry
HES	Homestead Entry Survey
HI	Historical Index
Hi	High
Hwy	Highway
Hst E	Homesite Entry
IA	Indian Allotment
Iden	Identification
IL	Indemnity Lands
ILMA	Interagency Land Management Assignment
ILMT	Interagency Land Management Transfer
Incl	Include or including
Ind Res	Indian Reservation
Indef	Indefinite
Intpr	Interpretation
Is	Island
Iss	Issued
IT	Isolated Tract
KRM	Kateel River Meridian
Lat	Latitude
L E	Land Estate
Lic	License
LH	Light House
LO	Land Office

Loc	Location
Long	Longitude
Lot	Not Abbreviated
LS	Lieu Selection
Lse	Lease
Ltr	Letter
Ltr Per	Letter Permit
LWCF	Land & Water Conservation Fund
LSH	Limited State Holding
M	Mineral
Mat	Material, Matanuska
Mat Site	Material Site
Mat Su	Matanuska-Susitna
M & B	Metes and Bounds
M E	Mineral Estate
MEA	Matanuska Electric Association
Mer	Meridian
MH	Mental Health Grants
M H W	Mean High Water
Mi	Miner's Inches
Mil Pur	Military Purpose
Mil Res	Military Reservation
Min	Mine, Mining
Min C	Mining Claim
Misc	Miscellaneous
ML	Minerals Location
M L A	Mineral Leasing Act
M L W	Mean Low Water
Mngt Rts	Management Rights
Mod	Modification
Mon	Monument
MP	Master Plat
MS	Mineral Survey
Mtn	Mountain
Mun	Municipal
N	North
N A	Native Allotment
N-CUP	Non-Compatible Use Permit
NE	Northeast
NF	National Forest
NFCG	National Forest Community Grant
N Mon	National Monument
Nom	Nomination
Non-Comp	Noncompetitive
N P	National Park
N S	Native Settlement
NW	Northwest
O	Order
Obj	Objection
OBL	Other Borough Lands
OC	Over-the-Counter

Offshore Pr Per	Offshore Prospecting Permit
OG	Oil & Gas
OPP (On Plats Only)	Offshore Prospecting Permit
ORR	Over-Riding Royalty
OSL	Other State Lands
O TE	Open-to-Entry
Oth	Other
O T L	Open to Lease
O T S	Open to Sale
Par	Parcel
Partially	Not Abbreviated
P Asgn	Partial Assignment
Pat	Patent
Ped	Pedestrian
Per	Permit
PLO	Public Land Order
Port	Portion
Pref	Preference
Prin Mer.	Principal Meridian
Pr Per	Prospecting Permit
Pr Site	Prospecting Site
Proc	Proclamation
Proj	Project
P U P	Personal Use Permit
Pub Rec	Public Recreation
Pub U P	Public Use Permit
Pur	Purchase, Purpose
Pvt Law	Private Law
Pvt Rec	Private Recreation
Pwr Proj	Power Project
Pwr Site	Power Site
Q C D	Quitclaim Deed
R or Rge	Range
RB	River Bed
Rd	Road
Re	Remarks
Rec	Recreation
Rec'd	Received
Re-cl	Reclassification
Rec & PP	Recreation & Public Purposes
Redempt	Redemption
Rej	Rejected or Rejection
Rel	Relinquished or Relinquishment
Rep	Repurchase
Req	Request
Res	Reserve or Reservation
Resid	Residential
Res U Req	Reserved Use Request
Rev	Revocation or Revoked
Rgr Sta	Ranger Station
R Asmt	Resource Assessment

R Mngt	Resource Management Land
RPA	Recreation Purchase Acquisition
RR	Railroad
RS	Revised Statute
Rst	Restrict or Restricted
R/W	Right-of-Way
RY	Railway
S	South
San	Sanitary
Sch	School
SE	Southeast
Sec	Section
Sec of Int	Secretary of Interior
Seg	Segregate, segregated, segregation
Sel	Selection or Selected
SF	Shore Fishery
S F P	Shore Fishery Plat
SG	State Grant
SGR	State Game Refuge
Shlds	Shorelands
Simo	Simultaneous
SLUP	Special Land Use Permit
SM	Seward Meridian
S M U P	Special Mineral Use Permit
SP	Status Plat
S Pat	State Patent
Spec Per	Special Permit
Special Use Lands	Not Abbreviated
SR	Serial Register
ST	Small Tract
Sta	Station
ST Cl	Small Tract Classification
Stip	Stipulation
ST Lse	Small Tract Lease
Subd	Subdivision
Subdiv Und	Subdivision Undefined
Subj	Subject
Suppl	Supplemental
Sur	Survey or Surveyed
Susp	Suspended
SW	Southwest
Tbr	Timber
TC	Transportation Corridor
TCCP	Trappers Cabin Construction Permit
TCP	Timber Cutting Permit
Tdls	Tidelands
Tel	Telephone
Teleg	Telegraph
Temp	Temporary
Tent App	Tentative Approval
Term	Terminated
Terr	Territory or Territorial

T & M	Trade & Manufacturing
Tns	Townsite
Tr	Tract
Trans	Transmitted, Transmission
Trf	Transfer
Trfd	Transferred
Trf Juris	Transfer of Jurisdiction
Twp, Twps	Township or Townships
Trpt	Transportation
TCCP	Trappers Cabin Construction Permit
UM	Umiate Meridian
Uncl	Unclassified
Univ	University
Uplds	Uplands
Ur	Uranium
U S	United States
U S L M	United States Land Monument
U S M S	United States Mineral Survey
U S S	United States Survey
Util	Utility, Utilize, Utilization
U & T Corridor	Utility & Transportation Corridor
W	West
W D	Warranty Deed
Wdl	Withdrawal
Wild Hab	Wildlife Habitat
WR	Water Rights
W Shed	Watershed
X-ing	Crossing
Yr	Year

STATUS PLAT TRACKING SYSTEM

*** A tool used in conjunction with the most current Status Plat (graphic record) to provide the land and resource manager and general public with current land status.***

Land and resource managers, industry and the general public need to know the current status, the uses permitted and restricted of and on the State's natural resources which include the land, mineral and water estates.

Actions requiring notation to the graphic record, commonly called a Status Plat, increased beyond the Department of Natural Resources' ability to maintain a current record. Until the Automated Drafting System (ADS) is fully operational to provide the land manager with current information, cost effective alternate methods had to be developed for tracking land actions.

Manual systems, from physical filing of pending actions in a systematic way to typed lists which were periodically updated were tried, but became time consuming and costly to maintain and quickly became outdated. Reasonably current information was available at only one location and responding to written requests for current data was very time consuming and costly. In addition, a list or index of townships for which a status plat existed was being manually maintained at a high cost.

A fully automated system, which became known as the STATUS PLAT TRACKING SYSTEM, was developed to replace all manually maintained lists.

The STATUS PLAT TRACKING SYSTEM is composed of four components or functions. The first of these, PLAT INVENTORY, replaces the manual Index to Available Status Plats. The second function, PENDING ACTIONS replaces previously manually maintained lists and tracks those actions requiring notation to a particular tract of land that have not yet been drafted onto the Status Plats. The third function, CONVERSION MANAGEMENT, tracks the various phases and activities associated with converting Status Plats to the Automated Drafting System. The fourth function, AUTOMATED ACTIVITY, keeps track of any activity being performed on automated Status Plats. The third and fourth functions were developed for internal management of the massive project to convert manually maintained status plats to the Automated Drafting System and are of limited interest to the land manager or general public.

*** Using the most current STATUS PLAT and viewing the computer terminal screen or hard copy printout of the PENDING ACTIONS FUNCTION, the land manager in a multitude of locations is able to obtain CURRENT LAND STATUS.***

For more information, call Dianne M. Lyles at 762-2384 or Warner T. "Bud" May at 762-2390 in Status Graphics. For training in use of the system, call Michele Gorham at 762-2214 in the Information Center.

N 4701N

05/21/86

PENDING ACTIONS MENU

- 1 - ADD NEW ACTION TO FILE
- 2 - UPDATE ACTION ON FILE
- 3 - DISPLAY ACTIONS BY TOWNSHIP
- 4 - DISPLAY ACTIONS BY FILE TYPE AND NUMBER
- 5 - DISPLAY ACTIONS BY CASE TYPE
- 6 - DISPLAY ACTIONS BY TOWNSHIP AND CASE TYPE
- NP46 - PLAT INVENTORY MENU
- NP48 - CONVERSION MANAGEMENT MENU
- NP49 - AUTOMATED ACTIVITY MENU

ENTER DESIRED PROCESS

MERIDIAN TOWNSHIP RANGE

TOWNSHIP

TYPE

NUMBER

FILE TYPE AND NUMBER

CASE TYPE

PF8/20 - PLAT MENU

PF9/21 - LAS MENU

PF10/22 - EXIT LAS

PA2 - VTAM

NPT4731N

PENDING ACTIONS DISPLAY
TOWNSHIP S 011S 054W

05/21/86

FILE TYPE AND NUMBER	CASE TYPE & DESCRIPTION/ STATUS CODE & DESCRIPTION	ACTION DATE	DRAFT CODE	INVOLVED SECTIONS
CL C-SC-84-008	201 SURFACE CLASSIFICATION	09 13 1984		UK

12

ENTER - CONTINUE

PF8/20 - PENDING ACTIONS MENU

PF9/21 - LAS MENU

4731N

PENDING ACTIONS DISPLAY
TOWNSHIP F 001N 004E

05/21/86

FILE TYPE AND NUMBER	CASE TYPE & DESCRIPTION/ STATUS CODE & DESCRIPTION	ACTION DATE	DRAFT INVOLVED CODE SECTIONS
ADL 402585	522 AGRICULTURAL SALE COMP 90 CONVEYED/TRANSFERRED	03 07 1986	32, PAT 8512
ADL 407800	581 PUBLIC EASEMENT 20 EASEMENT CREATED	07 20 1984	3-6
ADL 412425	539 OTHER SALE NON-COMP 11 APPLICATION RECEIVED	09 10 1985	33
MNORD MO 383A&B	204 MINERAL ORDER 12 ACTIVE	03 16 1984	4,5,8 OPEN MCO 134

ENTER - CONTINUE

PF8/20 - PENDING ACTIONS MENU

PF9/21 - LAS MENU

DEPARTMENT OF NATURAL RESOURCES
Division of Land & Water Management

Mental Health Lands Map
December, 1985

The attached mental health land map depicts those townships within the state which contain selected, tentatively approved, or patented mental health lands. The amount of mental health land in each category in each township varies considerably. Therefore, it is necessary to check state land status plats to verify mental health land status in any given area. Also attached is a listing showing all specific townships and ranges containing mental health lands which have been patented or tentatively approved to the state.

Of the one million acres allotted to the state under the Mental Health Enabling Act of 1956, approximately 806,300 acres have been patented to the state with an additional 176,800 acres tentatively approved. This acreage is shown on state status plats which are available through the department's regional information centers listed below.

The remaining 16,900 acre entitlement will come from approximately 135,600 acres of land currently under mental health grant selection. This selected acreage does not appear on state status plats, but is depicted on this master map.

If you need specific information about state mental health land in a particular area, please contact one of the division's regional offices to obtain copies of state status plats. If you have questions regarding the mental health lands project, please contact Salli Slaughter at Pouch 7-005, Anchorage, Alaska 99510, (907) 561-2020.

Northern Region
4420 Airport Way
Fairbanks, Alaska 99701
(907) 479-2243

Southcentral Region
3601 C Street
Pouch 7-005
Anchorage, Alaska 99510
(907) 561-2020

Southeastern Region
400 Willoughby
Pouch MA
Juneau, Alaska 99811
(907) 465-3400

MENTAL HEALTH LANDS

Seward Meridian

NW Township - Range

2N - 12W
3N - 11W
3N - 12W
5N - 08W
5N - 09W
5N - 10W
5N - 11W
5N - 12W
6N - 10W
6N - 11W
7N - 10W
7N - 11W
7N - 12W
8N - 10W
8N - 11W
8N - 12W
11N - 03W
12N - 03W
12N - 04W
12N - 11W
12N - 12W
12N - 13W
13N - 01W
13N - 03W
13N - 10W
13N - 11W
13N - 12W
13N - 13W
14N - 02W
14N - 04W
14N - 05W
14N - 06W
14N - 12W
14N - 13W
15N - 03W
15N - 04W
15N - 05W
15N - 06W
16N - 02W
16N - 03W
17N - 01W
17N - 02W
17N - 04W
18N - 01W
18N - 02W
18N - 03W
18N - 05W
20N - 04W
20N - 05W
21N - 04W
25N - 04W
25N - 05W
26N - 04W
26N - 05W

NE Township - Range

16N - 02E
17N - 02E
18N - 01E
18N - 02E
18N - 03E
19N - 01E
19N - 02E
19N - 03E
19N - 04E
19N - 05E
19N - 06E
20N - 05E
20N - 06E
20N - 07E

SW Township - Range

1S - 14W
5S - 13W
6S - 13W
6S - 14W
7S - 13W
8S - 13W
27S - 19W
29S - 18W
29S - 19W

MENTAL HEALTH LANDS

Fairbanks Meridian

NW Township - Range

1N - 01W
1N - 02W
1N - 03W
4N - 22W

NE Township - Range

1N - 01E
1N - 04E
1N - 06E
1N - 07E
2N - 06E
2N - 07E
2N - 08E
3N - 07E
3N - 08E

SW Township - Range

1S - 01W
1S - 02W
1S - 03W
2S - 04W
3S - 04W
4S - 07W
4S - 08W
6S - 08W
9S - 05W
9S - 06W
10S - 06W
11S - 07W
11S - 23W
11S - 24W
12S - 06W
12S - 07W
12S - 23W
12S - 24W
12S - 25W

SE Township - Range

1S - 01E
1S - 03E
1S - 04E
2S - 01E
2S - 03E
3S - 03E
5S - 04E
6S - 04E
6S - 05E
7S - 05E
7S - 06E

MENTAL HEALTH LANDS

Copper River Meridian

SE Township - Range

22S - 19E	60S - 79E
22S - 20E	62S - 83E
22S - 21E	62S - 84E
22S - 22E	63S - 83E
23S - 21E	63S - 84E
23S - 22E	64S - 84E
26S - 54E	71S - 86E
26S - 55E	74S - 81E
26S - 56E	74S - 89E
27S - 54E	74S - 90E
27S - 55E	75S - 89E
27S - 56E	75S - 90E
28S - 53E	75S - 91E
28S - 54E	76S - 90E
28S - 55E	76S - 91E
28S - 56E	70S - 86E
29S - 54E	
29S - 55E	
29S - 56E	
29S - 57E	
30S - 56E	
30S - 57E	
30S - 58E	
30S - 59E	
31S - 59E	
31S - 60E	
32S - 59E	
32S - 60E	
39S - 64E	
39S - 65E	
40S - 58E	
40S - 59E	
40S - 64E	
40S - 65E	
40S - 66E	
41S - 66E	
41S - 67E	
42S - 55E	
42S - 67E	
42S - 68E	
55S - 63E	
55S - 64E	
56S - 63E	
56S - 64E	
59S - 79E	
58S - 79E	

DATE: 01/31/09

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
C022S019E01	MH	131	640	640
C022S019E02	MH	131	618	618
C022S019E03	MH	131	430	430
C022S019E04	MH	131	220	220
C022S019E05	MH	131	35	35
C022S019E11	MH	131	31	31
C022S019E12	MH	131	160	160
C022S020E01	MH	132	640	640
C022S020E02	MH	132	640	640
C022S020E03	MH	132	640	640
C022S020E04	MH	132	640	640
C022S020E05	MH	132	640	640
C022S020E06	MH	132	695	695
C022S020E07	MH	132	300	300
C022S020E08	MH	132	285	285
C022S020E09	MH	132	341	341
C022S020E10	MH	132	465	465
C022S020E11	MH	132	630	630
C022S020E12	MH	132	640	640
C022S020E13	MH	132	270	270
C022S020E14	MH	132	75	75
C022S021E01	MH	133	640	640
C022S021E02	MH	133	640	640
C022S021E03	MH	133	640	640
C022S021E04	MH	133	640	640
C022S021E05	MH	133	640	640
C022S021E06	MH	133	641	641
C022S021E07	MH	133	643	643
C022S021E08	MH	133	640	640
C022S021E09	MH	133	640	640
C022S021E10	MH	133	640	640
C022S021E11	MH	133	640	640
C022S021E12	MH	133	640	640
C022S021E13	MH	133	640	640
C022S021E14	MH	133	640	640
C022S021E15	MH	133	640	640
C022S021E16	MH	133	640	640
C022S021E17	MH	133	640	640
C022S021E18	MH	133	554	554
C022S021E19	MH	133	18	18
C022S021E20	MH	133	246	246
C022S021E21	MH	133	560	560
C022S021E22	MH	133	620	620
C022S021E23	MH	133	637	637
C022S021E24	MH	133	640	640
C022S021E25	MH	133	640	640
C022S021E26	MH	133	633	633
C022S021E27	MH	133	350	350
C022S021E28	MH	133	35	35
C022S021E35	MH	133	190	190
C022S021E36	MH	133	581	581
C022S022E01	MH	134	640	640
C022S022E02	MH	134	640	640
C022S022E03	MH	134	640	640
C022S022E04	MH	134	640	640

DATE: 01/3
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE:
TOTAL ACRES
PAT & TA

2

DATE: 01/3 SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	PAGE: TOTAL ACRES PAT & TA
C022S022E05	MH	134	640	640
C022S022E06	MH	134	640	640
C022S022E07	MH	134	643	643
C022S022E08	MH	134	640	640
C022S022E09	MH	134	640	640
C022S022E10	MH	134	640	640
C022S022E11	MH	134	640	640
C022S022E12	MH	134	640	640
C022S022E13	MH	134	640	640
C022S022E14	MH	134	640	640
C022S022E15	MH	134	640	640
C022S022E16	MH	134	640	640
C022S022E17	MH	134	640	640
C022S022E18	MH	134	644	644
C022S022E19	MH	134	646	646
C022S022E20	MH	134	640	640
C022S022E21	MH	134	640	640
C022S022E22	MH	134	640	640
C022S022E23	MH	134	640	640
C022S022E24	MH	134	640	640
C022S022E25	MH	134	632	632
C022S022E26	MH	134	640	640
C022S022E27	MH	134	640	640
C022S022E28	MH	134	640	640
C022S022E29	MH	134	640	640
C022S022E30	MH	134	648	648
C022S022E31	MH	134	649	649
C022S022E32	MH	134	640	640
C022S022E33	MH	134	640	640
C022S022E34	MH	134	572	572
C022S022E35	MH	134	420	420
C022S022E36	MH	134	113	113
C023S021E01	MH	135	28	28
C023S022E04	MH	135	54	54
C023S022E05	MH	135	134	134
C023S022E06	MH	135	157	157
C026S054E08	MH	16	90	90
C026S054E09	MH	16	370	370
C026S054E10	MH	16	220	220
C026S054E14	MH	16	240	240
C026S054E15	MH	16	630	630
C026S054E16	MH	16	640	640
C026S054E17	MH	16	615	615
C026S054E18	MH	16	110	110
C026S054E20	MH	16	265	265
C026S054E21	MH	16	640	640
C026S054E22	MH	16	640	640
C026S054E23	MH	16	617	617
C026S054E24	MH	16	225	225
C026S054E25	MH	16	630	630
C026S054E26	MH	16	640	640
C026S054E27	MH	16	640	640
C026S054E28	MH	16	410	410
C026S054E29	MH	16	5	5
C026S054E33	MH	16	30	30

DATE: 01/31
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE:
TOTAL ACRES
PAT & TA

3

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
C026S054E34	MH	16	540	540
C026S054E35	MH	16	640	640
C026S054E36	MH	16	640	640
C026S055E11	MH	16	5	5
C026S055E12	MH	16	160	160
C026S055E13	MH	16	640	640
C026S055E14	MH	16	305	305
C026S055E15	MH	16	45	45
C026S055E22	MH	16	135	135
C026S055E23	MH	16	640	640
C026S055E24	MH	137	9	9
C026S055E24	MH	16	631	631
C026S055E25	MH	16	640	640
C026S055E26	MH	16	640	640
C026S055E27	MH	16	595	595
C026S055E28	MH	16	235	235
C026S055E29	MH	16	5	5
C026S055E30	MH	16	225	225
C026S055E31	MH	16	611	611
C026S055E32	MH	16	545	545
C026S055E33	MH	16	640	640
C026S055E34	MH	16	640	640
C026S055E35	MH	16	640	640
C026S055E36	MH	16	639	639
C026S056E05	MH	16	75	75
C026S056E06	MH	16	20	20
C026S056E07	MH	16	497	497
C026S056E08	MH	16	430	430
C026S056E16	MH	16	10	10
C026S056E17	MH	16	605	605
C026S056E18	MH	16	615	615
C026S056E19	MH	16	617	617
C026S056E20	MH	16	640	640
C026S056E21	MH	16	120	120
C026S056E28	MH	16	60	60
C026S056E29	MH	16	600	600
C026S056E30	MH	16	618	618
C026S056E31	MH	16	620	620
C026S056E32	MH	16	245	245
C027S054E01	MH	16	456	456
C027S054E02	MH	16	451	451
C027S054E03	MH	16	106	106
C027S054E11	MH	16	370	370
C027S054E12	MH	16	640	640
C027S054E13	MH	16	500	500
C027S054E24	MH	16	80	80
C027S055E01	MH	16	456	456
C027S055E02	MH	16	326	326
C027S055E03	MH	16	456	456
C027S055E04	MH	16	456	456
C027S055E05	MH	16	456	456
C027S055E06	MH	16	443	443
C027S055E07	MH	16	621	621
C027S055E08	MH	16	640	640
C027S055E09	MH	16	640	640

DATE: 01
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE:
TOTAL ACRES
PAT & TA

4

DATE: 01 SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	PAGE: TOTAL ACRES PAT & TA
C027S055E10	MH	16	640	640
C027S055E11	MH	16	640	640
C027S055E12	MH	16	630	630
C027S055E13	MH	16	270	270
C027S055E14	MH	16	640	640
C027S055E15	MH	16	640	640
C027S055E16	MH	16	640	640
C027S055E17	MH	16	640	640
C027S055E18	MH	16	623	623
C027S055E19	MH	16	585	585
C027S055E20	MH	16	550	550
C027S055E21	MH	16	595	595
C027S055E22	MH	16	640	640
C027S055E23	MH	16	640	640
C027S055E24	MH	16	235	235
C027S055E25	MH	16	390	390
C027S055E26	MH	16	640	640
C027S055E27	MH	16	640	640
C027S055E28	MH	16	630	630
C027S055E29	MH	16	605	605
C027S055E30	MH	16	179	179
C027S055E32	MH	16	335	335
C027S055E33	MH	16	640	640
C027S055E34	MH	16	640	640
C027S055E35	MH	16	640	640
C027S055E36	MH	16	640	640
C027S056E06	MH	16	371	371
C027S056E07	MH	16	150	150
C027S056E31	MH	16	80	80
C028S053E08	MH	16	37	37
C028S053E09	MH	16	100	100
C028S053E11	MH	16	25	25
C028S053E12	MH	16	170	170
C028S053E13	MH	16	600	600
C028S053E14	MH	16	431	431
C028S053E15	MH	16	490	490
C028S053E16	MH	16	480	480
C028S053E21	MH	16	140	140
C028S053E22	MH	16	635	635
C028S053E23	MH	16	640	640
C028S053E24	MH	16	516	516
C028S053E25	MH	16	640	640
C028S053E26	MH	16	535	535
C028S053E27	MH	16	170	170
C028S053E35	MH	16	5	5
C028S053E36	MH	16	275	275
C028S054E07	MH	16	10	10
C028S054E13	MH	16	125	125
C028S054E14	MH	16	280	280
C028S054E15	MH	16	325	325
C028S054E16	MH	16	305	305
C028S054E17	MH	16	415	415
C028S054E18	MH	16	636	636
C028S054E19	MH	16	686	686
C028S054E20	MH	16	640	640

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
C028S054E21	MH	16		522
C028S054E22	MH	16		560
C028S054E23	MH	16		533
C028S054E24	MH	16		591
C028S054E25	MH	16		640
C028S054E26	MH	16		640
C028S054E27	MH	16		615
C028S054E28	MH	16		640
C028S054E29	MH	16		640
C028S054E30	MH	16		688
C028S054E31	MH	16		650
C028S054E32	MH	16		640
C028S054E33	MH	16		508
C028S054E34	MH	16		640
C028S054E35	MH	16		640
C028S054E36	MH	16		640
C028S055E01	MH	16		640
C028S055E02	MH	16	24	640
C028S055E03	MH	16		604
C028S055E04	MH	16		640
C028S055E09	MH	16		590
C028S055E10	MH	16		535
C028S055E11	MH	16		635
C028S055E12	MH	16		640
C028S055E13	MH	16		640
C028S055E14	MH	16		640
C028S055E15	MH	16		640
C028S055E16	MH	16		580
C028S055E17	MH	16		85
C028S055E18	MH	16		150
C028S055E19	MH	16		402
C028S055E20	MH	16		640
C028S055E21	MH	16		640
C028S055E22	MH	16	40	470
C028S055E23	MH	16		40
C028S055E24	MH	16		640
C028S055E25	MH	16		270
C028S055E26	MH	16		380
C028S055E27	MH	16		225
C028S055E28	MH	16		380
C028S055E29	MH	16		279
C028S055E30	MH	16		255
C028S055E35	MH	16		40
C028S055E36	MH	16		137
C028S056E05	MH	16		10
C028S056E06	MH	16		481
C028S056E07	MH	16		633
C028S056E08	MH	16		325
C028S056E17	MH	16		600
C028S056E18	MH	16		634
C028S056E19	MH	16		636
C028S056E20	MH	16		50
C028S056E30	MH	16		113
C028S056E31	MH	16		10
C028S056E34	MH	16		320
C029S054E01	MH	16		809

DATE: 01/7/76
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE: 6
TOTAL ACRES
PAT & TA

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
C029S054E02	MH	16		751
C029S054E03	MH	16		104
C029S054E11	MH	16		90
C029S054E12	MH	16		40
C029S055E01	MH	16		824
C029S055E02	MH	16		824
C029S055E03	MH	16		824
C029S055E04	MH	16		824
C029S055E05	MH	16		784
C029S055E06	MH	16		649
C029S055E09	MH	16		185
C029S055E10	MH	16		420
C029S055E11	MH	16		610
C029S055E12	MH	16		640
C029S055E13	MH	16		80
C029S056E01	MH	16		34
C029S056E05	MH	16		638
C029S056E06	MH	16		578
C029S056E07	MH	16		580
C029S056E08	MH	16		640
C029S056E09	MH	16		640
C029S056E10	MH	16		640
C029S056E11	MH	16		640
C029S056E12	MH	16		640
C029S056E13	MH	16		440
C029S056E14	MH	16		582
C029S056E15	MH	16		640
C029S056E16	MH	16		640
C029S056E17	MH	16		640
C029S056E18	MH	16		522
C029S056E20	MH	16		175
C029S056E21	MH	16		430
C029S056E22	MH	16		635
C029S056E23	MH	16		640
C029S056E24	MH	16		557
C029S056E25	MH	16		640
C029S056E26	MH	16		460
C029S056E26	MH	153		90
C029S056E27	MH	16	115	115
C029S056E35	MH	153	238	238
C029S056E35	MH	16	5	5
C029S056E36	MH	153	340	340
C029S056E36	MH	16	280	280
C029S057E03	MH	16		110
C029S057E04	MH	16		548
C029S057E05	MH	16		439
C029S057E06	MH	16		415
C029S057E07	MH	16		601
C029S057E08	MH	16		640
C029S057E09	MH	16		216
C029S057E10	MH	16		525
C029S057E11	MH	16		150
C029S057E13	MH	16		110
C029S057E14	MH	16		620
C029S057E15	MH	16		560

DATE: 01/
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE:
TOTAL ACRES
PAT & TA

7

DATE: 01/ SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	PAGE: TOTAL ACRES PAT & TA
C029S057E16	MH	16	314	314
C029S057E17	MH	16	404	404
C029S057E18	MH	16	554	554
C029S057E19	MH	16	587	587
C029S057E20	MH	16	610	610
C029S057E21	MH	16	640	640
C029S057E22	MH	16	640	640
C029S057E23	MH	16	640	640
C029S057E24	MH	16	280	280
C029S057E25	MH	16	356	356
C029S057E26	MH	16	640	640
C029S057E27	MH	16	640	640
C029S057E28	MH	16	640	640
C029S057E29	MH	16	640	640
C029S057E30	MH	16	575	575
C029S057E31	MH	153		20
C029S057E31	MH	16	588	588
C029S057E32	MH	16	640	640
C029S057E33	MH	16	640	640
C029S057E34	MH	16	640	640
C029S057E35	MH	16	640	640
C029S057E36	MH	16	100	100
C030S056E01	MH	153		130
C030S056E13	MH	16	15	15
C030S056E14	MH	16	125	125
C030S056E23	MH	16	380	380
C030S056E24	MH	16	620	620
C030S056E25	MH	16	625	625
C030S056E26	MH	16	75	75
C030S056E36	MH	16	120	120
C030S057E01	MH	16	825	825
C030S057E02	MH	16	825	825
C030S057E03	MH	16	825	825
C030S057E04	MH	16	820	820
C030S057E04	MH	153		5
C030S057E05	MH	153		260
C030S057E05	MH	16	555	555
C030S057E06	MH	16	95	95
C030S057E06	MH	153		430
C030S057E08	MH	153		205
C030S057E09	MH	153		391
C030S057E09	MH	16	160	160
C030S057E10	MH	153		65
C030S057E10	MH	16	575	575
C030S057E11	MH	16	640	640
C030S057E12	MH	16	640	640
C030S057E13	MH	16	640	640
C030S057E14	MH	16	640	640
C030S057E15	MH	153		346
C030S057E15	MH	16	110	110
C030S057E16	MH	153		81
C030S057E19	MH	16	485	485
C030S057E20	MH	16	400	400
C030S057E21	MH	16	460	460
C030S057E22	MH	16	570	570

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
C030S057E23	MH	16	640	640
C030S057E24	MH	16	640	640
C030S057E25	MH	16	640	640
C030S057E26	MH	16	640	640
C030S057E27	MH	16	640	640
C030S057E28	MH	16	640	640
C030S057E29	MH	16	640	640
C030S057E30	MH	16	616	616
C030S057E31	MH	16	210	210
C030S057E32	MH	16	255	255
C030S057E33	MH	16	280	280
C030S057E34	MH	16	320	320
C030S057E35	MH	16	330	330
C030S057E36	MH	16	345	345
C030S058E06	MH	16	400	400
C030S058E07	MH	16	57	57
C030S058E08	MH	16	141	141
C030S058E14	MH	72	40	40
C030S058E15	MH	137	3	3
C030S058E17	MH	16	365	365
C030S058E19	MH	16	498	498
C030S058E29	MH	16	10	10
C030S058E30	MH	16	598	598
C030S058E31	MH	16	540	540
C030S058E32	MH	16	105	105
C030S059E01	MH	72	360	360
C030S059E02	MH	72	252	252
C030S059E03	MH	72	369	369
C030S059E09	MH	137	2	2
C030S059E10	MH	72	3	3
C030S059E12	MH	72	84	84
C030S059E15	MH	72	215	215
C030S059E19	MH	72	74	74
C030S059E22	MH	72	400	400
C030S059E23	MH	72	115	115
C030S059E26	MH	72	53	53
C030S059E27	MH	72	40	40
C030S059E29	MH	72	6	6
C030S059E30	MH	72	3	3
C030S059E33	MH	72	6	6
C030S059E34	MH	72	39	39
C030S059E35	MH	93	37	37
C031S059E01	MH	93	292	292
C031S059E02	MH	93	305	305
C031S059E03	MH	93	11	11
C031S059E09	MH	72	9	9
C031S059E11	MH	93	290	290
C031S059E12	MH	93	84	84
C031S059E13	MH	93	277	277
C031S059E14	MH	93	2	2
C031S059E21	MH	72	61	61
C031S059E22	MH	72	26	26
C031S059E24	MH	72	15	15
C031S060E06	MH	93	12	12
C031S060E07	MH	93	79	79

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	PAGE: 9	TOTAL ACRES PAT & TA
C031S060E08	MH	15	15	15	15
C031S060E17	MH	110	110	110	110
C031S060E17	MH	53	53	53	53
C031S060E18	MH	80	80	80	80
C031S060E18	MH	356	356	356	356
C031S060E19	MH	171	171	171	171
C031S060E20	MH	161	161	161	161
C031S060E28	MH	11	11	11	11
C031S060E29	MH	208	208	208	208
C031S060E30	MH	29	29	29	29
C031S060E31	MH	178	178	178	178
C031S060E32	MH	68	68	68	68
C032S059E11	MH	222	222	222	222
C032S059E13	MH	191	191	191	191
C032S059E24	MH	200	200	200	200
C032S059E25	MH	134	134	134	134
C032S060E04	MH	123	123	123	123
C032S060E05	MH	400	400	400	400
C032S060E06	MH	180	180	180	180
C032S060E07	MH	139	139	139	139
C032S060E08	MH	533	533	533	533
C032S060E09	MH	335	335	335	335
C032S060E15	MH	62	62	62	62
C032S060E17	MH	36	36	36	36
C032S060E21	MH	148	148	148	148
C032S060E22	MH	68	68	68	68
C032S060E30	MH	5	5	5	5
C039S064E02	MH	161	161	161	161
C039S064E03	MH	112	112	112	112
C039S064E10	MH	73	73	73	73
C039S064E11	MH	399	399	399	399
C039S064E12	MH	136	136	136	136
C039S064E13	MH	97	97	97	97
C039S064E13	MH	1	1	1	1
C039S064E14	MH	33	33	33	33
C039S064E14	MH	3	3	3	3
C039S064E24	MH	165	165	165	165
C039S064E25	MH	300	300	300	300
C039S064E36	MH	390	390	390	390
C039S065E31	MH	5	5	5	5
C040S058E01	MH	160	160	160	160
C040S058E01	MH	320	320	320	320
C040S058E02	MH	320	320	320	320
C040S058E02	MH	160	160	160	160
C040S058E03	MH	640	640	640	640
C040S058E09	MH	640	640	640	640
C040S058E10	MH	640	640	640	640
C040S058E11	MH	120	120	120	120
C040S058E11	MH	400	400	400	400
C040S058E12	MH	234	234	234	234
C040S058E13	MH	94	94	94	94
C040S058E13	MH	139	139	139	139
C040S058E14	MH	200	200	200	200
C040S058E14	MH	403	403	403	403
C040S058E15	MH	640	640	640	640

Case ID	MH	TA	OR	PAT	ACRES	PAT	ACRES	TA	TOTAL ACRES	PAT & TA
C040S058E21	MH	38			446				446	
C040S058E22	MH	38			304				304	
C040S058E23	MH	38			63				63	
C040S059E03	MH	38			160				160	
C040S059E04	MH	38			520				520	
C040S059E05	MH	38			160				160	
C040S059E06	MH	106			75				75	
C040S059E07	MH	38			118				118	
C040S059E08	MH	38			23				23	
C040S059E09	MH	38			160				160	
C040S059E10	MH	38			144				144	
C040S059E11	MH	38			336				336	
C040S059E12	MH	38			70				70	
C040S059E13	MH	92			95				95	
C040S059E14	MH	98			35				35	
C040S064E01	MH	81			1				1	
C040S064E02	MH	81			9				9	
C040S064E03	MH	98			62				62	
C040S064E04	MH	107			1				1	
C040S064E05	MH	81			19				19	
C040S064E06	MH	107			4				4	
C040S064E07	MH	81			1				1	
C040S064E08	MH	92			23				23	
C040S064E09	MH	98			9				9	
C040S065E01	MH	98			52				52	
C040S065E02	MH	137			21				21	
C040S065E03	MH	107			3				3	
C040S065E04	MH	107			8				8	
C040S065E05	MH	81			5				5	
C040S065E06	MH	107			8				8	
C040S065E07	MH	107			8				8	
C040S065E08	MH	107			8				8	
C040S065E09	MH	81			40				40	
C040S065E10	MH	107			8				8	
C040S065E11	MH	81			31				31	
C040S065E12	MH	107			1				1	
C040S065E13	MH	81			42				42	
C040S065E14	MH	137			59				59	
C040S065E15	MH	49			22				22	
C040S065E16	MH	137			26				26	
C040S065E17	MH	81			2				2	
C040S065E18	MH	49			100				100	
C040S065E19	MH	81			339				339	
C040S065E20	MH	137			1				1	
C040S065E21	MH	107			1				1	
C040S065E22	MH	107			1				1	
C040S065E23	MH	81			8				8	
C040S065E24	MH	168			4				4	
C040S066E01	MH	137			6				6	
C040S066E02	MH	81			16				16	
C040S066E03	MH	81			61				61	
C040S066E04	MH	137			2				2	
C040S066E05	MH	180			176				176	
C040S066E06	MH	81			214				214	
C040S066E07	MH	180			42				42	
C040S066E08	MH	81			269				269	

Case ID	MH	TA	OR	PAT	ACRES	PAT	ACRES	TA	TOTAL ACRES
C041S066E03	MH	81			1			1	279
C041S066E04	MH	81			2			2	279
C041S066E05	MH	81						116	201
C041S066E10	MH	81			116			201	245
C041S066E11	MH	81			201			34	20
C041S066E12	MH	81			245			20	2
C041S067E06	MH	180			20			320	1
C041S067E07	MH	98			2			1	31
C041S067E08	MH	81			1			1	77
C041S067E09	MH	50			77			1	77
C041S067E15	MH	81			1			1	279
C041S067E16	MH	98			1			175	121
C041S067E17	MH	50			121			28	75
C041S067E21	MH	50			75			21	1
C041S067E22	MH	51			21			1	42
C042S055E25	MH	78			1			485	80
C042S055E36	MH	81			1			210	636
C042S067E01	MH	51			42			105	5
C042S067E02	MH	51			80			14	5
C042S067E11	MH	51			210			140	609
C042S067E12	MH	51			636			384	4
C042S067E13	MH	51			105			2	12
C042S068E04	MH	81			5			2	12
C042S068E05	MH	51			14			9	2
C042S068E06	MH	81			5			12	9
C042S068E07	MH	51			140			12	67
C042S068E08	MH	51			609			67	1
C042S068E09	MH	51			384			1	2
C042S068E09	MH	137			4			2	12
C042S068E09	MH	81			2			2	12
C042S068E09	MH	137			12			12	9
C042S068E10	MH	48			9			12	67
C042S068E10	MH	137			12			1	2
C042S068E15	MH	48			1			116	373
C042S068E15	MH	137			1			485	72
C042S068E16	MH	51			2			4	8
C042S068E17	MH	51			116			8	208
C042S068E18	MH	51			373			61	406
C042S068E20	MH	51			485			97	104
C042S068E21	MH	51			72				
C055S063E02	MH	10			8				
C055S063E03	MH	10			208				
C055S063E09	MH	10			61				
C055S063E10	MH	10			406				
C055S063E15	MH	10			97				
C055S063E15	MH	94			104				

DATE: 01/28/80
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE: 12
TOTAL ACRES
PAT & TA

12

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
C055S063E16	MH	94	17	17
C055S063E16	MH	52	15	15
C055S063E16	MH	10	93	93
C055S063E20	MH	47	5	5
C055S063E21	MH	47	16	16
C055S063E22	MH	94	229	229
C055S063E22	MH	47	1	1
C055S063E25	MH	54	115	115
C055S063E26	MH	94	95	95
C055S063E27	MH	94	66	66
C055S063E28	MH	47	14	14
C055S063E29	MH	47	33	33
C055S063E32	MH	47	7	7
C055S063E33	MH	47	10	10
C055S063E34	MH	47	6	6
C055S063E36	MH	47	10	10
C055S064E30	MH	54	75	75
C055S064E31	MH	47	51	51
C055S064E31	MH	54	446	446
C055S064E32	MH	54	390	390
C056S063E01	MH	47	2	2
C056S063E02	MH	47	10	10
C056S063E03	MH	47	52	52
C056S063E04	MH	47	5	5
C056S063E10	MH	47	4	4
C056S063E11	MH	47	46	46
C056S063E12	MH	47	25	25
C056S063E13	MH	47	33	33
C056S063E14	MH	47	5	5
C056S063E23	MH	47	16	16
C056S063E24	MH	47	44	44
C056S064E04	MH	47	1	1
C056S064E04	MH	54	7	7
C056S064E05	MH	54	297	297
C056S064E05	MH	47	9	10
C056S064E06	MH	54	34	34
C056S064E06	MH	47	1	1
C056S064E08	MH	47	1	1
C056S064E18	MH	47	3	3
C056S064E19	MH	47	10	10
C058S079E18	MH	84	230	230
C058S079E19	MH	84	357	357
C058S079E20	MH	84	469	469
C058S079E21	MH	53	160	160
C058S079E22	MH	53	302	302
C058S079E26	MH	53	209	209
C058S079E27	MH	53	1	1
C058S079E28	MH	53	227	227
C058S079E29	MH	53	89	89
C058S079E29	MH	84	346	346
C058S079E32	MH	84	579	579
C058S079E33	MH	84	31	31
C058S079E33	MH	85	9	9
C058S079E33	MH	53	117	117
C058S079E34	MH	84	493	493

DATE: 01/11/00
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE: 13
TOTAL ACRES
PAT & TA

13

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
C058S079E35	MH	84	548	548
C059S079E03	MH	84	554	554
C059S079E04	MH	53	15	15
C059S079E04	MH	84	112	112
C059S079E05	MH	84	320	320
C059S079E09	MH	84	163	163
C059S079E10	MH	84	476	476
C059S079E14	MH	84	320	320
C059S079E15	MH	84	341	341
C059S079E21	MH	84	416	416
C059S079E22	MH	84	70	70
C059S079E23	MH	84	616	616
C059S079E26	MH	84	430	430
C059S079E34	MH	84	2	2
C059S079E35	MH	84	546	546
C060S079E02	MH	84	585	585
C060S079E11	MH	84	420	420
C060S079E13	MH	84	159	159
C060S079E14	MH	84	346	346
C060S079E23	MH	84	81	81
C060S079E24	MH	84	317	317
C060S079E25	MH	84	442	442
C060S079E25	MH	82	32	32
C060S079E26	MH	84	10	10
C062S083E24	MH	19	88	88
C062S083E25	MH	19	4	4
C062S083E36	MH	85	36	36
C062S083E36	MH	19	7	7
C062S084E19	MH	95	148	148
C062S084E19	MH	19	334	334
C062S084E20	MH	95	44	44
C062S084E29	MH	95	116	116
C062S084E30	MH	95	103	103
C062S084E30	MH	19	90	90
C062S084E31	MH	85	126	126
C062S084E31	MH	19	50	50
C063S084E06	MH	85	248	248
C063S084E07	MH	85	104	104
C063S084E08	MH	85	118	118
C063S084E17	MH	85	206	206
C063S084E19	MH	85	25	25
C063S084E20	MH	85	200	200
C063S084E29	MH	85	30	30
C063S084E30	MH	85	169	169
C063S084E31	MH	85	221	221
C063S084E32	MH	85	180	180
C064S084E05	MH	85	373	373
C064S084E06	MH	85	65	65
C064S084E08	MH	85	10	10
C070S086E32	MH	99	40	40
C071S086E04	MH	99	166	166
C071S086E05	MH	99	85	85
C074S081E05	MH	83	43	43
C074S081E05	MH	82	6	6
C074S081E08	MH	83	32	32

DATE: 01/
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE:
TOTAL ACRES
PAT & TA

14

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
C074S081E08	MH	82	7	7
C074S089E12	MH	82	285	285
C074S089E13	MH	82	397	397
C074S089E14	MH	82	14	14
C074S089E24	MH	82	35	35
C074S089E24	MH	85	8	8
C074S089E25	MH	42	20	20
C074S089E26	MH	42	100	100
C074S089E35	MH	42	170	170
C074S089E36	MH	42	510	510
C074S090E05	MH	82	42	42
C074S090E06	MH	82	2	2
C074S090E07	MH	82	273	273
C074S090E08	MH	82	20	20
C074S090E18	MH	82	320	320
C074S090E19	MH	82	263	263
C074S090E20	MH	82	5	5
C074S090E28	MH	82	10	10
C074S090E29	MH	82	143	143
C074S090E30	MH	82	18	18
C074S090E31	MH	42	20	20
C074S090E32	MH	82	48	48
C074S090E33	MH	82	210	210
C074S090E34	MH	43	80	80
C075S089E01	MH	42	380	380
C075S089E12	MH	42	30	30
C075S090E02	MH	43	315	315
C075S090E03	MH	43	10	588
C075S090E04	MH	43	50	50
C075S090E04	MH	82	1	1
C075S090E05	MH	82	1	1
C075S090E05	MH	42	85	85
C075S090E06	MH	42	480	480
C075S090E07	MH	42	580	580
C075S090E08	MH	42	540	540
C075S090E09	MH	43	46	46
C075S090E09	MH	42	8	8
C075S090E10	MH	43	421	421
C075S090E11	MH	43	340	340
C075S090E13	MH	43	60	60
C075S090E14	MH	43	150	150
C075S090E15	MH	43	110	110
C075S090E15	MH	42	30	30
C075S090E16	MH	42	404	404
C075S090E17	MH	42	635	635
C075S090E18	MH	42	217	217
C075S090E20	MH	42	415	415
C075S090E21	MH	42	520	520
C075S090E22	MH	42	550	550
C075S090E23	MH	42	100	100
C075S090E24	MH	43	190	190
C075S090E25	MH	41	10	10
C075S090E26	MH	42	250	250
C075S090E27	MH	42	625	625
C075S090E28	MH	42	280	280

DATE: 01/7/00
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE: 15
TOTAL ACRES
PAT & TA

C075S090E34	MH	42	140		140
C075S090E35	MH	42	335		335
C075S090E36	MH	42	120		120
C075S091E18	MH	43		300	300
C075S091E19	MH	43		300	300
C075S091E20	MH	43		15	15
C075S091E28	MH	43		300	300
C075S091E29	MH	43		446	446
C075S091E30	MH	43		2	2
C075S091E30	MH	41	25		25
C075S091E31	MH	42	16		16
C075S091E31	MH	41	375		375
C075S091E32	MH	43		72	72
C075S091E32	MH	41	179		179
C075S091E33	MH	43		220	220
C075S091E34	MH	43		300	300
C075S091E35	MH	82	64		64
C075S091E36	MH	82	96		96
C076S090E01	MH	42	225		225
C076S090E02	MH	42	22		22
C076S091E01	MH	82	51		51
C076S091E02	MH	43		7	7
C076S091E02	MH	82	56		56
C076S091E03	MH	43		240	240
C076S091E04	MH	41	38		38
C076S091E04	MH	43		15	15
C076S091E04	MH	82	1		1
C076S091E05	MH	41	267		267
C076S091E05	MH	42	5		5
C076S091E06	MH	42	425		425
C076S091E07	MH	42	195		195
C076S091E08	MH	42	180		180
C076S091E10	MH	43	10	20	30
C076S091E11	MH	43	29	40	69
C076S091E11	MH	82	94		94
F001N001E02	MH	26	640		640
F001N001E03	MH	26	320		320
F001N001E04	MH	26	480		480
F001N001E05	MH	26	320		320
F001N001E11	MH	26	450		450
F001N001E12	MH	26	160		160
F001N001E13	MH	26	520		520
F001N001E17	MH	26	40		40
F001N001E18	MH	26	20		20
F001N001E32	MH	26	120		120
F001N001E34	MH	26	320		320
F001N001E35	MH	26	640		640
F001N004E19	MH	27	635		635
F001N004E20	MH	27	640		640
F001N004E21	MH	27	640		640
F001N004E22	MH	27	640		640
F001N004E23	MH	27	640		640
F001N004E24	MH	27	640		640
F001N004E25	MH	27	320		320
F001N004E27	MH	27	160		160

DATE: 01/3
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE:
TOTAL ACRES
PAT & TA

16

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
F001N004E28	MH	27	395	395
F001N004E29	MH	27	428	428
F001N004E30	MH	27	318	318
F001N004E31	MH	27	320	320
F001N004E32	MH	27	460	460
F001N004E33	MH	27	155	155
F001N004E34	MH	27	120	120
F001N004E35	MH	27	280	280
F001N004E36	MH	27	480	480
F001N006E01	MH	110	640	640
F001N006E02	MH	110	640	640
F001N006E03	MH	110	640	640
F001N006E04	MH	110	640	640
F001N006E05	MH	110	640	640
F001N006E06	MH	110	628	628
F001N006E07	MH	110	631	631
F001N006E08	MH	110	640	640
F001N006E09	MH	110	640	640
F001N006E10	MH	110	640	640
F001N006E11	MH	110	640	640
F001N006E12	MH	110	640	640
F001N006E13	MH	110	640	640
F001N006E14	MH	110	640	640
F001N006E15	MH	110	590	590
F001N006E16	MH	110	630	630
F001N006E17	MH	110	640	640
F001N006E18	MH	110	619	619
F001N006E19	MH	110	628	628
F001N006E20	MH	110	640	640
F001N006E21	MH	110	615	615
F001N006E22	MH	110	565	565
F001N006E23	MH	110	640	640
F001N006E24	MH	110	640	640
F001N006E25	MH	110	640	640
F001N006E26	MH	110	640	640
F001N006E27	MH	110	640	640
F001N006E28	MH	110	640	640
F001N006E29	MH	110	640	640
F001N006E30	MH	110	637	637
F001N006E31	MH	110	639	639
F001N006E32	MH	110	640	640
F001N006E33	MH	110	640	640
F001N006E34	MH	110	640	640
F001N006E35	MH	110	640	640
F001N006E36	MH	110	640	640
F001N007E01	MH	112	640	640
F001N007E02	MH	112	640	640
F001N007E03	MH	112	640	640
F001N007E04	MH	112	640	640
F001N007E05	MH	112	640	640
F001N007E06	MH	112	629	629
F001N007E07	MH	112	631	631
F001N007E08	MH	112	640	640
F001N007E09	MH	112	640	640
F001N007E10	MH	112	640	640

DATE: 01/
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE:
TOTAL ACRES
PAT & TA

17

007E11	MH	112	635	635
007E12	MH	112	640	640
F001N007E13	MH	112	640	640
F001N007E14	MH	112	640	640
F001N007E15	MH	112	640	640
F001N007E16	MH	112	640	640
F001N007E17	MH	112	640	640
F001N007E18	MH	112	592	592
F001N007E19	MH	112	555	555
F001N007E20	MH	112	640	640
F001N007E21	MH	112	640	640
F001N007E22	MH	112	640	640
F001N007E23	MH	112	640	640
F001N007E24	MH	112	640	640
F001N007E25	MH	112	640	640
F001N007E26	MH	112	640	640
F001N007E27	MH	112	640	640
F001N007E28	MH	112	640	640
F001N007E29	MH	112	640	640
F001N007E30	MH	112	637	637
F001N007E31	MH	112	639	639
F001N007E32	MH	112	640	640
F001N007E33	MH	112	640	640
F001N007E34	MH	112	640	640
F001N007E35	MH	112	640	640
F001N007E36	MH	112	640	640
F002N006E01	MH	114	640	640
F002N006E02	MH	114	640	640
F002N006E03	MH	114	640	640
F002N006E10	MH	114	640	640
F002N006E11	MH	114	640	640
F002N006E12	MH	114	640	640
F002N006E13	MH	114	640	640
F002N006E14	MH	114	640	640
F002N006E15	MH	114	640	640
F002N006E22	MH	114	640	640
F002N006E23	MH	114	640	640
F002N006E24	MH	114	640	640
F002N006E25	MH	114	640	640
F002N006E26	MH	114	640	640
F002N006E27	MH	114	640	640
F002N006E34	MH	114	640	640
F002N006E35	MH	114	640	640
F002N006E36	MH	114	640	640
F002N007E01	MH	115	606	606
F002N007E02	MH	115	640	640
F002N007E03	MH	115	640	640
F002N007E04	MH	115	640	640
F002N007E05	MH	115	640	640
F002N007E06	MH	115	616	616
F002N007E07	MH	115	618	618
F002N007E08	MH	115	640	640
F002N007E09	MH	115	640	640
F002N007E10	MH	115	640	640
F002N007E11	MH	115	640	640

DATE: 01/31/85

PAGE: 18
TOTAL ACRES
PAT & TA

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
F002N007E12	MH	115	627	627
F002N007E13	MH	115	640	640
F002N007E14	MH	115	640	640
F002N007E15	MH	115	640	640
F002N007E16	MH	115	640	640
F002N007E17	MH	115	640	640
F002N007E18	MH	115	620	620
F002N007E19	MH	115	622	622
F002N007E20	MH	115	640	640
F002N007E21	MH	115	640	640
F002N007E22	MH	115	640	640
F002N007E23	MH	115	640	640
F002N007E24	MH	115	640	640
F002N007E25	MH	115	640	640
F002N007E26	MH	115	640	640
F002N007E27	MH	115	640	640
F002N007E28	MH	115	640	640
F002N007E29	MH	115	640	640
F002N007E30	MH	115	625	625
F002N007E31	MH	115	627	627
F002N007E32	MH	115	640	640
F002N007E33	MH	115	640	640
F002N007E34	MH	115	640	640
F002N007E35	MH	115	640	640
F002N007E36	MH	115	640	640
F002N008E01	MH	117	640	640
F002N008E02	MH	117	640	640
F002N008E03	MH	117	640	640
F002N008E04	MH	117	640	640
F002N008E05	MH	117	640	640
F002N008E06	MH	117	529	529
F002N008E07	MH	117	593	593
F002N008E08	MH	117	640	640
F002N008E09	MH	117	640	640
F002N008E10	MH	117	640	640
F002N008E11	MH	117	640	640
F002N008E12	MH	117	640	640
F002N008E13	MH	117	640	640
F002N008E14	MH	117	640	640
F002N008E15	MH	117	640	640
F002N008E16	MH	117	640	640
F002N008E17	MH	117	640	640
F002N008E18	MH	117	620	620
F003N007E22	MH	118	640	640
F003N007E23	MH	118	640	640
F003N007E24	MH	118	640	640
F003N007E25	MH	118	640	640
F003N007E26	MH	118	640	640
F003N007E27	MH	118	640	640
F003N007E34	MH	118	640	640
F003N007E35	MH	118	640	640
F003N007E36	MH	118	640	640
F003N008E19	MH	118	610	610
F003N008E20	MH	118	637	637
F003N008E21	MH	118	592	592

F003N008E22	MH	118		374	374
F003N008E23	MH	118		577	577
F003N008E24	MH	118		640	640
F003N008E25	MH	118		495	495
F003N008E26	MH	118		280	280
F003N008E27	MH	118		636	636
F003N008E28	MH	118		456	456
F003N008E29	MH	118		391	391
F003N008E30	MH	118		590	590
F003N008E31	MH	118		397	397
F003N008E32	MH	118		635	635
F003N008E33	MH	118		640	640
F003N008E34	MH	118		640	640
F003N008E35	MH	118		590	590
F003N008E36	MH	118		615	615
F001S001E01	MH	26	560		560
F001S001E03	MH	26	280		280
F001S001E09	MH	26	160	80	240
F001S001E10	MH	26	120		120
F001S001E11	MH	26	146		146
F001S001E25	MH	26	160		160
F001S001E34	MH	26	40		40
F001S003E01	MH	29	636		636
F001S003E02	MH	29	637		637
F001S003E09	MH	30		320	320
F001S003E10	MH	30		320	320
F001S003E11	MH	29		640	640
F001S003E12	MH	29		640	640
F001S003E13	MH	30		25	25
F001S003E13	MH	29		555	555
F001S003E14	MH	29		590	590
F001S003E15	MH	30		640	640
F001S003E16	MH	30		640	640
F001S003E19	MH	30	15	573	588
F001S003E20	MH	30		640	640
F001S003E21	MH	30		640	640
F001S003E22	MH	30		370	370
F001S003E23	MH	29		250	250
F001S003E24	MH	29		320	320
F001S003E27	MH	30		375	375
F001S003E28	MH	30		455	455
F001S003E29	MH	30	158	390	548
F001S003E30	MH	30	382	130	512
F001S003E31	MH	30	381		381
F001S003E32	MH	30	569	40	609
F001S003E33	MH	30		540	540
F001S003E34	MH	30		480	480
F001S004E01	MH	28	10	555	565
F001S004E02	MH	28	5	605	610
F001S004E03	MH	28	396		396
F001S004E04	MH	29	480		480
F001S004E05	MH	29	596		596
F001S004E06	MH	29	589		589
F001S004E07	MH	29		516	516
F001S004E08	MH	29		440	440

DATE: 01/

SECTION MH CASE WITH TA OR PAT

ACRES PAT ACRES TA

PAGE: TOTAL ACRES PAT & TA

20

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	PAGE: TOTAL ACRES PAT & TA
F001S004E09	MH	29	193	193
F001S004E10	MH	28	280	280
F001S004E11	MH	28	625	625
F001S004E12	MH	28	640	640
F001S004E13	MH	28	640	640
F001S004E14	MH	28	640	640
F001S004E15	MH	28	320	320
F001S004E17	MH	29	50	30
F001S004E18	MH	29	65	65
F001S004E22	MH	28	160	160
F001S004E23	MH	28	320	320
F001S004E24	MH	28	320	320
F002S001E01	MH	26	51	51
F002S001E02	MH	26	126	248
F002S001E03	MH	26	20	160
F002S001E04	MH	26	205	205
F002S001E05	MH	26	67	67
F002S001E09	MH	26	60	60
F002S001E10	MH	26	102	102
F002S001E11	MH	26	90	90
F002S001E12	MH	26	113	113
F002S001E13	MH	26	20	20
F002S003E33	MH	173		200
F003S003E04	MH	173	320	320
F003S003E09	MH	173	440	440
F003S003E10	MH	173		40
F003S003E15	MH	173		400
F003S003E16	MH	173		640
F003S003E21	MH	173		480
F003S003E22	MH	173		640
F003S003E26	MH	173		640
F003S003E27	MH	173	160	160
F003S003E28	MH	173		640
F003S003E33	MH	173		284
F003S003E34	MH	173		297
F003S003E35	MH	173		240
F005S004E01	MH	44		640
F005S004E02	MH	44		560
F005S004E03	MH	44		400
F005S004E04	MH	44		80
F005S004E05	MH	44	110	110
F005S004E06	MH	44	480	480
F005S004E07	MH	44	500	500
F005S004E08	MH	44	300	300
F005S004E09	MH	44	480	577
F005S004E10	MH	44	80	80
F005S004E11	MH	44	640	640
F005S004E12	MH	44	640	640
F005S004E13	MH	44	578	578
F005S004E14	MH	44	503	503
F005S004E15	MH	44	520	520
F005S004E16	MH	44		20
F005S004E17	MH	44	2	482
F005S004E18	MH	44	180	180
F005S004E19	MH	44	300	300

DATE: 01/3
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE: 21
TOTAL ACRES
PAT & TA

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
F005S004E20	MH	44	500	500
F005S004E21	MH	44	70	131
F005S004E23	MH	44	98	98
F005S004E25	MH	44	160	160
F005S004E27	MH	100	40	40
F005S004E28	MH	100	100	100
F005S004E28	MH	44	20	40
F005S004E29	MH	44	12	203
F005S004E30	MH	44	480	480
F005S004E31	MH	44	490	490
F005S004E32	MH	44	180	180
F005S004E35	MH	44	334	334
F006S004E03	MH	44	40	40
F006S004E04	MH	44	240	240
F006S004E05	MH	44	20	320
F006S004E06	MH	44	450	450
F006S004E07	MH	44	200	200
F006S004E08	MH	44	1	450
F006S004E09	MH	44	357	120
F006S004E10	MH	44	240	240
F006S004E11	MH	44	40	40
F006S004E13	MH	44	400	400
F006S004E14	MH	44	103	103
F006S004E15	MH	44	46	450
F006S004E16	MH	44	150	150
F006S004E17	MH	44	150	150
F006S004E21	MH	44	40	40
F006S004E22	MH	44	1	200
F006S004E23	MH	44	138	150
F006S004E24	MH	44	620	620
F006S004E25	MH	44	336	336
F006S004E26	MH	44	31	150
F006S004E27	MH	44	40	40
F006S004E35	MH	44	40	40
F006S005E18	MH	44	497	497
F007S005E12	MH	73	83	83
F007S005E13	MH	73	67	67
F007S006E07	MH	73	142	142
F007S006E18	MH	73	46	46
F001S001W15	MH	127	5	5
F001S001W24	MH	74	35	35
F001S001W25	MH	74	160	160
F001S002W02	MH	126	6	6
F001S002W04	MH	126	163	163
F001S002W06	MH	126	40	40
F001S002W07	MH	126	11	11
F001S002W08	MH	126	1	1
F001S002W10	MH	126	276	276
F001S002W13	MH	126	3	3
F001S002W14	MH	126	25	25
F001S002W18	MH	126	244	244
F001S002W19	MH	26	254	254
F001S002W25	MH	126	32	32
F001S002W26	MH	26	37	37
F001S002W26	MH	126	38	38

DATE: 01/01/00
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE:
TOTAL ACRES
PAT & TA

22

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
F001S002W27	MH	26	66	66
F001S002W28	MH	126	80	80
F001S002W28	MH	26	103	103
F001S002W28	MH	96	37	37
F001S002W30	MH	26	279	279
F001S002W31	MH	126	30	30
F001S002W32	MH	126	114	114
F001S002W33	MH	126	8	8
F001S002W34	MH	26	165	165
F001S002W35	MH	26	15	15
F001S003W01	MH	126	80	80
F001S003W02	MH	126	160	160
F001S003W11	MH	126	40	40
F001S003W12	MH	126	34	80 114
F001S003W13	MH	126	320	320
F001S003W13	MH	9	240	240
F001S003W14	MH	9	560	560
F001S003W15	MH	9	640	640
F001S003W17	MH	9	320	320
F001S003W18	MH	9	597	597
F001S003W19	MH	9	601	601
F001S003W20	MH	9	600	600
F001S003W20	MH	126	35	35
F001S003W21	MH	9	640	640
F001S003W22	MH	9	640	640
F001S003W23	MH	9	640	640
F001S003W24	MH	9	640	640
F001S003W25	MH	9	640	640
F001S003W26	MH	9	640	640
F001S003W27	MH	9	640	640
F001S003W28	MH	9	640	640
F001S003W29	MH	9	640	640
F001S003W30	MH	9	603	603
F001S003W31	MH	9	602	602
F001S003W32	MH	9	640	640
F001S003W33	MH	9	640	640
F001S003W34	MH	9	640	640
F001S003W35	MH	9	640	640
F001S003W36	MH	9	640	640
F003S004W05	MH	33	641	641
F003S004W06	MH	33	613	613
F003S004W07	MH	33	545	545
F003S004W08	MH	33	597	597
F003S004W17	MH	33	325	325
F004S007W01	MH	32	640	640
F004S007W02	MH	32	640	640
F004S007W03	MH	32	427	427
F004S007W04	MH	32	640	640
F004S007W05	MH	32	640	640
F004S007W06	MH	32	629	629
F004S007W07	MH	32	631	631
F004S007W08	MH	32	640	640
F004S007W09	MH	32	544	544
F004S007W11	MH	32	633	633
F004S007W12	MH	32	521	521

SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

TOTAL ACRES PAT & TA

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
F004S007W13	MH	156		156
F004S007W14	MH	114		114
F004S007W17	MH	81		81
F004S007W18	MH	191		191
F004S007W19	MH	367		367
F004S007W30	MH	558		558
F004S008W01	MH	321		321
F004S008W02	MH	640		640
F004S008W03	MH	184		184
F004S008W04	MH	631		631
F004S008W05	MH	579		579
F004S008W06	MH	629		629
F004S008W07	MH	595		595
F004S008W08	MH	602		602
F004S008W09	MH	618		618
F004S008W10	MH	181		181
F004S008W11	MH	320		320
F004S008W13	MH	160		160
F004S008W14	MH	10		10
F004S008W15	MH	106		106
F004S008W17	MH	582		582
F004S008W18	MH	622		622
F004S008W19	MH	608		608
F004S008W20	MH	591		591
F004S008W21	MH	632		632
F004S008W22	MH	440		440
F004S008W23	MH	21		21
F004S008W25	MH	120		120
F004S008W26	MH	74		74
F004S008W27	MH	564		564
F004S008W28	MH	617		617
F004S008W29	MH	415		415
F004S008W30	MH	581		581
F004S008W31	MH	598		598
F004S008W32	MH	573		573
F004S008W34	MH	373		373
F004S008W35	MH	505		505
F006S008W01	MH		480	480
F006S008W02	MH		640	640
F006S008W03	MH		640	640
F006S008W10	MH		640	640
F006S008W11	MH		640	640
F006S008W12	MH		640	640
F006S008W13	MH		640	640
F006S008W14	MH		640	640
F006S008W15	MH		580	580
F006S008W22	MH		640	640
F006S008W23	MH		640	640
F006S008W24	MH		636	636
F006S008W25	MH		280	280
F006S008W26	MH		640	640
F006S008W27	MH		640	640
F006S008W28	MH		320	320
F006S008W32	MH		100	100
F006S008W34	MH		640	640

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
F006S008W35	MH		640	640
F006S008W36	MH		40	40
F009S005W07	MH	596		596
F009S005W08	MH	640		640
F009S005W09	MH		640	640
F009S005W10	MH		640	640
F009S005W11	MH		640	640
F009S005W12	MH		640	640
F009S005W13	MH		640	640
F009S005W14	MH		640	640
F009S005W15	MH		640	640
F009S005W16	MH		640	640
F009S005W17	MH	640		640
F009S005W18	MH	597		597
F009S005W19	MH	600		600
F009S005W20	MH	640		640
F009S005W21	MH		640	640
F009S005W22	MH		640	640
F009S005W23	MH		640	640
F009S005W24	MH		640	640
F009S005W25	MH		640	640
F009S005W26	MH		640	640
F009S005W27	MH		640	640
F009S005W28	MH		640	640
F009S005W29	MH	640		640
F009S005W30	MH	601		601
F009S005W31	MH	603		603
F009S005W32	MH	640		640
F009S005W33	MH		640	640
F009S005W34	MH		640	640
F009S005W35	MH		640	640
F009S005W36	MH		640	640
F009S006W07	MH		597	597
F009S006W08	MH		640	640
F009S006W09	MH		640	640
F009S006W10	MH		640	640
F009S006W11	MH	640		640
F009S006W12	MH	640		640
F009S006W13	MH	640		640
F009S006W14	MH	640		640
F009S006W15	MH	480		480
F009S006W17	MH	480		480
F009S006W18	MH		599	599
F009S006W19	MH	601		601
F009S006W20	MH	320		320
F009S006W22	MH	320		320
F009S006W23	MH	640		640
F009S006W24	MH	640		640
F009S006W25	MH	640		640
F009S006W26	MH	640		640
F009S006W27	MH	320		320
F009S006W29	MH	320		320
F009S006W30	MH	603		603
F009S006W31	MH	604		604
F009S006W32	MH	320		320

DATE: 01/7/86
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE: 25
TOTAL ACRES
PAT & TA

25

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
F009S006W34	MH	36	320	320
F009S006W35	MH	36	640	640
F010S006W01	MH	36	640	640
F010S006W02	MH	36	639	639
F010S006W03	MH	36	319	319
F010S006W05	MH	36	320	320
F010S006W06	MH	36	606	606
F010S006W07	MH	36	304	304
F010S006W08	MH	36	160	160
F010S006W10	MH	36	320	320
F010S006W11	MH	36	640	640
F010S006W12	MH	36	640	640
F011S007W01	MH	120	640	640
F011S007W02	MH	120	640	640
F011S007W03	MH	120	640	640
F011S007W04	MH	120	640	640
F011S007W05	MH	120	640	640
F011S007W06	MH	120	617	617
F011S007W07	MH	120	619	619
F011S007W08	MH	120	640	640
F011S007W09	MH	120	640	640
F011S007W10	MH	120	640	640
F011S007W11	MH	120	640	640
F011S007W12	MH	120	640	640
F011S007W13	MH	120	640	640
F011S007W14	MH	120	640	640
F011S007W15	MH	120	640	640
F011S007W17	MH	120	640	640
F011S007W18	MH	120	622	622
F011S007W19	MH	120	624	624
F011S007W20	MH	120	640	640
F011S007W21	MH	120	640	640
F011S007W22	MH	120	640	640
F011S007W23	MH	120	640	640
F011S007W24	MH	120	640	640
F011S007W25	MH	120	640	640
F011S007W26	MH	120	640	640
F011S007W27	MH	120	640	640
F011S007W28	MH	120	640	640
F011S007W29	MH	120	600	600
F011S007W29	MH	22	40	40
F011S007W30	MH	120	626	626
F011S007W31	MH	120	474	474
F011S007W32	MH	22	640	640
F011S007W33	MH	77	640	640
F011S007W34	MH	77	640	640
F011S007W35	MH	120	615	615
F011S023W31	MH	108	627	627
F011S023W32	MH	108	640	640
F011S023W33	MH	108	613	613
F011S024W20	MH	108		640
F011S024W21	MH	108	640	640
F011S024W22	MH	108	640	640
F011S024W23	MH	108	640	640
F011S024W24	MH	108	640	640

DATE: 01/

SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE:
TOTAL ACRES
PAT & TA

26

DATE: 01/ SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	PAGE: TOTAL ACRES PAT & TA
F011S024W25	MH	108	640	640
F011S024W26	MH	108	640	640
F011S024W27	MH	108	640	640
F011S024W28	MH	108	640	640
F011S024W29	MH	108	640	640
F011S024W32	MH	108	640	640
F011S024W33	MH	108	640	640
F011S024W34	MH	108	640	640
F011S024W35	MH	108	640	640
F011S024W36	MH	108	640	640
F012S006W01	MH	122	640	640
F012S006W02	MH	122	640	640
F012S006W03	MH	122	640	640
F012S006W04	MH	122	640	640
F012S006W05	MH	122	640	640
F012S006W06	MH	122	629	629
F012S006W07	MH	122	630	630
F012S006W08	MH	122	640	640
F012S006W09	MH	122	633	633
F012S006W10	MH	22	640	640
F012S006W11	MH	22	640	640
F012S006W12	MH	122	320	320
F012S006W12	MH	22	320	320
F012S006W13	MH	22	329	329
F012S006W13	MH	122	324	324
F012S006W14	MH	122	320	320
F012S006W14	MH	22	320	320
F012S006W15	MH	122	640	640
F012S006W17	MH	122	640	640
F012S006W18	MH	122	632	632
F012S006W19	MH	122	635	635
F012S006W20	MH	122	640	640
F012S006W21	MH	122	640	640
F012S006W22	MH	122	640	640
F012S006W23	MH	122	646	646
F012S006W24	MH	122	626	626
F012S006W25	MH	122	640	640
F012S006W26	MH	122	640	640
F012S006W27	MH	122	640	640
F012S006W28	MH	122	640	640
F012S006W29	MH	122	577	577
F012S006W30	MH	122	585	585
F012S006W31	MH	122	639	639
F012S006W32	MH	122	640	640
F012S006W33	MH	122	640	640
F012S006W34	MH	122	640	640
F012S006W35	MH	122	640	640
F012S006W36	MH	122	640	640
F012S007W01	MH	121	640	640
F012S007W02	MH	121	640	640
F012S007W03	MH	77	640	640
F012S007W04	MH	22	240	240
F012S007W04	MH	77	400	400
F012S007W05	MH	22	480	480
F012S007W08	MH	121	333	333

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
F012S007M09	MH	121	640	640
F012S007M10	MH	121	640	640
F012S007M11	MH	121	640	640
F012S007M12	MH	121	640	640
F012S007M13	MH	121	640	640
F012S007M14	MH	121	640	640
F012S007M15	MH	121	640	640
F012S007M17	MH	121	215	215
F012S007M20	MH	121	49	49
F012S007M21	MH	121	320	320
F012S007M21	MH	22	160	160
F012S007M22	MH	121	320	320
F012S007M22	MH	22	320	320
F012S007M23	MH	121	400	400
F012S007M23	MH	22	240	240
F012S007M24	MH	121	623	623
F012S007M25	MH	121	630	630
F012S007M26	MH	121	635	635
F012S007M27	MH	121	640	640
F012S007M28	MH	121	541	541
F012S007M29	MH	121	55	55
F012S007M32	MH	121	291	291
F012S007M33	MH	121	640	640
F012S007M34	MH	121	640	640
F012S007M35	MH	121	577	577
F012S007M36	MH	121	575	575
F012S007M36	MH	108	640	640
F012S023M05	MH	108	615	615
F012S023M06	MH	108	628	628
F012S023M07	MH	108	630	630
F012S023M08	MH	108	555	555
F012S023M09	MH	108	640	640
F012S023M16	MH	108	640	640
F012S023M17	MH	108	640	640
F012S023M18	MH	108	632	632
F012S023M19	MH	108	634	634
F012S023M20	MH	108	640	640
F012S023M21	MH	108	640	640
F012S024M01	MH	108	640	640
F012S024M02	MH	108	640	640
F012S024M03	MH	108	640	640
F012S024M04	MH	108	595	595
F012S024M05	MH	108	555	555
F012S024M06	MH	108	625	625
F012S024M07	MH	108	587	587
F012S024M08	MH	108	50	50
F012S024M09	MH	108	640	640
E012S024M10	MH	108	640	640
F012S024M11	MH	108	640	640
F012S024M12	MH	108	635	635
F012S024M13	MH	108	640	640
F012S024M14	MH	108	640	640
F012S024M15	MH	108	640	640
F012S024M16	MH	108	640	640
F012S024M17	MH	108	550	550

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
F012S024W18	MH	108	629	629
F012S024W19	MH	108	626	626
F012S024W20	MH	108	640	640
F012S024W21	MH	108	629	629
F012S024W22	MH	108	640	640
F012S024W23	MH	108	640	640
F012S024W24	MH	108	640	640
F012S024W25	MH	108	640	640
F012S024W26	MH	108	640	640
F012S024W27	MH	108	640	640
F012S024W28	MH	108	640	640
F012S024W29	MH	108	640	640
F012S024W30	MH	108	633	633
F012S024W31	MH	108	635	635
F012S024W32	MH	108	640	640
F012S024W33	MH	108	640	640
F012S024W34	MH	108	640	640
F012S024W35	MH	108	640	640
F012S024W36	MH	108	640	640
F012S025W01	MH	108	640	640
F012S025W02	MH	108	640	640
F012S025W11	MH	108	640	640
F012S025W12	MH	108	553	553
F012S025W13	MH	108	640	640
F012S025W14	MH	108	640	640
F012S025W23	MH	108	640	640
F012S025W24	MH	108	640	640
F012S025W25	MH	108	640	640
F012S025W26	MH	108	640	640
F012S025W35	MH	108	640	640
F012S025W36	MH	108	640	640
F001N001W05	MH	26	160	160
F001N001W06	MH	26	40	40
F001N001W07	MH	26	39	39
F001N001W17	MH	26	80	80
F001N001W18	MH	26	80	80
F001N001W19	MH	75	317	317
F001N001W20	MH	75	320	320
F001N001W29	MH	26	3	3
F001N002W01	MH	126	160	160
F001N002W11	MH	126	180	180
F001N002W13	MH	126	20	20
F001N002W19	MH	126	641	641
F001N002W22	MH	126	40	40
F001N002W23	MH	126	115	115
F001N002W24	MH	126	80	80
F001N002W26	MH	126	110	110
F001N002W27	MH	126	80	80
F001N002W28	MH	126	2	2
F001N002W30	MH	126	270	270
F001N002W31	MH	126	483	483
F001N002W33	MH	126	30	30
F001N002W34	MH	126	232	232
F001N002W35	MH	126	159	163
F001N003W08	MH	126	40	40

DATE: 01/7
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE: 29
TOTAL ACRES
PAT & TA

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
F001N003W09	MH	126		160
F001N003W11	MH	126		49
F001N003W13	MH	126		217
F001N003W14	MH	126		333
F001N003W15	MH	126		414
F001N003W17	MH	126		150
F001N003W22	MH	126	20	20
F001N003W23	MH	126	240	240
F001N003W25	MH	126	40	40
F001N003W26	MH	126	200	200
F001N003W27	MH	126	40	40
F001N003W36	MH	126	256	256
F004N022W17	MH	148	10	10
S016N002E01	MH	119	78	230
S016N002E02	MH	119	64	64
S016N002E04	MH	119	203	203
S016N002E05	MH	119	381	381
S016N002E06	MH	119	345	345
S016N002E07	MH	119	415	415
S016N002E08	MH	119	222	222
S016N002E09	MH	119	7	295
S016N002E10	MH	119	2	420
S016N002E11	MH	119	610	610
S016N002E12	MH	119	640	640
S016N002E13	MH	119	640	640
S016N002E14	MH	119	640	640
S016N002E15	MH	119	640	640
S016N002E16	MH	119	597	597
S016N002E17	MH	119	284	284
S016N002E19	MH	119	302	302
S016N002E20	MH	119	160	160
S016N002E21	MH	119	640	640
S016N002E22	MH	119	640	640
S016N002E23	MH	119	640	640
S016N002E24	MH	119	640	640
S016N002E25	MH	119	640	640
S016N002E26	MH	119	640	640
S016N002E27	MH	119	640	640
S016N002E28	MH	119	640	640
S016N002E30	MH	119	606	606
S016N002E31	MH	119	607	607
S016N002E33	MH	119	640	640
S016N002E34	MH	119	640	640
S016N002E35	MH	119	640	640
S016N002E36	MH	119	640	640
S017N002E23	MH	163	40	40
S017N002E25	MH	163	15	15
S018N001E01	MH	31	479	479
S018N001E12	MH	31	160	160
S018N001E31	MH	31	10	40
S018N002E03	MH	31	160	160
S018N002E04	MH	31	480	480
S018N002E05	MH	31	600	600
S018N002E06	MH	31	310	310
S018N002E07	MH	31	371	371

DATE: 01/7/74

SECTION MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE: 30
TOTAL ACRES
PAT & TA

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
S018N003E07	MH	141	377	377
S018N003E08	MH	141	251	251
S019N001E25	MH	31	640	640
S019N002E28	MH	31	480	480
S019N002E29	MH	31	640	640
S019N002E30	MH	31	616	616
S019N002E31	MH	31	618	618
S019N002E32	MH	31	640	640
S019N002E33	MH	31	640	640
S019N003E01	MH	124	639	639
S019N003E04	MH	124	640	640
S019N003E05	MH	124	640	640
S019N003E06	MH	124	595	595
S019N003E08	MH	124	80	80
S019N003E09	MH	124	520	520
S019N003E10	MH	124	560	560
S019N003E11	MH	124	320	320
S019N003E13	MH	124	240	240
S019N003E14	MH	124	240	240
S019N003E15	MH	124	160	160
S019N003E17	MH	124	640	640
S019N003E18	MH	124	612	612
S019N003E19	MH	124	535	535
S019N003E20	MH	124	240	240
S019N003E25	MH	124	513	513
S019N003E26	MH	124	171	171
S019N003E27	MH	124	202	202
S019N003E32	MH	124	227	227
S019N003E33	MH	124	542	542
S019N004E02	MH	166	80	80
S019N004E07	MH	166	40	40
S019N004E08	MH	166	120	120
S019N004E17	MH	166	5	5
S019N004E18	MH	166	82	82
S019N004E19	MH	166	11	11
S019N004E22	MH	166	6	6
S019N005E01	MH	166	640	640
S019N005E02	MH	166	617	617
S019N005E03	MH	166	33	44
S019N005E04	MH	166	78	78
S019N005E06	MH	166	284	284
S019N005E07	MH	166	13	13
S019N005E08	MH	166	5	5
S019N005E12	MH	166	640	640
S019N006E04	MH	37	160	160
S019N006E04	MH	23	480	480
S019N006E05	MH	37	280	280
S019N006E05	MH	23	360	360
S019N006E06	MH	23	609	609
S020N005E01	MH	125	640	640
S020N005E02	MH	125	640	640
S020N005E03	MH	125	640	640
S020N005E04	MH	125	640	640
S020N005E05	MH	125	640	640
S020N005E06	MH	125	607	607

DATE: 01/7/86
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE: 31
TOTAL ACRES
PAT & TA

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
S020N005E07	MH	125	607	607
S020N005E08	MH	125	240	240
S020N005E08	MH	37	120	120
S020N005E08	MH	23	280	280
S020N005E09	MH	23	640	640
S020N005E10	MH	23	640	640
S020N005E11	MH	23	640	640
S020N005E12	MH	23	640	640
S020N005E13	MH	23	640	640
S020N005E14	MH	23	640	640
S020N005E15	MH	125	320	320
S020N005E15	MH	23	320	320
S020N005E17	MH	23	640	640
S020N005E18	MH	23	600	600
S020N005E19	MH	23	602	602
S020N005E20	MH	23	160	160
S020N005E20	MH	37	480	480
S020N005E21	MH	125	160	160
S020N005E21	MH	37	480	480
S020N005E22	MH	23	320	320
S020N005E22	MH	125	80	80
S020N005E22	MH	37	240	240
S020N005E23	MH	125	160	160
S020N005E23	MH	23	440	440
S020N005E24	MH	23	640	640
S020N005E27	MH	37	160	160
S020N005E28	MH	37	320	320
S020N005E28	MH	23	240	240
S020N005E29	MH	37	120	120
S020N005E29	MH	23	520	520
S020N005E30	MH	125	160	160
S020N005E30	MH	23	284	284
S020N005E31	MH	125	160	160
S020N005E31	MH	23	607	607
S020N005E32	MH	125	107	107
S020N005E32	MH	23	600	600
S020N005E33	MH	37	40	40
S020N005E33	MH	23	200	200
S020N005E34	MH	37	120	120
S020N005E34	MH	23	200	200
S020N005E35	MH	37	35	35
S020N005E35	MH	23	200	200
S020N006E01	MH	23	640	640
S020N006E02	MH	23	641	641
S020N006E03	MH	23	640	640
S020N006E04	MH	23	640	640
S020N006E05	MH	23	640	640
S020N006E06	MH	23	598	598
S020N006E07	MH	23	600	600
S020N006E08	MH	23	640	640
S020N006E09	MH	23	640	640
S020N006E10	MH	23	640	640
S020N006E11	MH	23	640	640
S020N006E12	MH	23	640	640
S020N006E13	MH	23	608	608

DATE: 01/3
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE:
TOTAL ACRES
PAT & TA

32

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
S020N006E14	MH	23	640	640
S020N006E15	MH	23	640	640
S020N006E17	MH	23	640	640
S020N006E18	MH	23	442	442
S020N006E19	MH	23	604	604
S020N006E20	MH	23	640	640
S020N006E21	MH	23	640	640
S020N006E22	MH	23	640	640
S020N006E23	MH	139	5	5
S020N006E23	MH	40	485	485
S020N006E23	MH	23	25	25
S020N006E24	MH	23	313	313
S020N006E24	MH	139	36	36
S020N006E25	MH	139	3	3
S020N006E25	MH	23	515	515
S020N006E26	MH	23	421	421
S020N006E27	MH	23	402	402
S020N006E28	MH	23	400	400
S020N006E29	MH	139	160	160
S020N006E29	MH	23	120	120
S020N006E30	MH	139	141	141
S020N006E30	MH	23	40	40
S020N006E31	MH	37	246	246
S020N006E31	MH	23	127	127
S020N006E31	MH	139	177	177
S020N006E32	MH	37	461	461
S020N006E32	MH	23	21	21
S020N006E33	MH	23	44	44
S020N006E33	MH	37	414	414
S020N006E34	MH	139	466	466
S020N006E34	MH	124	221	221
S020N006E34	MH	37	14	14
S020N006E35	MH	139	600	600
S020N006E35	MH	124	360	360
S020N006E36	MH	139	540	540
S020N006E36	MH	124	520	520
S020N007E19	MH	139	37	37
S001S014W34	MH	171	3	3
S005S013W29	MH	145	250	250
S006S013W35	MH	80	15	15
S006S014W02	MH	140	43	43
S007S013W01	MH	21	33	33
S007S013W01	MH	80	10	10
S007S013W02	MH	80	4	4
S007S013W25	MH	129	400	400
S007S013W26	MH	129	210	210
S007S013W35	MH	129	380	380
S007S013W36	MH	129	640	640
S008S013W01	MH	128	316	316
S008S013W02	MH	128	378	378
S008S013W09	MH	128	4	4
S008S013W10	MH	128	262	262
S008S013W10	MH	39		
S008S013W11	MH	128	585	585
S008S013W12	MH	128	640	640

DATE: 01/ SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE: TOTAL ACRES PAT & TA

33

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
S008S013W13	MH	128	640	640
S008S013W14	MH	128	601	601
S008S013W15	MH	128	25	25
S008S013W16	MH	128	12	12
S008S013W17	MH	128	3	3
S008S013W18	MH	128	16	16
S008S013W19	MH	128	3	276
S008S013W20	MH	128	13	187
S008S013W21	MH	128	5	374
S008S013W22	MH	128	460	460
S008S013W23	MH	128	4	180
S008S013W24	MH	128	10	513
S008S013W25	MH	128	170	170
S008S013W26	MH	128	632	632
S008S013W27	MH	128	637	637
S008S013W28	MH	128	5	464
S008S013W29	MH	128	464	464
S008S013W30	MH	128	638	638
S008S013W31	MH	128	639	639
S008S013W32	MH	128	640	640
S008S013W33	MH	128	639	639
S008S013W34	MH	128	640	640
S008S013W35	MH	128	640	640
S008S013W36	MH	128	500	500
S027S019W32	MH	3	4	4
S029S018W31	MH	18	5	5
S029S019W32	MH	18	34	34
S029S019W33	MH	18	50	50
S029S019W34	MH	18	17	17
S029S019W36	MH	18	29	29
S002N012W02	MH	138	20	20
S002N012W03	MH	138	45	45
S002N012W04	MH	138	28	28
S003N011W30	MH	138	77	77
S003N012W01	MH	138	23	23
S003N012W02	MH	138	158	158
S003N012W33	MH	138	50	50
S005N008W01	MH	25	400	161
S005N008W02	MH	25	240	240
S005N008W03	MH	25	601	39
S005N008W04	MH	25	640	640
S005N008W05	MH	25	320	320
S005N008W06	MH	25	382	382
S005N008W07	MH	25	38	38
S005N008W08	MH	25	400	400
S005N008W09	MH	25	560	560
S005N008W10	MH	25	200	200
S005N008W11	MH	25	400	400
S005N008W14	MH	25	32	32
S005N008W17	MH	25	80	80
S005N008W19	MH	25	317	317
S005N008W20	MH	25	400	400
S005N008W21	MH	25	449	449
S005N008W22	MH	25	395	395
S005N008W23	MH	25	320	320

DATE: 01/3
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE:
TOTAL ACRES
PAT & TA

34

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
S005N008W24	MH	25		358
S005N008W25	MH	25		611
S005N008W26	MH	25		514
S005N008W27	MH	25		260
S005N008W28	MH	25		576
S005N008W29	MH	25	140	593
S005N008W30	MH	25		637
S005N008W31	MH	25		639
S005N008W32	MH	25		319
S005N008W33	MH	25		633
S005N008W34	MH	25		640
S005N008W35	MH	25		339
S005N009W01	MH	25		400
S005N009W06	MH	25		494
S005N009W07	MH	25		356
S005N009W08	MH	25		120
S005N009W09	MH	25		10
S005N009W11	MH	25		43
S005N009W12	MH	25		129
S005N009W13	MH	25		40
S005N009W14	MH	25		20
S005N009W18	MH	25		155
S005N009W19	MH	25		79
S005N009W21	MH	25		160
S005N009W22	MH	25		31
S005N009W23	MH	25		67
S005N009W24	MH	25		400
S005N009W25	MH	25		320
S005N009W28	MH	25		321
S005N009W29	MH	25		400
S005N009W31	MH	25		27
S005N009W32	MH	25		550
S005N009W33	MH	25		619
S005N009W34	MH	25		640
S005N009W35	MH	25		320
S005N010W01	MH	25		466
S005N010W02	MH	25		555
S005N010W03	MH	25		640
S005N010W04	MH	25		446
S005N010W05	MH	25		160
S005N010W06	MH	25		165
S005N010W07	MH	25		90
S005N010W08	MH	25		120
S005N010W09	MH	25		558
S005N010W10	MH	25		440
S005N010W11	MH	25	7	559
S005N010W12	MH	25		636
S005N010W13	MH	25		321
S005N010W14	MH	25	40	273
S005N010W15	MH	25		40
S005N010W17	MH	25		80
S005N010W18	MH	25		435
S005N010W19	MH	25		7
S005N010W20	MH	25		200
S005N010W21	MH	25		120

DATE: 01/
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE:
TOTAL ACRES
PAT & TA

35

DATE: 01/ SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	PAGE: TOTAL ACRES PAT & TA
S005N010W23	MH	25	80	80
S005N010W24	MH	25	80	80
S005N010W26	MH	25	160	160
S005N010W27	MH	25	240	240
S005N010W30	MH	25	43	43
S005N010W31	MH	25	202	202
S005N010W32	MH	25	20	23
S005N010W33	MH	25	61	61
S005N010W34	MH	25	56	56
S005N010W35	MH	25	91	91
S005N011W06	MH	79	159	159
S005N011W06	MH	46	30	30
S005N012W01	MH	79	14	14
S006N010W30	MH	25	307	307
S006N010W31	MH	25	434	434
S006N011W03	MH	25	160	160
S006N011W04	MH	25	80	80
S006N011W05	MH	25	320	320
S006N011W06	MH	25	390	390
S006N011W07	MH	25	231	231
S006N011W09	MH	25	360	360
S006N011W10	MH	25	520	520
S006N011W15	MH	25	340	340
S006N011W16	MH	25	600	600
S006N011W17	MH	25	320	320
S006N011W20	MH	25	320	320
S006N011W21	MH	25	160	160
S006N011W22	MH	25	640	640
S006N011W23	MH	25	640	640
S006N011W24	MH	25	640	640
S006N011W25	MH	25	640	640
S006N011W26	MH	25	640	640
S006N011W27	MH	25	560	560
S006N011W28	MH	25	320	320
S006N011W29	MH	25	160	160
S006N011W31	MH	25	14	15
S006N011W33	MH	25	198	201
S006N011W34	MH	25	313	326
S006N011W35	MH	25	120	280
S007N010W06	MH	25	610	610
S007N011W01	MH	25	277	277
S007N011W02	MH	25	371	371
S007N011W04	MH	25	30	30
S007N011W05	MH	97	4	4
S007N011W06	MH	25	79	79
S007N011W07	MH	25	39	107
S007N011W08	MH	25	1	25
S007N011W09	MH	25	322	322
S007N011W10	MH	25	160	160
S007N011W13	MH	25	584	584
S007N011W14	MH	25	153	153
S007N011W15	MH	25	480	480
S007N011W16	MH	25	244	244
S007N011W19	MH	25	429	429
S007N011W20	MH	25	605	605

DATE: 01/11/66
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE: 36
TOTAL ACRES
PAT & TA

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
S007N011W21	MH	25	280	280
S007N011W22	MH	25	541	541
S007N011W27	MH	25	507	507
S007N011W28	MH	25	177	177
S007N011W29	MH	25	40	40
S007N011W30	MH	25	263	263
S007N011W31	MH	25	360	360
S007N011W32	MH	25	640	640
S007N011W33	MH	25	160	160
S007N011W34	MH	25	320	320
S007N012W02	MH	25	80	80
S007N012W03	MH	6	404	404
S007N012W03	MH	25	40	40
S007N012W04	MH	6	167	167
S007N012W09	MH	6	503	503
S007N012W10	MH	6	54	54
S007N012W13	MH	25	5	5
S007N012W15	MH	25	40	40
S007N012W21	MH	25	47	47
S007N012W23	MH	25	40	120
S007N012W27	MH	25	65	71
S007N012W28	MH	25	46	46
S007N012W34	MH	25	97	97
S008N010W18	MH	25	88	88
S008N010W19	MH	25	143	143
S008N010W30	MH	25	603	603
S008N010W31	MH	25	578	578
S008N011W13	MH	25	96	96
S008N011W14	MH	25	185	185
S008N011W15	MH	25	118	118
S008N011W17	MH	25	2	2
S008N011W20	MH	25	346	351
S008N011W21	MH	25	356	356
S008N011W22	MH	25	255	255
S008N011W23	MH	25	161	161
S008N011W25	MH	25	608	608
S008N011W26	MH	25	204	204
S008N011W28	MH	25	320	462
S008N011W29	MH	25	542	542
S008N011W30	MH	25	86	86
S008N011W31	MH	25	81	81
S008N011W32	MH	25	200	200
S008N011W33	MH	25	68	68
S008N011W34	MH	25	158	158
S008N011W35	MH	25	124	124
S008N011W36	MH	25	475	475
S008N012W34	MH	6	57	57
S008N012W35	MH	6	10	10
S011N003W10	MH	20	34	34
S011N003W10	MH	8	160	160
S011N003W11	MH	8	70	70
S011N003W14	MH	8	195	195
S012N003W04	MH	143	80	80
S012N003W30	MH	6	219	219
S012N003W31	MH	6	138	138

DATE: 01/3
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE:
TOTAL ACRES
PAT & TA

37

-----	-----	-----	-----	-----
S012N003W32	MH	6	47	47
S012N003W33	MH	143	8	8
S012N004W15	MH	6	24	24
S012N004W22	MH	6	32	32
S012N004W23	MH	6	20	20
S012N004W25	MH	6	268	268
S012N004W26	MH	6	5	5
S012N011W03	MH	70		640
S012N011W04	MH	70		640
S012N011W05	MH	70		640
S012N011W06	MH	70		578
S012N011W07	MH	70		580
S012N011W08	MH	70		640
S012N011W09	MH	70		640
S012N011W10	MH	70		640
S012N011W15	MH	70		640
S012N011W16	MH	70		640
S012N011W17	MH	70		640
S012N011W18	MH	70		582
S012N011W19	MH	70		211
S012N011W20	MH	70		492
S012N011W21	MH	70		640
S012N011W22	MH	70		640
S012N011W27	MH	70		175
S012N011W28	MH	70		180
S012N011W29	MH	70		48
S012N012W01	MH	58	640	640
S012N012W02	MH	58	640	640
S012N012W03	MH	58	640	640
S012N012W04	MH	58	640	640
S012N012W05	MH	58	640	640
S012N012W06	MH	58	596	596
S012N012W07	MH	58	598	598
S012N012W08	MH	58	640	640
S012N012W09	MH	58	640	640
S012N012W10	MH	58	640	640
S012N012W11	MH	58	640	640
S012N012W12	MH	58	640	640
S012N012W13	MH	58	640	640
S012N012W14	MH	58	640	640
S012N012W15	MH	58	640	640
S012N012W16	MH	58	640	640
S012N012W17	MH	58	640	640
S012N012W18	MH	58	599	599
S012N012W19	MH	71		
S012N012W19	MH	58	601	601
S012N012W20	MH	58	640	640
S012N012W20	MH	71		
S012N012W21	MH	71		
S012N012W21	MH	58	640	640
S012N012W22	MH	58	550	550
S012N012W22	MH	71		
S012N012W23	MH	58	135	135
S012N012W24	MH	58	385	385
S012N012W27	MH	58	540	540

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

1531.5 SCOMM 56A: JNT. SPEC. MENTAL HEALTH TRUST LAND, 1987

387

DATE: 01/7/80
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE: 38
TOTAL ACRES
PAT & TA

S012N012W27	MH	71			
S012N012W28	MH	71			
S012N012W28	MH	58	640		640
S012N012W29	MH	58	640		640
S012N012W29	MH	71			
S012N012W30	MH	71			
S012N012W30	MH	58	603		603
S012N012W31	MH	58	605		605
S012N012W31	MH	71			
S012N012W32	MH	71			
S012N012W32	MH	58	640		640
S012N012W33	MH	58	640		640
S012N012W33	MH	71			
S012N012W34	MH	71			
S012N012W34	MH	58	540		540
S012N013W01	MH	59	640		640
S012N013W02	MH	59	640		640
S012N013W03	MH	59	640		640
S012N013W04	MH	59	640		640
S012N013W05	MH	59	640		640
S012N013W06	MH	59	599		599
S012N013W07	MH	59	691		601
S012N013W08	MH	59	640		640
S012N013W09	MH	59	640		640
S012N013W10	MH	59	640		640
S012N013W11	MH	59	640		640
S012N013W12	MH	59	640		640
S012N013W13	MH	59	640		640
S012N013W14	MH	59	640		640
S012N013W15	MH	59	640		640
S012N013W16	MH	59	640		640
S012N013W17	MH	59	640		640
S012N013W18	MH	59	603		603
S012N013W19	MH	59	605		605
S012N013W20	MH	59	640		640
S012N013W21	MH	59	640		640
S012N013W22	MH	59	640		640
S012N013W23	MH	59	640		640
S012N013W24	MH	59	640		640
S012N013W25	MH	59	640		640
S012N013W26	MH	59	640		640
S012N013W27	MH	59	640		640
S012N013W28	MH	59	640		640
S012N013W29	MH	59	640		640
S012N013W30	MH	59	606		606
S012N013W31	MH	59	608		608
S012N013W32	MH	59	640		640
S012N013W33	MH	59	640		640
S012N013W34	MH	59	640		640
S012N013W35	MH	59	640		640
S012N013W36	MH	59	640		640
S013N001W05	MH	154		40	40
S013N001W06	MH	154		276	276
S013N003W07	MH	76	28		28
S013N003W09	MH	151	40		40

DATE: 01/3
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE: 39
TOTAL ACRES
PAT & TA

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
S013N003W18	MH	2	1	1
S013N003W21	MH	152	40	40
S013N003W28	MH	89	10	10
S013N003W28	MH	1	70	70
S013N003W33	MH	143	300	300
S013N003W34	MH	174	20	20
S013N010W04	MH	57	640	640
S013N010W05	MH	57	640	640
S013N010W06	MH	57	630	630
S013N010W07	MH	57	632	632
S013N010W08	MH	57	640	640
S013N010W09	MH	57	640	640
S013N010W16	MH	57	640	640
S013N010W17	MH	57	640	640
S013N010W18	MH	57	634	634
S013N010W19	MH	57	636	636
S013N010W20	MH	57	640	640
S013N010W21	MH	57	640	640
S013N010W28	MH	57	640	640
S013N010W29	MH	57	640	640
S013N010W30	MH	57	637	637
S013N010W31	MH	57	639	639
S013N010W32	MH	57	640	640
S013N010W33	MH	57	640	640
S013N011W01	MH	61	640	640
S013N011W02	MH	61	640	640
S013N011W03	MH	61	640	640
S013N011W04	MH	61	640	640
S013N011W05	MH	61	640	640
S013N011W06	MH	61	630	630
S013N011W07	MH	61	632	632
S013N011W08	MH	61	640	640
S013N011W09	MH	61	640	640
S013N011W10	MH	61	640	640
S013N011W11	MH	61	640	640
S013N011W12	MH	61	640	640
S013N011W13	MH	61	640	640
S013N011W14	MH	61	640	640
S013N011W15	MH	61	640	640
S013N011W16	MH	61	640	640
S013N011W17	MH	61	640	640
S013N011W18	MH	61	634	634
S013N011W19	MH	61	636	636
S013N011W20	MH	61	640	640
S013N011W21	MH	61	640	640
S013N011W22	MH	61	640	640
S013N011W23	MH	61	640	640
S013N011W24	MH	61	640	640
S013N011W25	MH	61	640	640
S013N011W26	MH	61	640	640
S013N011W27	MH	61	640	640
S013N011W28	MH	61	640	640
S013N011W29	MH	61	640	640
S013N011W30	MH	61	627	627
S013N011W31	MH	61	639	639

DATE: 01/30/00
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE: 40
TOTAL ACRES
PAT & TA

S013N011W32	MH	61	640	640
S013N011W33	MH	61	640	640
S013N011W34	MH	61	640	640
S013N011W35	MH	61	640	640
S013N011W36	MH	61	640	640
S013N012W01	MH	63	640	640
S013N012W02	MH	63	640	640
S013N012W03	MH	63	640	640
S013N012W04	MH	63	640	640
S013N012W05	MH	63	640	640
S013N012W06	MH	63	630	630
S013N012W07	MH	63	632	632
S013N012W08	MH	63	640	640
S013N012W09	MH	63	640	640
S013N012W10	MH	63	640	640
S013N012W11	MH	63	640	640
S013N012W12	MH	63	640	640
S013N012W13	MH	63	640	640
S013N012W14	MH	63	640	640
S013N012W15	MH	63	640	640
S013N012W16	MH	63	640	640
S013N012W17	MH	63	640	640
S013N012W18	MH	63	634	634
S013N012W19	MH	63	636	636
S013N012W20	MH	63	640	640
S013N012W21	MH	63	640	640
S013N012W22	MH	63	640	640
S013N012W23	MH	63	640	640
S013N012W24	MH	63	640	640
S013N012W25	MH	63	640	640
S013N012W26	MH	63	640	640
S013N012W27	MH	63	640	640
S013N012W28	MH	63	640	640
S013N012W29	MH	63	640	640
S013N012W30	MH	63	637	637
S013N012W31	MH	63	639	639
S013N012W32	MH	63	640	640
S013N012W33	MH	63	640	640
S013N012W34	MH	63	640	640
S013N012W35	MH	63	640	640
S013N012W36	MH	63	640	640
S013N013W01	MH	65	640	640
S013N013W02	MH	65	640	640
S013N013W03	MH	65	640	640
S013N013W04	MH	65	640	640
S013N013W05	MH	65	640	640
S013N013W06	MH	65	630	630
S013N013W07	MH	65	632	632
S013N013W08	MH	65	640	640
S013N013W09	MH	65	640	640
S013N013W10	MH	65	640	640
S013N013W11	MH	65	640	640
S013N013W12	MH	65	640	640
S013N013W13	MH	65	640	640
S013N013W14	MH	65	640	640

DATE: 01/10/00
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE: 41
TOTAL ACRES
PAT & TA

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
S013N013M15	MH	65	640	640
S013N013M16	MH	65	640	640
S013N013M17	MH	65	640	640
S013N013M18	MH	65	634	634
S013N013M19	MH	65	636	636
S013N013M20	MH	65	640	640
S013N013M21	MH	65	640	640
S013N013M22	MH	65	640	640
S013N013M23	MH	65	640	640
S013N013M24	MH	65	640	640
S013N013M25	MH	65	640	640
S013N013M26	MH	65	640	640
S013N013M27	MH	65	640	640
S013N013M28	MH	65	640	640
S013N013M29	MH	65	640	640
S013N013M30	MH	65	632	632
S013N013M31	MH	65	639	639
S013N013M32	MH	65	640	640
S013N013M33	MH	65	640	640
S013N013M34	MH	65	640	640
S013N013M35	MH	65	640	640
S013N013M36	MH	65	640	640
S014N002M13	MH	56	40	40
S014N002M14	MH	56	257	257
S014N002M15	MH	56	320	320
S014N002M24	MH	56	480	480
S014N004M04	MH	86	617	617
S014N004M05	MH	86	640	640
S014N004M06	MH	86	616	616
S014N004M07	MH	86	618	618
S014N004M08	MH	86	640	640
S014N004M09	MH	86	626	626
S014N004M12	MH	170	14	14
S014N004M16	MH	86	640	640
S014N004M17	MH	86	640	640
S014N004M18	MH	86	620	620
S014N004M19	MH	86	622	622
S014N004M20	MH	86	640	640
S014N004M21	MH	86	640	640
S014N004M30	MH	86	431	431
S014N004M31	MH	170	290	290
S014N004M31	MH	86	151	151
S014N004M32	MH	170	40	40
S014N004M34	MH	170	80	80
S014N004M35	MH	170	40	40
S014N005M01	MH	86	640	640
S014N005M02	MH	86	640	640
S014N005M03	MH	86	640	640
S014N005M04	MH	86	640	640
S014N005M05	MH	86	640	640
S014N005M06	MH	86	620	620
S014N005M07	MH	86	622	622
S014N005M08	MH	86	620	620
S014N005M09	MH	86	640	640
S014N005M10	MH	86	640	640

DATE: 01/17/2000
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE: 42
TOTAL ACRES
PAT & TA

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
S014N005W11	MH	86	640	640
S014N005W12	MH	86	640	640
S014N005W13	MH	86	640	640
S014N005W14	MH	86	640	640
S014N005W15	MH	86	640	640
S014N005W16	MH	86	640	640
S014N005W17	MH	86	640	640
S014N005W18	MH	86	623	623
S014N005W19	MH	86	625	625
S014N005W20	MH	86	640	640
S014N005W21	MH	86	640	640
S014N005W22	MH	86	640	640
S014N005W23	MH	86	640	640
S014N005W24	MH	86	640	640
S014N005W25	MH	86	526	526
S014N005W26	MH	86	640	640
S014N005W27	MH	86	640	640
S014N005W28	MH	86	640	640
S014N005W29	MH	86	640	640
S014N005W30	MH	86	627	627
S014N005W31	MH	86	480	480
S014N005W32	MH	86	400	400
S014N005W33	MH	86	413	413
S014N005W34	MH	86	540	540
S014N005W35	MH	86	491	491
S014N005W36	MH	86	586	586
S014N006W01	MH	86	150	150
S014N006W12	MH	86	236	236
S014N012W01	MH	67	640	640
S014N012W02	MH	67	640	640
S014N012W03	MH	67	640	640
S014N012W04	MH	67	640	640
S014N012W05	MH	67	640	640
S014N012W06	MH	67	620	620
S014N012W07	MH	67	622	622
S014N012W08	MH	67	640	640
S014N012W09	MH	67	640	640
S014N012W10	MH	67	640	640
S014N012W11	MH	67	640	640
S014N012W12	MH	67	640	640
S014N012W13	MH	67	640	640
S014N012W14	MH	67	640	640
S014N012W15	MH	67	640	640
S014N012W16	MH	67	640	640
S014N012W17	MH	67	640	640
S014N012W18	MH	67	623	623
S014N012W19	MH	67	625	625
S014N012W20	MH	67	640	640
S014N012W21	MH	67	640	640
S014N012W22	MH	67	640	640
S014N012W23	MH	67	640	640
S014N012W24	MH	67	640	640
S014N012W25	MH	67	640	640
S014N012W26	MH	67	640	640
S014N012W27	MH	67	640	640

DATE: 01/20/16
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE: 43
TOTAL ACRES
PAT & TA

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
S014N012W28	MH	67	640	640
S014N012W29	MH	67	640	640
S014N012W30	MH	67	627	627
S014N012W31	MH	67	629	629
S014N012W32	MH	67	640	640
S014N012W33	MH	67	640	640
S014N012W34	MH	67	640	640
S014N012W35	MH	67	640	640
S014N012W36	MH	67	640	640
S014N013W01	MH	69	640	640
S014N013W02	MH	69	640	640
S014N013W03	MH	69	640	640
S014N013W10	MH	69	640	640
S014N013W11	MH	69	640	640
S014N013W12	MH	69	640	640
S014N013W13	MH	69	640	640
S014N013W14	MH	69	640	640
S014N013W15	MH	69	640	640
S014N013W22	MH	69	640	640
S014N013W23	MH	69	640	640
S014N013W24	MH	69	640	640
S014N013W25	MH	69	640	640
S014N013W26	MH	69	640	640
S014N013W27	MH	69	640	640
S014N013W34	MH	69	640	640
S014N013W35	MH	69	640	640
S014N013W36	MH	69	640	640
S015N003W05	MH	146	160	160
S015N003W06	MH	146	204	204
S015N003W08	MH	146	163	163
S015N003W09	MH	141	32	32
S015N003W10	MH	141	19	19
S015N003W18	MH	146	406	406
S015N003W19	MH	146	47	47
S015N004W05	MH	86	640	640
S015N004W06	MH	86	604	604
S015N004W07	MH	86	606	606
S015N004W08	MH	86	640	640
S015N004W17	MH	86	640	640
S015N004W18	MH	86	608	608
S015N004W19	MH	86	610	610
S015N004W20	MH	86	640	640
S015N004W29	MH	86	640	640
S015N004W30	MH	86	616	616
S015N004W31	MH	86	618	618
S015N004W32	MH	86	640	640
S015N005W01	MH	87	640	640
S015N005W02	MH	87	640	640
S015N005W03	MH	87	640	640
S015N005W04	MH	87	640	640
S015N005W05	MH	87	640	640
S015N005W06	MH	87	609	609
S015N005W07	MH	87	611	611
S015N005W08	MH	87	640	640
S015N005W09	MH	87	343	343

DATE: 01/16/06
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE: 44
TOTAL ACRES
PAT & TA

S015N005W09	MH	86	315	315
S015N005W10	MH	86	65	65
S015N005W10	MH	87	577	577
S015N005W11	MH	87	640	640
S015N005W12	MH	87	640	640
S015N005W13	MH	87	640	640
S015N005W14	MH	87	605	605
S015N005W14	MH	86	36	36
S015N005W15	MH	87	118	118
S015N005W15	MH	86	502	502
S015N005W16	MH	87	5	5
S015N005W16	MH	86	640	640
S015N005W17	MH	87	439	439
S015N005W17	MH	86	219	219
S015N005W18	MH	87	613	613
S015N005W19	MH	87	537	537
S015N005W19	MH	86	80	80
S015N005W20	MH	86	601	601
S015N005W20	MH	87	36	36
S015N005W21	MH	86	640	640
S015N005W22	MH	86	640	640
S015N005W23	MH	86	460	460
S015N005W23	MH	87	167	167
S015N005W24	MH	87	626	626
S015N005W24	MH	86	16	16
S015N005W25	MH	86	394	394
S015N005W25	MH	87	224	224
S015N005W26	MH	86	640	640
S015N005W27	MH	86	640	640
S015N005W28	MH	86	640	640
S015N005W29	MH	86	640	640
S015N005W30	MH	87	236	236
S015N005W30	MH	86	415	415
S015N005W31	MH	86	565	565
S015N005W31	MH	87	42	42
S015N005W32	MH	86	640	640
S015N005W33	MH	86	640	640
S015N005W34	MH	86	640	640
S015N005W35	MH	86	640	640
S015N005W36	MH	87	39	39
S015N005W36	MH	86	601	601
S015N006W36	MH	86	8	8
S016N002W05	MH	169	40	40
S016N003W02	MH	160	250	250
S016N003W03	MH	160	40	40
S016N003W03	MH	139	10	10
S016N003W06	MH	160	60	60
S016N003W09	MH	160	5	5
S016N003W10	MH	160	120	120
S016N003W12	MH	160	40	40
S016N003W13	MH	160	40	40
S016N003W14	MH	160	40	40
S016N003W15	MH	160	120	120
S016N003W23	MH	160	160	160
S016N003W27	MH	160	40	40

DATE: 01/31

SECTION

MH CASE WITH TA OR PAT

45

PAGE: 45
TOTAL ACRES
PAT & TA

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
S016N003M34	MH	40	160	200
S017N001M05	MH	120	164	284
S017N001M18	MH	38	164	202
S017N002M02	MH	161	165	326
S017N002M03	MH	40	165	205
S017N002M06	MH	198	165	363
S017N002M08	MH	80	165	245
S017N002M08	MH	4	139	143
S017N002M12	MH	40	165	205
S017N002M13	MH	40	165	205
S017N002M14	MH	80	165	245
S017N002M17	MH	40	165	205
S017N002M19	MH	158	165	323
S017N002M21	MH	80	165	245
S017N002M23	MH	160	165	325
S017N002M31	MH	80	165	245
S017N002M32	MH	80	165	245
S017N002M35	MH	80	165	245
S017N004M01	MH	640	55	695
S017N004M02	MH	640	55	695
S017N004M03	MH	640	55	695
S017N004M04	MH	640	55	695
S017N004M05	MH	640	55	695
S017N004M06	MH	626	55	681
S017N004M07	MH	632	55	687
S017N004M08	MH	640	55	695
S017N004M09	MH	640	55	695
S017N004M10	MH	640	55	695
S017N004M11	MH	275	55	330
S017N004M12	MH	309	55	364
S017N004M13	MH	322	55	377
S017N004M14	MH	278	55	333
S017N004M15	MH	534	55	589
S017N004M16	MH	640	55	695
S017N004M17	MH	640	55	695
S017N004M18	MH	634	55	689
S017N004M19	MH	558	55	613
S017N004M20	MH	640	55	695
S017N004M21	MH	640	55	695
S017N004M22	MH	640	55	695
S017N004M23	MH	631	55	686
S017N004M24	MH	400	55	455
S017N004M25	MH	15	55	70
S017N004M26	MH	48	55	103
S017N004M2	MH	223	55	278
S017N004M28	MH	263	55	318
S017N004M29	MH	624	55	679
S017N004M30	MH	536	55	591
S017N004M31	MH	507	55	562
S017N004M32	MH	234	55	289
S017N004M33	MH	503	55	558
S017N004M34	MH	265	55	320
S017N004M35	MH	65	55	120
S018N001M05	MH	643	167	810
S018N001M06	MH	618	167	785

DATE: 01/3
SECTION

MH CASE WITH TA OR PAT

ACRES PAT

ACRES TA

PAGE: 46
TOTAL ACRES
PAT & TA

SECTION	MH CASE WITH TA OR PAT	ACRES PAT	ACRES TA	TOTAL ACRES PAT & TA
S018N001W07	MH	167	618	618
S018N001W29	MH	167	55	55
S018N001W32	MH	167	25	25
S018N002W28	MH	157	130	130
S018N002W34	MH	157	1	1
S018N002W35	MH	157	40	40
S018N003W05	MH	161	80	80
S018N003W07	MH	161	463	463
S018N003W08	MH	161	80	80
S018N003W20	MH	161	80	80
S018N003W21	MH	161	160	160
S018N003W23	MH	161	80	80
S018N003W25	MH	139	10	10
S018N003W28	MH	161	480	480
S018N003W29	MH	161	160	160
S018N003W30	MH	161	392	392
S018N003W35	MH	161	40	40
S018N003W35	MH	139	16	16
S020N004W07	MH	158	16	16
S020N004W08	MH	158	80	80
S020N004W09	MH	158	160	160
S020N004W17	MH	158	40	40
S020N004W18	MH	158	70	70
S020N004W30	MH	158	160	160
S020N004W31	MH	158	271	271
S020N004W34	MH	158	160	160
S020N004W35	MH	158	240	240
S020N005W12	MH	168	97	97
S021N004W05	MH	159	120	120
S021N004W06	MH	159	40	40
S021N004W07	MH	159	78	78
S021N004W08	MH	159	80	80
S021N004W19	MH	159	78	78
S021N004W30	MH	159	194	194
S025N004W30	MH	45	78	78
S025N005W01	MH	45	20	20
S025N005W13	MH	45	22	22
S025N005W25	MH	45	40	40
S026N004W06	MH	45	619	619
S026N004W07	MH	45	594	594
S026N004W18	MH	45	530	530
S026N004W19	MH	109	15	15
S026N004W30	MH	109	85	85
S026N004W31	MH	109	20	20
S026N005W02	MH	45	488	488
S026N005W11	MH	45	180	180
S026N005W12	MH	45	640	640
S026N005W13	MH	45	520	520
S026N005W14	MH	45	210	210
S026N005W23	MH	45	53	53

DATE: 12/20/85

PAGE: 1

SECTION MH CASE WITH SELECTION

.....

C023S022E04	MH	136
C023S022E05	MH	136
C023S022E06	MH	136
C028S053E14	MH	5
C028S053E15	MH	5
C028S053E16	MH	5
C028S053E21	MH	5
C028S053E22	MH	5
C028S053E23	MH	5
C028S053E24	MH	5
C028S053E25	MH	5
C028S054E19	MH	5
C028S054E20	MH	5
C028S054E21	MH	5
C028S054E22	MH	5
C028S054E23	MH	5
C028S054E24	MH	5
C028S054E25	MH	5
C028S054E26	MH	5
C028S054E27	MH	5
C028S054E28	MH	5
C028S054E29	MH	5
C028S054E30	MH	5
C028S054E35	MH	5
C028S054E36	MH	5
C029S055E01	MH	5
C029S055E02	MH	5
C029S055E03	MH	5
C029S055E04	MH	5
C029S056E05	MH	5
C029S056E06	MH	5
C029S056E11	MH	5
C029S056E12	MH	5
C029S056E13	MH	5
C029S056E14	MH	5
C029S056E15	MH	5
C029S056E16	MH	5
C029S057E05	MH	5
C029S057E06	MH	5
C029S057E07	MH	5
C029S057E08	MH	5
C029S057E09	MH	5
C029S057E15	MH	5
C029S057E17	MH	5
C029S057E18	MH	5
C029S057E19	MH	5
C029S057E20	MH	5
C029S057E21	MH	5
C029S057E22	MH	5
C029S057E23	MH	5
C029S057E25	MH	5
C029S057E26	MH	5
C029S057E27	MH	5
C029S057E28	MH	5
C029S057E29	MH	5
C029S057E30	MH	5

SECTION MH CASE WITH SELECTION

.029S057E31	MH	5
C029S057E32	MH	5
C029S057E33	MH	5
C029S057E34	MH	5
C029S057E35	MH	5
C030S056E25	MH	5
C030S057E01	MH	5
C030S057E02	MH	5
C030S057E03	MH	5
C030S057E04	MH	5
C030S057E05	MH	5
C030S057E08	MH	5
C030S057E09	MH	5
C030S057E10	MH	5
C030S057E11	MH	5
C030S057E12	MH	5
C030S057E13	MH	5
C030S057E14	MH	5
C030S057E24	MH	5
C030S057E25	MH	5
C030S057E26	MH	5
C030S057E27	MH	5
C030S057E28	MH	5
C030S057E29	MH	5
C030S057E30	MH	5
C030S057E32	MH	5
C030S057E33	MH	5
C030S057E34	MH	5
C030S057E35	MH	5
C030S057E36	MH	5
C030S058E17	MH	5
C030S058E19	MH	5
C030S058E29	MH	5
C030S058E30	MH	5
C030S058E31	MH	5
C050S074E01	MH	179
C055S063E21	MH	47
C055S063E25	MH	47
C055S063E28	MH	47
C055S063E34	MH	47
C055S063E35	MH	47
C055S063E36	MH	47
C056S063E01	MH	47
C056S063E02	MH	47
C056S063E03	MH	47
C056S063E11	MH	47
C068S075E22	MH	172
F001N006E04	MH	111
F001N006E05	MH	111
F001N006E06	MH	111
F001N006E07	MH	111
F001N006E08	MH	111
F001N006E09	MH	111
F001N006E16	MH	111
F001N006E17	MH	111
F001N006E18	MH	111

SECTION MH CASE WITH SELECTION

F001N006E19	MH	111
F001N006E20	MH	111
F001N006E21	MH	111
F001N006E28	MH	111
F001N006E29	MH	111
F001N006E30	MH	111
F001N006E31	MH	111
F001N006E32	MH	111
F001N006E33	MH	111
F001N007E04	MH	113
F001N007E05	MH	113
F001N007E06	MH	113
F001N007E07	MH	113
F001N007E08	MH	113
F001N007E09	MH	113
F001N007E16	MH	113
F001N007E17	MH	113
F001N007E18	MH	113
F001N007E19	MH	113
F001N007E20	MH	113
F001N007E21	MH	113
F001N007E28	MH	113
F001N007E29	MH	113
F001N007E30	MH	113
F001N007E31	MH	113
F001N007E32	MH	113
F001N007E33	MH	113
F002N007E04	MH	116
F002N007E05	MH	116
F002N007E06	MH	116
F002N007E07	MH	116
F002N007E08	MH	116
F002N007E09	MH	116
F002N007E16	MH	116
F002N007E17	MH	116
F002N007E18	MH	116
F002N007E19	MH	116
F002N007E20	MH	116
F002N007E21	MH	116
F002N007E28	MH	116
F002N007E29	MH	116
F002N007E30	MH	116
F002N007E31	MH	116
F002N007E32	MH	116
F002N007E33	MH	116
F001S003E01	MH	30
F001S003E02	MH	30
F001S003E11	MH	30
F001S003E12	MH	30
F001S003E13	MH	30
F001S003E14	MH	30
F001S003E23	MH	30
F001S003E24	MH	30
F001S003E25	MH	30
F001S003E26	MH	30
F001S003E27	MH	30

SECTION MH CASE WITH SELECTION

F001S003E34 MH	30
F001S003E35 MH	30
F001S003E36 MH	30
F001S004E03 MH	28
F001S004E10 MH	28
F006S004E02 MH	44
F006S004E10 MH	44
F006S004E11 MH	44
F006S004E12 MH	44
F006S004E13 MH	44
F006S004E25 MH	44
F001S002W12 MH	126
F001S002W13 MH	126
F001S002W14 MH	126
F001S002W23 MH	126
F001S003W01 MH	126
F001S003W09 MH	126
F001S003W13 MH	126
F002S005W26 MH	9
F006S007W01 MH	35
F006S007W02 MH	35
F006S007W03 MH	35
F006S007W04 MH	35
F006S007W05 MH	35
F006S007W06 MH	35
F006S007W07 MH	35
F006S007W08 MH	35
F006S007W09 MH	35
F006S007W10 MH	35
F006S007W11 MH	35
F006S007W12 MH	35
F006S007W13 MH	35
F006S007W14 MH	35
F006S007W15 MH	35
F006S007W16 MH	35
F006S007W17 MH	35
F006S007W18 MH	35
F006S007W19 MH	35
F006S007W20 MH	35
F006S007W21 MH	35
F006S007W22 MH	35
F006S007W23 MH	35
F006S007W24 MH	35
F006S007W25 MH	35
F006S007W26 MH	35
F006S007W27 MH	35
F006S007W28 MH	35
F006S007W29 MH	35
F006S007W30 MH	35
F006S007W31 MH	35
F006S007W32 MH	35
F006S007W33 MH	35
F006S007W34 MH	35
F006S007W35 MH	35
F006S007W36 MH	35
F006S008W04 MH	34

DATE: 12/20/85

PAGE: 5

SECTION MH CASE WITH SELECTION

F006S008W09 MH	34
F006S008W15 MH	34
F006S008W16 MH	34
F006S008W17 MH	34
F006S008W19 MH	34
F006S008W20 MH	34
F006S008W21 MH	34
F006S008W27 MH	14
F006S008W28 MH	14
F006S008W29 MH	34
F006S008W30 MH	34
F006S008W31 MH	34
F006S008W32 MH	14
F006S008W34 MH	14
F009S005W01 MH	36
F009S005W02 MH	36
F009S005W03 MH	36
F009S005W04 MH	36
F009S005W05 MH	36
F009S005W06 MH	36
F009S006W01 MH	36
F009S006W02 MH	36
F009S006W03 MH	36
F009S006W04 MH	36
F009S006W05 MH	36
F009S006W06 MH	36
F009S006W15 MH	36
F009S006W17 MH	36
F009S006W20 MH	36
F009S006W21 MH	36
F009S006W22 MH	36
F009S006W27 MH	36
F009S006W28 MH	36
F009S006W29 MH	36
F009S006W32 MH	36
F009S006W34 MH	36
F010S006W03 MH	36
F010S006W04 MH	36
F010S006W05 MH	36
F010S006W08 MH	36
F010S006W09 MH	36
F010S006W10 MH	36
F010S006W15 MH	36
F010S006W17 MH	36
F010S006W18 MH	36
F010S006W22 MH	36
F010S006W27 MH	36
F010S006W28 MH	36
F012S007W08 MH	121
F012S007W17 MH	121
F012S007W20 MH	121
F012S007W28 MH	121
F012S007W29 MH	121
F012S007W32 MH	121
F018S008W01 MH	149
F018S008W02 MH	149

DATE: 12/20/85

PAGE: 5

SECTION MH CASE WITH SELECTION

F018S008W03 MH	149
F018S008W04 MH	149
F018S008W05 MH	149
F018S008W06 MH	149
F018S008W07 MH	149
F018S008W08 MH	149
F018S008W09 MH	149
F018S008W10 MH	149
F018S008W11 MH	149
F018S008W12 MH	149
F018S008W13 MH	149
F018S008W14 MH	149
F018S008W15 MH	149
F018S008W16 MH	149
F018S008W17 MH	149
F018S008W18 MH	149
F018S008W19 MH	149
F018S008W20 MH	149
F018S008W21 MH	149
F018S008W22 MH	149
F018S008W23 MH	149
F018S008W24 MH	149
F018S008W25 MH	149
F018S008W26 MH	149
F018S008W27 MH	149
F018S008W28 MH	149
F018S008W29 MH	149
F018S008W30 MH	149
F018S008W31 MH	149
F018S008W32 MH	149
F018S008W33 MH	149
F018S008W34 MH	149
F018S008W35 MH	149
F018S008W36 MH	149
F001N002W10 MH	126
F001N002W22 MH	126
F001N002W30 MH	126
F001N003W20 MH	126
S015N002E01 MH	176
S015N002E02 MH	176
S015N002E03 MH	176
S015N002E04 MH	176
S015N002E06 MH	176
S015N002E07 MH	176
S015N002E09 MH	176
S015N002E10 MH	176
S015N002E11 MH	176
S015N002E12 MH	176
S015N002E13 MH	176
S015N002E14 MH	176
S015N002E15 MH	176
S015N002E16 MH	176
S015N002E17 MH	176
S015N002E18 MH	176
S015N002E19 MH	176
S015N002E20 MH	176

SECTION MH CASE WITH SELECTION

S015N002E21 MH	176
S015N002E22 MH	176
S015N002E23 MH	176
S015N002E24 MH	176
S015N002E26 MH	176
S015N002E27 MH	176
S015N002E28 MH	176
S015N002E29 MH	176
S015N002E30 MH	176
S015N002E31 MH	176
S015N002E32 MH	176
S015N002E33 MH	176
S015N002E34 MH	176
S015N002E35 MH	176
S015N002E36 MH	176
S016N001E01 MH	90
S016N001E02 MH	90
S016N001E03 MH	90
S016N001E04 MH	90
S016N001E05 MH	90
S016N001E06 MH	90
S016N001E07 MH	90
S016N001E08 MH	90
S016N001E09 MH	90
S016N001E10 MH	90
S016N001E11 MH	90
S016N001E12 MH	90
S016N001E14 MH	90
S016N001E15 MH	90
S016N001E16 MH	90
S016N001E17 MH	90
S016N001E18 MH	90
S016N001E19 MH	90
S016N001E20 MH	90
S016N001E21 MH	90
S016N001E22 MH	90
S016N001E23 MH	90
S016N001E24 MH	90
S016N001E25 MH	90
S016N001E26 MH	90
S016N001E27 MH	90
S016N001E28 MH	90
S016N001E29 MH	90
S016N001E31 MH	90
S016N001E32 MH	90
S016N001E33 MH	90
S016N001E34 MH	90
S016N001E35 MH	90
S016N001E36 MH	90
S019N003E24 MH	124
S020N006E35 MH	124
S004S001E04 MH	156
S003S001W25 MH	156
S003S001W35 MH	156
S003S001W36 MH	156
S004S001W01 MH	156

SECTION MH CASE WITH SELECTION

S004S001W02	MH	156
S004S001W11	MH	156
S004S001W12	MH	156
S004S001W13	MH	156
S007S013W22	MH	129
S007S013W25	MH	39
S007S013W26	MH	39
S007S013W35	MH	39
S008S013W01	MH	39
S008S013W02	MH	39
S008S013W11	MH	39
S008S013W12	MH	39
S008S013W13	MH	39
S008S013W14	MH	39
S008S013W15	MH	39
S008S013W23	MH	39
S008S013W24	MH	39
S008S013W25	MH	39
S009S015W33	MH	15
S027S021W07	MH	175
S027S021W18	MH	175
S027S021W19	MH	175
S027S021W20	MH	175
S027S021W21	MH	175
S027S021W27	MH	175
S027S021W28	MH	175
S027S021W29	MH	175
S027S021W30	MH	175
S027S021W31	MH	175
S027S021W32	MH	175
S027S021W33	MH	175
S027S021W34	MH	175
S005N008W08	MH	25
S005N009W04	MH	25
S005N009W05	MH	25
S005N010W05	MH	25
S006N011W04	MH	25
S006N011W05	MH	25
S006N011W06	MH	25
S006N011W07	MH	25
S006N011W08	MH	25
S006N011W09	MH	25
S007N012W24	MH	25
S008N010W18	MH	25
S008N011W24	MH	25
S012N013W04	MH	60
S012N013W05	MH	60
S012N013W06	MH	60
S012N013W07	MH	60
S012N013W08	MH	60
S012N013W09	MH	60
S012N013W16	MH	60
S012N013W17	MH	60
S012N013W18	MH	60
S012N013W19	MH	60
S012N013W20	MH	60

No
selection
Classified
12/21/87

SECTION MH CASE WITH SELECTION

S012N013W21	MH	60
S012N013W28	MH	60
S012N013W29	MH	60
S012N013W30	MH	60
S012N013W31	MH	60
S012N013W32	MH	60
S012N013W33	MH	60
S013N001W01	MH	154
S013N001W02	MH	154
S013N001W03	MH	154
S013N001W04	MH	154
S013N001W05	MH	154
S013N001W06	MH	154
S013N001W07	MH	154
S013N001W08	MH	154
S013N001W09	MH	154
S013N001W10	MH	154
S013N001W11	MH	154
S013N001W12	MH	154
S013N001W13	MH	154
S013N001W14	MH	154
S013N001W15	MH	154
S013N001W16	MH	154
S013N001W17	MH	154
S013N001W18	MH	154
S013N001W19	MH	154
S013N001W20	MH	154
S013N001W21	MH	154
S013N001W22	MH	154
S013N001W23	MH	154
S013N001W24	MH	154
S013N001W25	MH	154
S013N001W26	MH	154
S013N001W27	MH	154
S013N001W28	MH	154
S013N001W29	MH	154
S013N001W30	MH	154
S013N001W31	MH	154
S013N001W32	MH	154
S013N001W33	MH	154
S013N001W34	MH	154
S013N001W35	MH	154
S013N001W36	MH	154
S013N011W04	MH	62
S013N011W05	MH	62
S013N011W06	MH	62
S013N011W07	MH	62
S013N011W08	MH	62
S013N011W09	MH	62
S013N011W16	MH	62
S013N011W17	MH	62
S013N011W18	MH	62
S013N011W19	MH	62
S013N011W20	MH	62
S013N011W21	MH	62
S013N011W28	MH	62

SECTION MH CASE WITH SELECTION

S013N011W29	MH	62
S013N011W30	MH	62
S013N011W31	MH	62
S013N011W33	MH	62
S013N012W04	MH	64
S013N012W05	MH	64
S013N012W06	MH	64
S013N012W07	MH	64
S013N012W08	MH	64
S013N012W09	MH	64
S013N012W16	MH	64
S013N012W17	MH	64
S013N012W18	MH	64
S013N012W19	MH	64
S013N012W20	MH	64
S013N012W21	MH	64
S013N012W28	MH	64
S013N012W29	MH	64
S013N012W30	MH	64
S013N012W31	MH	64
S013N012W32	MH	64
S013N012W33	MH	64
S013N013W04	MH	66
S013N013W05	MH	66
S013N013W06	MH	66
S013N013W07	MH	66
S013N013W08	MH	66
S013N013W09	MH	66
S013N013W16	MH	66
S013N013W17	MH	66
S013N013W18	MH	66
S013N013W19	MH	66
S013N013W20	MH	66
S013N013W21	MH	66
S013N013W28	MH	66
S013N013W29	MH	66
S013N013W30	MH	66
S013N013W31	MH	66
S013N013W32	MH	66
S013N013W33	MH	66
S014N001W01	MH	150
S014N001W02	MH	150
S014N001W03	MH	150
S014N001W04	MH	150
S014N001W05	MH	150
S014N001W09	MH	150
S014N001W10	MH	150
S014N001W11	MH	150
S014N001W12	MH	150
S014N001W13	MH	150
S014N001W14	MH	150
S014N001W15	MH	150
S014N001W24	MH	150
S014N001W27	MH	150
S014N001W28	MH	150
S014N001W29	MH	150

SECTION MH CASE WITH SELECTION

S014N001W30	MH	150
S014N001W31	MH	150
S014N001W32	MH	150
S014N001W33	MH	150
S014N001W34	MH	150
S014N001W35	MH	150
S014N001W36	MH	150
S014N004W04	MH	88
S014N004W05	MH	88
S014N004W06	MH	88
S014N004W07	MH	88
S014N004W08	MH	88
S014N004W09	MH	88
S014N004W16	MH	88
S014N004W17	MH	88
S014N004W18	MH	88
S014N004W19	MH	88
S014N004W20	MH	88
S014N004W21	MH	88
S014N004W29	MH	88
S014N004W30	MH	88
S014N005W01	MH	104
S014N005W02	MH	104
S014N005W03	MH	104
S014N005W04	MH	104
S014N005W05	MH	104
S014N005W06	MH	104
S014N005W07	MH	104
S014N005W08	MH	104
S014N005W09	MH	104
S014N005W10	MH	104
S014N005W11	MH	104
S014N005W12	MH	104
S014N005W14	MH	104
S014N005W15	MH	104
S014N005W16	MH	104
S014N005W17	MH	104
S014N006W01	MH	104
S014N006W12	MH	104
S014N012W04	MH	104
S014N012W05	MH	68
S014N012W06	MH	68
S014N012W07	MH	68
S014N012W08	MH	68
S014N012W09	MH	68
S014N012W16	MH	68
S014N012W17	MH	68
S014N012W18	MH	68
S014N012W19	MH	68
S014N012W20	MH	68
S014N012W21	MH	68
S014N012W28	MH	68
S014N012W29	MH	68
S014N012W30	MH	68
S014N012W31	MH	68
S014N012W32	MH	68

DATE: 12/20/85

PAGE: 12

SECTION MH CASE WITH SELECTION

S014N012W33	MH	68
S015N004W30	MH	104
S015N004W31	MH	104
S015N005W09	MH	104
S015N005W10	MH	104
S015N005W14	MH	104
S015N005W15	MH	104
S015N005W16	MH	104
S015N005W17	MH	104
S015N005W19	MH	104
S015N005W20	MH	104
S015N005W21	MH	104
S015N005W22	MH	104
S015N005W23	MH	104
S015N005W24	MH	104
S015N005W25	MH	104
S015N005W26	MH	104
S015N005W27	MH	104
S015N005W28	MH	104
S015N005W29	MH	104
S015N005W30	MH	104
S015N005W31	MH	104
S015N005W32	MH	104
S015N005W33	MH	104
S015N005W34	MH	104
S015N005W35	MH	104
S015N005W36	MH	104
S016N001W01	MH	90
S016N001W02	MH	90
S016N001W03	MH	90
S016N001W10	MH	90
S016N001W11	MH	90
S016N001W12	MH	90
S016N001W23	MH	90
S016N001W24	MH	90
S016N001W25	MH	90
S016N001W26	MH	90
S016N001W27	MH	90
S016N001W28	MH	90
S016N001W32	MH	90
S016N001W34	MH	90
S016N001W36	MH	90
S016N003W34	MH	147

TYONEK
LAWSUIT

ANCSA/Mental Health Land Lawsuit

In 1977 the Seldovia Native Association and Cook Inlet Region, Inc., filed a lawsuit for review of a 1976 Alaska Native Claims Appeals Board decision. That decision stated that mental health lands were not considered withdrawn under Section 11(a)(1) of the Alaska Native Claims Settlement Act (ANCSA) and therefore were unavailable for selection by Native corporations. The Salamatof Native Association, Tyonek Native Association and Eklutna, Inc. later joined in this lawsuit.

Out of court settlements were made with Seldovia, Salamatof and Eklutna. Litigation continues with both Tyonek Native Association and Cook Inlet Region, Inc.

On February 21, 1986 the United States District Court issued an opinion and order in this case. The court held that lands selected under the Mental Health Enabling Act were not available for selection under the Alaska Native Claims Settlement Act. Tyonek Native Corporation and Cook Inlet Region, Inc. have appealed that judgement.

More details on this case can be found in the attached opinion and order.

United States District Court
Southern District of California
San Diego, California 92189

RECEIVED
OFFICE OF
U.S. ATTORNEY

FEB 27 11 05 AM '86
Anchorage
FAIRBANKS, ALASKA

Chambers of
Rudi M. Brewster
Judge

To: Russ Winner, Esq.
Bruce Landon, Esq. ✓
Elizabeth Barry, Esq.

From: Thomas Long, Law Clerk to the Honorable Rudi M. Brewster *TJL*

Re: Tyonek Native Corporation vs. Secretary of the Interior
No. A77-207 Civ.

Date: February 24, 1986

Attached please find a courtesy copy of the Opinion and Order issued by Judge Brewster in the above-captioned case. You should be receiving shortly a file-stamped copy showing the date of entry of the order from the Clerk's office in Anchorage.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

TYONEK NATIVE CORPORATION, and)
COOK INLET REGION, INC.,)

NO. A77-207 Civ.

Plaintiffs,)

vs.)

SECRETARY OF THE INTERIOR OF)
THE UNITED STATES OF AMERICA)
and ALASKA NATIVE CLAIMS APPEAL)
BOARD,)

OPINION AND ORDER

Defendants.)

and)

STATE OF ALASKA,)

Intervenor Defendant.)
_____)

1 On these cross-motions for partial summary judgment,
2 the issue is whether native village corporations created
3 under the Alaska Native Claims Settlement Act (hereafter
4 ANCSA), 43 U.S.C. sections 1600-1628, are entitled to select
5 for ownership lands that the State of Alaska had previously
6 selected under the authority of the Mental Health Enabling
7 Act, Pub. L. No. 830, 70 Stat. 709 (1956), but which,
8 although "tentatively approved", have not yet been patented
9 to the state. The court holds that Congress did not intend
10 such lands to be available for selection by native village
11 corporations and accordingly grant partial summary judgment
12 in favor of defendants.

13 I. BACKGROUND

14 A chronological outline of the relevant events is
15 necessary to understand the issue before the Court. On July
16 28, 1956, Congress enacted the Mental Health Enabling Act
17 (hereafter MHEA). Section 202 of the MHEA granted to the
18 Territory of Alaska the right to select within ten years one
19 million acres of federal land to be administered as a public
20 trust to finance treatment of the mentally ill in Alaska.

21 On July 7, 1958, Congress enacted the Alaska Statehood
22 Act, Pub. L. 85-508, 72 Stat. 339 (1958). Sections 6(a) and
23 6(b) of that Act made land grants to the new state of
24 800,000 and 102,550,000 acres respectively. The state's
25 selections were to be made within 25 years after Alaska's
26 admission into the United States. Section 6(k) provided
27 that "[g]rants previously made to the Territory of Alaska
28

1 are hereby confirmed and transferred to the State of
2 Alaska."

3 On August 29, 1960, the state filed an application with
4 the Federal Bureau of Land Management (hereafter BLM) for
5 approximately 10,000 acres of land, which includes the land
6 at issue here. The letter to the BLM stated that the
7 selection was made "[u]nder the provisions of the Act of
8 July 28, 1956, as supplemented." See Ex. A to Plaintiffs'
9 Supplemental Reply Brief. In the early 1960's, the BLM
10 "tentatively approved" the state's selection. These lands
11 have not yet been patented to the state. The state's right
12 to select lands under MHEA expired on July 28, 1966.

13 Congress enacted ANCSA on December 18, 1971. Plaintiff
14 Tyonek Native Corporation (hereafter Tyonek) is a native
15 village corporation formed pursuant to section 8 of ANCSA,
16 and Plaintiff Cook Inlet Region, Inc. (hereafter CIRI) is a
17 Native regional corporation formed pursuant to section 7.

18 Section 12(a) of ANCSA authorizes Native village
19 corporations to select within three years a prescribed
20 acreage of lands in the vicinity of their villages.¹ Those
21 selections must be made from lands "withdrawn" by section
22 11(a), 43 U.S.C. § 1610(a), which provides in relevant part:

23 Sec. 11(a)(1). The following public lands are
24 withdrawn, subject to valid existing rights, from
25 all forms of appropriation under the public land
26 laws ... and from selection under the Alaska
27 Statehood Act, as amended:
28

. . . .

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(A) The lands in each township that encloses all or part of any Native village identified pursuant to subsection (b);

(B) The lands in each township that is contiguous to or corners on the township that encloses all or part of such Native village; and

(C) The lands in each township that is contiguous to or corners on a township containing lands withdrawn by paragraph (B) of this subsection.

(2) All lands located within the townships described in subsection (a)(1) hereof that have been selected by or tentatively approved to, but not yet patented to, the State under the Alaska Statehood Act are withdrawn, subject to valid existing rights, from all forms of appropriation under the public lands laws(emphasis added)

The "public lands" referred to in section 11(a)(1) are defined in section 3(e), 43 U.S.C. § 1602(e), as:

all Federal lands and interests therein located in Alaska except (1) the smallest practicable tract, as determined by the Secretary, enclosing land actually used in connection with the administration of any Federal installations, and (2) land selections of the State of Alaska which have been patented or tentatively approved under section 6(g) of the Alaska Statehood Act, as

1 amended . . . , or identified for selection by the
2 state prior to January 17, 1969. (emphasis added)

3 On December 17, 1974, pursuant to section 12(a), Tyonek
4 filed with the BLM an application for approximately 9800
5 acres of land. It is undisputed that all 9800 acres fall
6 within Tyonek Native village's so-called core and ring
7 township areas described in section 11(a)(1)(A)-(C). These
8 9800 acres comprise the bulk of the 10,000-acre August 29,
9 1960 land selection made by the state under the MHEA.

10 Another Native village corporation, Seldovia Native
11 Association, Inc. also selected mental health lands that had
12 yet to be patented to the state. The BLM rejected
13 Seldovia's application and Seldovia appealed. The Secretary
14 of the Department of the Interior, acting through defendant
15 Alaska Native Claims Appeals Board (ANCAB), affirmed BLM's
16 decision in In re Appeal of Seldovia Native Association,
17 Inc., ANCAB VLS 75-3 (July 1, 1976).

18 ANCAB rejected Seldovia's arguments that the mental
19 health lands were withdrawn for selection by Native village
20 corporations by section 11(a). First, ANCAB determined that
21 the mental health lands were not "public lands" withdrawn
22 under 11(a)(1) since they were not federal lands or
23 interests therein as required by section 3(e). Second,
24 ANCAB found that the mental health lands were not "lands
25 selected by or tentatively approved to the State under the
26 Alaska Statehood Act" and thus were not withdrawn by section
27 11(a)(2).

28

1 On August 4, 1976, BLM rejected Tyonek's 9800 acre
2 application in its entirety, relying on ANCAB's Seldovia
3 decision. Tyonek appealed and, on November 29, 1976, all of
4 the parties to Tyonek's appeal stipulated that the
5 dispositive issues in that case were identical to the
6 dispositive issues in Seldovia. Accordingly, on January 10,
7 1977, ANCAB entered a final order in Tyonek's appeal
8 adopting the conclusions in Seldovia. Tyonek and CIRI²
9 appeal this final order of ANCAB.

10 The parties have cross-moved for partial summary
11 judgment on the statutory interpretation issues involved in
12 the case.

13 II. STANDARD OF REVIEW

14 Agency interpretations of statutes they administer are
15 generally entitled to deference. See, e.g., Udall v.
16 Tallman, 380 U.S. 1, 16 (1965); State of Washington v.
17 United States Environmental Protection Agency, 752 F.2d
18 1465, 1469 (9th Cir. 1985); Doyon, Ltd. v. Bristol Bay
19 Native Corp., 569 F.2d 491, 497 (9th Cir.), cert. denied,
20 439 U.S. 954 (1978) (Secretary of Interior's interpretation
21 of ANCSA found entitled to "great weight"). However, the
22 amount of deference to the agency interpretation is
23 influenced by a number of factors, one of which is the
24 principle that legislation passed for the benefit of Natives
25 should be liberally construed in their favor. See, e.g.
26 Choate v. Trapp, 224 U.S. 665, 675 (1912); Alaska Public
27 Easement Defense Fund v. Andrus, 435 F. Supp. 664, 671 (D.
28 Alaska 1977) (hereafter APEDF). The court in APEDF stated

1 that its approach was to resolve any ambiguities remaining
2 after examining the statutory language and legislative
3 history of the ANCSA provision at issue in favor of the
4 Natives. APEDF, 435 F. Supp. at 671.

5 Balancing these countervailing principles regarding the
6 standard of review, however, does not affect the disposition
7 of these motions. This court's agreement with ANCSA's
8 determination is based on a de novo review of the statutory
9 language and legislative history as applied to the
10 undisputed facts of this case.

11 III. ANALYSIS

12 A. Introduction

13 No provision in ANCSA explicitly states that lands
14 selected by, but not yet patented, to the state pursuant to
15 the MHEA are eligible for Native selection. Plaintiffs
16 advance two arguments for their position that Congress
17 intended to make mental health lands available for Native
18 selection. Their principal contention is that Congress
19 intended section 11(a)(2)'s withdrawal of lands that "have
20 been selected by, or tentatively approved to, but not yet
21 patented to, the State under the Alaska Statehood Act" to
22 include mental health lands. Plaintiffs urge that mental
23 health selections became selections "under the Alaska
24 Statehood Act" by virtue of section 6(k) of that Act, which
25 provides: "Grants previously made to the Territory of Alaska
26 are hereby confirmed and transferred to the State of Alaska
27 upon its admission." In the alternative, plaintiffs argue
28 that the mental health lands satisfy section 3(e)'s

1 definition of "public lands" and that the mental health
2 lands are thus withdrawn under section 11(a)(1).

3 Plaintiffs' arguments confront an immediate obstacle.
4 To adopt their interpretation, the court must find that
5 Congress intended to permit possible divestiture from the
6 state of a portion of the 1,000,000 acres granted to it in
7 the MHEA. At the time of the passage of ANCSA in December
8 1971, the state had received patent to about 785,000 acres
9 of its mental health selections and thus was awaiting the
10 patent of about 215,000 additional acres. See Ex. 1 to
11 Memorandum in Support of State's Motion for Summary
12 Judgment. As noted above, the period for making mental
13 health selections had expired in 1966. Consequently, if in
14 ANCSA Congress allowed Native village corporations to select
15 unpatented mental health selections, the state would be
16 prevented from making up any resulting shortfall in its
17 1,000,000 acre entitlement.

18 In contrast, Congress's explicit authorization in
19 section 11(a)(2) of Native selection of unpatented Statehood
20 Act selections did not require the state to relinquish any
21 of the 103,350,000 acres granted by the Statehood Act. The
22 state's 25 years for making Statehood Act selections did not
23 expire until 1984, ten years after the 1974 termination of
24 the ANCSA section 11(a)(2) three-year selection period. See
25 ANCSA, § 12(a)(1), 43 U.S.C. § 1611(a)(1). Thus, the state
26 had ample time under the Statehood Act to replace any lands
27 selected by Native villages with new selections.

28

1 The plaintiffs assert that Congress can be presumed to
2 have understood that the state had overselected its MHEA
3 entitlement by about 110,000 acres. This speculation is
4 unsupported. The plaintiffs rely on a July 18, 1974 BLM
5 memorandum, but concede that when ANCSA was enacted in 1971
6 BLM did not keep records on the status of MHEA selections.
7 There is no documentation to support and little reason to
8 believe that Congress was aware of the status of the state's
9 MHEA selections when it enacted ANCSA. Plaintiffs are
10 unable to point out any legislative history to this effect.
11 A more contemporaneous document, prepared by the state for
12 the week ending December 24, 1971, shows that the state had
13 only applied for about 37,000 acres in excess of its total
14 MHEA entitlement. See Ex. 1 to State's Memorandum in
15 Support of Motion for Summary Judgment. Again, there is no
16 indication Congress was aware of this document, but, even if
17 it were, it appears that far more than 37,000 acres of
18 unpatented MHEA selections would be vulnerable to Native
19 selection under plaintiff's interpretation of ANCSA.
20 Plaintiffs do not dispute the affidavit submitted by the
21 federal defendants averring that at least 100,000 acres of
22 the unpatented MHEA selections fall within the core and ring
23 township acres surrounding Native villages identified for
24 potential Native selection in section 11(a)(1). See Ex. 3
25 to Federal Defendants' Cross-Motion for Summary Judgment.

26 The court concludes that, to accept plaintiffs'
27 interpretation of ANCSA, the court must find that Congress
28 intended the state potentially to forfeit a significant

1 portion of its 1,000,000 acre MHEA grant. Since there is no
2 explicit ANCSA provision that mental health lands are
3 eligible for Native selection, plaintiffs must bear the
4 burden of demonstrating that Congress intended by
5 implication to repeal a portion of its prior land grant to
6 the Territory and State of Alaska. This they have not done.

7 B. Section 11(a)(2)

8 ANCAB found that the mental health lands at issue
9 were not "selected by, or tentatively approved to, but not
10 yet patented to, the State under the Alaska Statehood Act,"
11 notwithstanding the fact that section 6(k) of the Statehood
12 Act "confirmed and transferred" to the state grants
13 previously made to the Territory. The court agrees with
14 ANCAB's determination that these selections cannot be said
15 to be made "under the Statehood Act."

16 Most important, by its terms, section 6(k) merely
17 confirms and transfers Territorial grants to the state upon
18 its admission. It does not purport to transform the MHEA
19 land grant into a grant under the Statehood Act. It only
20 vests the state with the authority to execute the powers and
21 responsibilities conferred to the Territory by the MHEA.

22 Plaintiffs' interpretation would render superfluous the
23 words "under the Alaska Statehood Act" in section 11(a)(2).
24 If Congress had intended to make all unpatented state lands
25 available for Native selection, there would have been no
26 need for the reference to the Statehood Act. Plaintiffs'
27 contention that Congress added the phrase to exclude from
28 the operation of section 11(a)(2) lands conveyed to the

1 state from third parties is specious. Congress would have
2 no reason to exclude from the section 11(a)(2) withdrawal
3 any lands that the state had received from sources other
4 than the federal government because Congress would have no
5 power to deal with those lands. The interpretation of
6 section 11(a)(2) that gives meaning to all the words used by
7 Congress -- that only unpatented Statehood Act selections
8 are withdrawn -- must be favored. See e.g., Reiter v.
9 Sonnetone Corp., 442 U.S. 330, 339 (1979); 2A Sands,
10 Sutherland Statutory Construction § 46.06 (4th ed. 1984).

11 Plaintiffs find it significant that the BLM and the
12 state sometimes referred to "tentative approvals" of state
13 mental health selections, even though the MHEA does not
14 require tentative approval. Plaintiffs argue that, since
15 the Statehood Act does require tentative approvals of
16 selections under that Act, this administrative practice is
17 evidence of a recognition by the BLM and the state that the
18 mental health lands were selected under the Statehood Act.
19 This contention is unconvincing. It is more likely that
20 Congress was more familiar with the statutory language of
21 the MHEA and the Statehood Act than it was of the
22 administrative practices of the BLM and the state. Thus,
23 the fact that the Statehood Act requires the tentative
24 approval of land selections, and the MHEA does not,³ only
25 buttresses the defendants' interpretation that section
26 11(a)(2)'s withdrawal of unpatented lands that have been
27 "tentatively approved to" the state under the Statehood Act
28 does not include mental health lands.

1 As secondary arguments, both sides contend that
2 regulations promulgated by the Department of the Interior
3 after the enactment of the Statehood Act support their
4 interpretation of section 11(a)(2). The court concludes
5 that, on balance, the regulations cited by both sides
6 provide further support for the defendants' view. The most
7 significant regulation is 43 C.F.R. § 76.9(a)(1) (1963),
8 promulgated in 1959,⁴ which required all state mental
9 health selection applications to contain "a reference to the
10 Act of July 28, 1956 [the MHEA] . . . , as supplemented."⁵
11 Thus, construing the Statehood Act shortly after its
12 enactment, the Secretary of Interior did not treat mental
13 health selections as selections under the Statehood Act.
14 This contemporaneous construction of the effect of the
15 Statehood Act on the MHEA is entitled to great weight.
16 Udall v. Tallman, 380 U.S. 1, 16 (1965).

17 C. Section 11(a)(1)

18 Plaintiffs' argument that the unpatented mental
19 health selections are "public lands" withdrawn by section
20 11(a)(1) focuses attention on section 3(e)'s definition of
21 "public lands". ANCAB concluded that the definition was not
22 satisfied because the mental health lands are not "Federal
23 lands" or "interests therein." The court agrees with
24 ANCAB's conclusion that the mental health lands at dispute
25 are not "public lands," but for a different reason. The
26 unpatented mental health lands fall within the second
27 exception to the definition of public lands set forth in
28 section 3(e)(2).⁶

1 Section 3(e)(2) excepts from "public lands":

2 (2) land selections of the State of Alaska which
3 have been patented or tentatively approved under
4 section 6(g) of the Alaska Statehood Act, . . . or
5 identified for selection by the State prior to
6 January 17, 1969 (emphasis added).

7 Significantly, the underlined phrase is not qualified
8 by a reference to the Statehood Act, in contrast to the
9 preceding phrase. If Congress wanted to limit the effect of
10 this second exception to section 3(e)(2), it easily could
11 have added "under the Statehood Act" after the words
12 "identified for selection." Thus, all state selections
13 prior to January 17, 1969, including the mental health
14 selections at issue here, are expressly excluded from the
15 definition of "public lands."

16 A contrary interpretation of section 3(e) would mean
17 mental health lands are withdrawn by section 11(a)(1) and
18 would lead to results that Congress probably did not intend.
19 Section 12(a)(1) provides that no village corporation may
20 select more than 69,120 acres from lands withdrawn by
21 section 11(a)(2). There is no such limit on the acreage
22 that village corporations may select from public lands under
23 section 11(a)(1), except for federal lands within the
24 National Wildlife Refuge System or in a National Forest. In
25 addition, section 22(h)(2) provides that the withdrawal of
26 lands made by section 11(a)(2) terminates within three
27 years. In contrast, the withdrawal under section 11(a)(1)
28 lasts for four years. ANCSA § 22(h)(1). It is doubtful

1 that Congress intended mental health selections to be
2 available for Native selection without the protection of the
3 section 12(a)(1) acreage limitation that applies to
4 selections of unpatented Statehood Act lands under section
5 11(a)(2). It is also highly unlikely that Congress would
6 establish a longer withdrawal period for unpatented mental
7 health lands than unpatented Statehood Act selections.

8 These other provisions of ANCSA make it apparent that
9 Congress purposefully made two independent withdrawals in
10 sections 11(a)(1) and 11(a)(2), instead of one integrated
11 withdrawal of lands within the core and ring township areas.
12 Congress intended to deal with federal lands in section
13 11(a)(1) and with lands in which the State had an interest
14 in section 11(a)(2). If Congress intended to withdraw
15 unpatented mental health lands, it would have done so in
16 section 11(a)(2).

17 Plaintiffs contend that Congress was not referring to
18 unpatented mental health selections when it excepted lands
19 "identified for selection by the State prior to January 17,
20 1969" from the definition of public lands. They argue that
21 this phrase is aimed only at massive state selections under
22 the Statehood Act made just prior to a "land freeze" ordered
23 by the Secretary of the Interior, which became effective
24 January 17, 1969. The court cannot accept this argument.
25 While the effective date of the land freeze undoubtedly is
26 responsible for the use of that date in section 3(e)(2),
27 this is no reason to conclude that Congress intended the
28 exception to apply only to Statehood Act selections. The

1 period for making mental health selections ended in 1966.
2 As noted above, if Congress wanted to limit the exclusion to
3 Statehood Act selections, it could have added this
4 limitation. Plaintiffs have not cited any persuasive
5 legislative history supporting their view of section
6 3(e)(2).

7 D. Legislative History

8 The legislative history of ANCSA provides some
9 support for both sides. On balance, however, it provides no
10 conclusive evidence indicating that Congress implicitly
11 intended tentatively approved but as yet unpatented mental
12 health lands to be available for Native selection. In fact,
13 the court finds it to be more supportive of defendants'
14 position.

15 The most significant feature of the legislative history
16 is that it contains virtually no clear reference to the one
17 million acre MHEA land grant. This fact alone strongly
18 suggests that Congress either was under the misconception
19 that all the state's MHEA selections had been patented to
20 the state already or was unaware that such a land grant
21 existed. It seriously undermines the view that Congress
22 implicitly intended a partial repeal of the MHEA grant.

23 Before delving deeper into the legislative history, a
24 brief summary of the process that yielded the final ANCSA
25 legislation is in order. Bills addressing Alaskan Native
26 claims were first introduced in 1967. ANCSA was ultimately
27 the product of a House-Senate Conference Committee
28 resolution of H.R. 10367, the bill passed by the House, and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

S. 35, passed by the Senate. H.R. 10367 was introduced by Representative Aspinall on August 4, 1971. It provided that Native village corporations could select a limited amount of lands tentatively approved to the state "under the Alaska Statehood Act" within 25 townships of a Native village. S. 35, however, did not allow Natives to select land previously tentatively approved to the state. The Conference Committee basically adopted the House bill's approach on this issue. See Conf. Rep. No. 746, 92d Cong., 1st Sess. 43, reprinted in 1971 U.S. Code Cong. & Ad. News 2247, 2256.

The strongest support for plaintiffs' interpretation comes from acreage figures cited by key legislators when discussing the number of acres granted the state under the Statehood Act. The figures appear to include the one million acre MHEA grant. One such acreage reference was made by Representative Haley⁷ at the time the House was considering enactment of H.R. 10367:

6.2
1,000,000
MHA = 1,000,000
un =
select =

Under the Alaska Statehood Act the state is entitled to select and get patent to about 104 1/2 million acres of land.

.

The state will participate in the land part of the settlement by allowing the Natives to get some of the land near their villages which the state has already selected under the Statehood Act.

117 Cong. Rec. 36857 (1971). The plaintiffs infer that Representative Haley must have believed mental health lands were granted "under the Statehood Act," as that term is used

1 in section 11(a)(2), since he could not have arrived at the
2 104½ million acre figure without including the one million
3 acre MHEA entitlement.

4 In addition, House Conference Report No. 746, 92d
5 Cong., 1st Sess. 39, reprinted in 1971 U.S. Code Cong. &
6 Ad. News 2247, 2252, stated:

7 State selections made before the date of the
8 Secretarial Order imposing a "land freeze",
9 amounting to about 26 million acres, are protected
10 against Native selection, except that a Native
11 village (not the Regional Corporations) may select
12 from the area surrounding the Village not to
13 exceed three townships of the lands previously
14 selected by the state.

15 Plaintiffs note that the land freeze referred to in the
16 Conference Report went into effect on January 17, 1969 and
17 that, according to a document prepared by Alaska's
18 Department of National Resources for activity ended January
19 24, 1969, the state had applied for 26,018,873.47 acres
20 under all land entitlement programs including the MHEA.⁹
21 Plaintiffs infer from the Conference Report that Congress
22 intended state MHEA, as well as Statehood Act, selections to
23 be eligible for limited selection by Native village
24 corporations.

25 Closer examination of the legislative history suggests,
26 however, that it would be wrong to assume that the
27 legislators were that precise in their use of numbers. A
28 more complete look at Representative Haley's comments

1 suggests that he did not intend to include the MHEA land
2 grant when he spoke of the state's entitlement to 104½
3 million acres under the Statehood Act. His next sentence
4 was: "This is a large amount, and it was granted by
5 Congress because the State needed that land as a capital
6 asset to use in developing the State's economy." 117 Cong.
7 Rec. 36857 (1971). This description does not fit the MHEA
8 land grant. As noted above, the purpose of that grant was
9 the raising of revenues to finance mental health care for
10 Alaska residents.

11 Furthermore, while the use of the 26,000,000 acre
12 figure in the House Conference Report suggests an intent to
13 make all those acres available for limited selection by
14 Native village corporations, this plainly was not Congress's
15 desire. The 26,000,000 acres included lands that had
16 already been patented to the state under the Statehood Act,
17 the MHEA and other land grant programs.¹⁰ It is undisputed
18 that Congress did not intend to divest the state of patented
19 lands in favor of Natives. Since there is no evidence that
20 the acreage figures cited by plaintiffs were precisely
21 accounted for, and in fact the evidence is to the contrary,
22 those figures cannot afford a basis for adopting plaintiffs'
23 interpretation.

24 In a post-hearing submission, plaintiffs argue that
25 statements made by Senators Stevens and Jackson on the
26 Senate floor immediately prior to the passage of the Alaska
27 National Interest Lands Conservation Act (ANILCA), Pub. L.
28 No. 96-487, 94 Stat. 2371 (1980), demonstrate that the

1 unpatented MHEA selections were selected "under the Alaska
2 Statehood Act":

3 Mr. STEVENS. There has been some question raised
4 as to whether the lands conveyed to the State of
5 Alaska under the university, school land and
6 mental health grants are State lands under the
7 definition of the Statehood Act and this act. I
8 would like to clarify that these lands are State
9 lands and are subject to the same protection and
10 status of any lands conveyed under the Alaska
11 Statehood Act.

12 Mr. JACKSON. The Senator is correct. We clearly
13 intended at the passage of the Alaska Statehood
14 Act that such lands conveyed to the State of
15 Alaska or its political subdivisions, including
16 the University of Alaska, would be considered
17 State lands for purposes of Federal law. This
18 bill reaffirms that status of these lands.

19 126 Cong. Rec. 21884 (1980). Just prior to this exchange,
20 Senator Stevens stated:

21 It is my understanding that nothing in this title
22 is intended to affect in any way pending
23 litigation regarding the selectability under ANCSA
24 of any particular tract of land including lands
25 previously reserved to or selected by the
26 Territory or State of Alaska under any provisions
27 of Federal law.

28

1 MR. JACKSON. The Senator is correct. We do not
2 intend to affect pending litigation on such
3 questions by the passage of title IX of this bill.

4 Id.

5 The plaintiffs' reading of these comments -- that
6 Senator Stevens was clarifying that the mental health lands
7 should be treated as lands conveyed under the Statehood Act
8 for purposes of ANCSA -- is plausible. However, it is at
9 least as plausible that the senators were merely clarifying
10 that university, school land, and mental health grants --
11 land grants made to the Territory of Alaska -- should be
12 treated as state land as opposed to federal land. It is far
13 from clear that the senators are addressing the meaning of
14 the phrase "under the Statehood Act" in ANCSA section
15 11(a)(2). In fact, their assurances that Title IX of ANILCA
16 is not intended to affect pending litigation regarding the
17 selectability of lands under ANCSA suggests the opposite.
18 It is unlikely that the senators would be careful to clarify
19 that Title IX of ANILCA, a well-scrutinized piece of
20 legislation, was not meant to affect pending litigation and
21 then attempt to resolve the issue in this litigation in a
22 few sentences spoken on the Senate floor. In sum, this
23 subsequent legislative history is too ambiguous to conclude
24 that Congress intended in section 11(a)(2) to treat MHEA
25 selections as selections under the Statehood Act.¹¹

26 IV. CONCLUSION

27 Neither the statutory language nor the legislative
28 history of ANCSA manifest Congressional intent to repeal a

1 portion of the one million acre MHEA land grant and make
2 unpatented MHEA lands available for Native selection.
3 Accordingly, the plaintiffs' motion for partial summary
4 judgment is denied and the defendants' cross motion for
5 partial summary judgment is granted.

6 V. ENTRY OF JUDGMENT UNDER RULE 54(b)

7 This decision rejects the ANCSA interpretation
8 claim raised in counts one through four and count seven of
9 the amended complaint filed August 31, 1982. These summary
10 judgment motions do not involve the remaining three counts
11 of the amended complaint. Pursuant to Fed. R. Civ. Proc.
12 54(b) the court finds that there is no just reason for
13 delaying the entry of judgment as to the ANCSA interpreta-
14 tion claim, following the standard enunciated in
15 Morrison-Knudsen Co. v. Archer, 655 F.2d 962 (9th Cir.
16 1981).

17 Specifically, the court finds that the unresolved
18 claims for relief are factually and legally distinct from
19 the ANCSA interpretation claim. Counts five and six allege
20 that the state selections at issue in this case are invalid
21 because the state has overselected its one million acre MHEA
22 entitlement and that these land selections are of lower
23 priority than the selections necessary to reach the one
24 million acre limit. Count eight alleges that the state has
25 forfeited its rights to the lands at issue, because it has
26 breached its MHEA trust obligation by treating the MHEA
27 selections the same as Alaska Statehood Act section 6(b)
28 lands. Resolution of these claims will require a wholly

1 different factual and legal analysis from the statutory
2 interpretation issue presented by these summary judgment
3 motions.

4 The court further finds that final resolution of
5 this ANCSA interpretation question will have a significant
6 impact on other similar pending claims to unpatented MREA
7 lands by other native corporations. In addition, should the
8 court of appeals disagree with this court's determination,
9 the plaintiffs undoubtedly would not pursue their remaining
10 claims. Based on the foregoing, the court concludes that
11 the ANCSA interpretation issue is pivotal to this case and
12 other pending cases, and its resolution should not be
13 delayed. Pursuant to Rule 54(b), the clerk is directed to
14 enter judgment for the defendants on the statutory interpre-
15 tation issue decided herein. The time for appeal of this
16 decision will begin with the entry of this opinion and
17 order.

18 ORDER

19 Based on the foregoing opinion, it is hereby
20 ordered that:

21 (1) Defendants' motion for partial summary
22 judgment is GRANTED.

23 (2) Plaintiffs' motion for partial summary
24 judgment is DENIED.

25 (3) The Clerk shall enter judgment, pursuant to
26 Fed. R. Civ. Proc. 54(b), for the defendants on the
27 statutory interpretation claim raised in counts one through
28

. . . .

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

four and count seven of the amended complaint filed August
31, 1982.

DATED: 2-21-86


UNITED STATES DISTRICT JUDGE

FOOTNOTES

1
2
3 1/

4 Section 12(a), 43 U.S.C. § 1611(a), provides in
5 relevant part:

6 During a period of three years from the date of
7 enactment of this Act, the Village Corporation for
8 each Native village identified pursuant to section
9 11 shall select, in accordance with rules
10 established by the Secretary, all of the township
11 or townships in which any part of the village is
12 located, plus an area that will make the total
13 selection equal to the acreage to which the
14 village is entitled under section 14. The
15 selection shall be made from lands withdrawn by
16 subsection 11(a). . . .

17 2/

18 CIRI's interest in this litigation arises from section
19 14(f), 43 U.S.C. § 1613(f), which, in general, grants to the
20 regional corporation in which the lands are located the
21 patent to the subsurface estates of any lands patented to a
22 village corporation under ANCSA.

23 3/

24 Section 6(g) of the Statehood Act provides in relevant
25 part:

26 Following the selection of lands by the State and
27 the tentative approval of such selection by the
28 Secretary of the Interior or his designee, but

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

prior to the issuance of final patent, the State is hereby authorized to execute conditional leases. . . .

Section 202(d) of the MHEA contains an almost identical provision except that there is no tentative approval requirement:

(d) Following the selection of lands by the Territory pursuant to subsection (b), but prior to the issuance of final patent, the Territory shall be authorized to lease. . . .

4/

24 Fed. Reg. 4657 (1959).

5/

The State's August 29, 1960 application for the parcel containing the lands at issue here contained this reference.

6/

Thus, the court does not reach the question of whether the unpatented mental health selections constitute "Federal lands" or "interests therein."

7/

Rep. Haley was Chairman of the House Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, which favorably reported out H.R. 10367.

8/

As noted above, sections 6(a) and 6(b) of the Statehood Act granted 103,550,000 acres to the state.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

9/

The document shows that the state had made land selections as follows:

State Selection	24,660,394.75
Mental Health	1,037,215.15
School Lands	107,235.54
University Grant	99,303.32
Other Grants	<u>114,724.71</u>
Total	26,018,873.47

10/

Of the 26,018,873.47 acres the state had selected by January 24, 1969, 5,594,885.91 acres had already been patented to the state in the following categories:

State Selection	4,644,927.78
Mental Health	734,215.75
School Lands	100,202.26
University Grant	99,414.57
Other Grants	<u>16,125.55</u>
Total	5,594,885.91

11/

None of plaintiffs' other ANCSA legislative history arguments come close to demonstrating that Congress intended mental health lands to be available for Native selection. For example, plaintiffs highlight the fact that none of the State of Alaska maps used by Congress distinguished between Statehood Act and MHEA selections; instead they treated as one category lands tentatively approved to the state. This fact, however, only confirms the likelihood that Congress

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

either believed all the state's MHEA selections had been patented already or was unaware of the existence of the MHEA.

LAW OFFICES OF
RUSSELL L. WINNER
DENALI TOWERS NORTH, SUITE 702
2550 DENALI STREET
ANCHORAGE, ALASKA 99503
(907) 277-9522

RECEIVED
Department of Law

FILED

MAY 8 1986

MAY - 5 1986

Office of the Attorney General
Anchorage Branch
Anchorage Alaska
By _____ Deputy
UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

ATTORNEYS FOR Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

TYONEK NATIVE CORPORATION and)
COOK INLET REGION, INC.,)
)
 Plaintiffs,)

vs.)

No. A77-207 Civ.)

SECRETARY OF THE INTERIOR OF THE)
UNITED STATES OF AMERICA and)
ALASKA NATIVE CLAIMS APPEAL BOARD,)
)
 Defendants,)

and)

STATE OF ALASKA,)

Intervenor Defendant.)

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that plaintiffs Tyonek Native Corporation and Cook Inlet Region, Inc. appeal to the United States Court of Appeals for the Ninth Circuit from the United States District Court for the State of Alaska's partial judgment, pursuant to Fed. R. Civ. P. 54(b), filed March 7, 1986.

DATED this 5th day of May, 1986 at Anchorage, Alaska.

LAW OFFICES OF RUSSELL L. WINNER
Attorneys for Plaintiffs
Tyonek Native Corporation and
Cook Inlet Region, Inc.

By: 
Russell L. Winner

cc: Russ Winner
Bruce Landon (DOJ)
Elizabeth Barry (St of AK)
Judge Brewster
9CCA

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

HAROLD M. BROWN
ATTORNEY GENERAL

Elizabeth J. Barry
Assistant Attorney General
1031 W. 4th Ave., Suite 200
Anchorage, Alaska 99501

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

TYONEK NATIVE CORPORATION)
and COOK INLET REGION, INC.)
Appellant,)
vs.)
SECRETARY OF THE INTERIOR OF)
THE UNITED STATES OF AMERICA)
and ALASKA NATIVE CLAIMS)
APPEAL BOARD,)
and)
STATE OF ALASKA,)
Appellees.)

No. 86-3827

ENTRY OF APPEARANCE

Please take notice that Elizabeth J. Barry, Assistant Attorney General, Department of Law, 1031 W. 4th Avenue, Suite 200, Anchorage, Alaska 99501, telephone: 907/276-3550, hereby enters her appearance as counsel of record in the above-captioned matter on behalf of appellee, State of Alaska.

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
ANCHORAGE BRANCH
1031 W. FOURTH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
ANCHORAGE BRANCH
1031 W. FOURTH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: 19071 276-3550

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Copies of all notices, motions and pleadings should be sent to the address referenced above.

DATED this 30th day of May, 1986, at Anchorage, Alaska.

HAROLD M. BROWN
ATTORNEY GENERAL

By: *Elizabeth J. Barry*
Elizabeth J. Barry
Assistant Attorney General

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT
P.O. Box 547
San Francisco, CA 94101

Rec'd 5/21/86
4:24pm
EJB

Court of Appeals Docket Number
86-3827
(if known)

**CIVIL APPEALS
DOCKETING STATEMENT**

Case Name: Tyonek Native Corp. and CIRI v. Secretary of Interior, et al.
District Court/Agency: U. S. District Court, District of Alaska
District Court/Agency Docket No.: A77+207 District Judge: Brewster
Party filing appeal/petition: Tyonek Native Corporation and Cook Inlet Region, Inc.

A. Timeliness of Appeal or Petition for Review or Enforcement:

- (1) Date of entry of judgment or order: March 7, 1986
- (2) Service date of any post-judgment motion: n/a
- (3) Date of entry of order deciding post-judgment motion: n/a
- (4) Date notice of appeal or petition filed: May 5, 1986
- (5) Time limit for filing appeal or petition: 60 days
- (6) Authority fixing time limit for filing appeal or petition:

Fed. R. App. P. 4(a)(1)	<u> X </u>	Fed. R. App. P. 4(a)(4)	<u> </u>
Fed. R. App. P. 4(a)(2)	<u> </u>	Fed. R. App. P. 4(a)(5)	<u> </u>
Fed. R. App. P. 4(a)(3)	<u> </u>	Other	<u> </u>

B. Appeal from District Court:

- (1) Is the order appealed from a final order (i.e., does it dispose of the action as to all claims by all parties)? No
- (2) If the order is not a final disposition as to all claims by all parties, did the district court direct the entry of judgment in accordance with Fed. R. Civ. P. 54(b)? Yes
- (3) If not final, is the order properly appealable as the grant or denial of an injunction under 28 U.S.C. § 1292(a)(1)? n/a
- (4) If none of the above applies, what is the basis for seeking appellate review? n/a

C. Review of Agency Decision: If the appeal is from an agency decision, what statute or other authority grants this court power to review that decision?
28 U.S.C. 1331

D. Related Cases: List all related cases pending in this court as defined in Ninth Circuit Rule 13(b)(4):
None

E. Nature of Relief Sought Below:

- Damages: amount sought \$ _____ amount granted \$ _____
 Injunctive Relief: preliminary permanent
 granted denied
 Declaratory Relief: granted denied
 Attorney Fees: amount sought \$ _____ amount granted \$ _____
 Other (specify) _____

F. Nature of Disposition Below:

- | | |
|--|---|
| <input type="checkbox"/> Bench Trial | <input type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Jury Verdict | <input type="checkbox"/> Lack of Jurisdiction |
| <input checked="" type="checkbox"/> Summary Judgment | <input type="checkbox"/> Failure to State a Claim |
| <input type="checkbox"/> Grant/Denial of Injunction | <input type="checkbox"/> Failure to Prosecute |
| <input type="checkbox"/> Default Judgment | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Agency Order | <input type="checkbox"/> Other _____ |

G. Length of Trial or Hearing: Equivalent of _____ 2 _____ full days

H. Preparation of Reporter's Transcript:

- (1) Do you intend to order any portion of the reporter's transcript for the appeal? Yes _____ No X _____
- (2) If so, have all necessary arrangements been made for preparation of the transcript? Yes _____ No _____ n/a
- (3) Estimated date of completion of transcript (if known): _____ n/a

PLEASE CONFINE YOUR RESPONSES TO I, J, AND K TO THE SPACE PROVIDED.

I. Brief Description of the Nature of the Action and the Result Below:

The U. S. Department of Interior denied Tyonek Native Corporation's application for lands tentatively approved to the State of Alaska under the Mental Health Enabling Act, 70 Stat. 709, as ratified and confirmed by section 6(k) of the Alaska Statehood Act, 72 Stat. 339, deciding that these lands were not "tentatively approved . . . to the state under the Alaska Statehood Act" under section 11(a)(2) of the Alaska Native Claims Settlement Act, 43 USC 1601, 1610(a)(2). On cross motions for summary judgment, the court upheld the administrative decision.

N. Attorney(s) Representing Appellee(s)/Respondent(s)

Attorney Russell L. Winner Telephone (907) 277-9522

Firm Law Offices of Russell L. Winner

Address 2550 Denali Street, Suite 702, Anchorage, Alaska 99503

Client Tyonek Native Corporation and Cook Inlet Region, Inc.

Attorney Elizabeth Barry, Esq. Telephone (907) 276-3550

Firm Alaska Attorney General

Address 1031 W. 4th Ave., Suite 200, Anchorage, Alaska 99501

Client State of Alaska

Attorney Bruce M. Landon, Esq. Telephone (907) 271-5452

Firm Land & Natural Resources Division, Department of Justice

Address 701 "C" Street, Box 69, Room F-249, Anchorage, Alaska 99513

Client Secretary of the Interior of the United States of America and Alaska Native Claims Appeal Board
(List additional counsel on separate sheet if necessary)


O. Attorney or Appellant (if pro se) Filing Docketing Statement

Name Russell L. Winner Telephone (907) 277-9522

Firm Law Offices of Russell L. Winner

Address 2550 Denali Street, Suite 702, Anchorage, Alaska 99503

Check one: Attorney () Appellant pro se

 5/28/86
Signature Date

If this is a joint statement by multiple appellants, add the names and addresses of other counsel on an additional sheet accompanied by a certification that they concur in the filing of this statement.

A copy of the judgment or order appealed from and of any opinion, findings of fact and conclusions of law supporting the judgment or order must be attached to all copies of the Docketing Statement.

Proof of service on opposing counsel must be attached to all copies of the Docketing Statement.

J. Issues to be Raised on Appeal:

Are lands tentatively conveyed to the Territory of Alaska pursuant to the Mental Health Enabling Act, 70 Stat. 709, as confirmed by Section 6(k) of the Alaska Statehood Act, 72 Stat. 339, 48 USCA Prec. 21, land "tentatively approved to . . . the State under the Alaska Statehood Act" under section 11(a)(2) of the Alaska Native Claims Settlement Act (ANCSA), 43 USC 1601, 1610(a)(2), and thus selectable by appellant Tyonek Native Corporation, a Native village corporation created under ANCSA?

**K. Standard of Appellate Review as Defined in Ninth Circuit Rule 13(b)(2)
(Specify the proper standard of review to be applied by the court for each issue to be raised, citing relevant authority):**

De novo review

**L. Do you believe that settlement is feasible in this case? Yes _____ No X
Why or why not?**

The parties have been unable to settle this matter after several discussions on this subject.

**M. Would a prebriefing conference be useful in this case? Yes _____ No X
Why or why not?**

Briefing and argument on this case should be straightforward; the case presents no unusual aspects in this regard.

A.G.
OPINION

STATE OF ALASKA

Duplicate
Trust Land
AG Opinion

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL BOX 2170 - JUNEAU

SEP 17 1964
RECEIVED
DEPARTMENT OF LAW
JUNEAU, ALASKA

1964 Opinions of the
Attorney General No. 7

September 14, 1964

The Honorable Phil R. Holdsworth
Commissioner
Department of Natural Resources
Juneau, Alaska

Re: Selection of Mental Health School
and University Lands by Boroughs

Dear Commissioner Holdsworth:

You have asked whether a borough may select Mental Health School and University lands pursuant to AS 07.10.150. It is our opinion that these lands are not subject to selection by a borough pursuant to AS 07.10.150, which provides:

"An organized borough may select 10 per cent of the vacant, unappropriated, unreserved state lands located in its boundaries within five years after the date of availability of state lands in the borough. Nothing in this section affects any valid existing claim, location, or entry under the laws of the state or the United States, whether for homestead, mineral, right-of-way, or other purposes, or affects the rights of any owner, claimant, locator, or entryman to the full use and enjoyment of the land so occupied."

AS 07.10.150 permits a borough to select 10 per cent of the vacant, unappropriated and unreserved State lands within the borough. This limitation on selection of State lands by a borough protects State lands which have been set aside for some special purpose from being used for other than that special

The Honorable Phil R. Holdsworth
Juneau, Alaska

September 14, 1964

-2-

purpose without referring to those special purposes individually. The question presented is whether the State's Mental Health School and University lands are lands set aside for special purposes which are therefore within the limitation of AS 07.10.150.

Section 07.10.150 prohibits a borough from selecting "reserved land." "Reserved land" is defined in Black's Law Dictionary (4th Ed. 1951) as follows:

"Public land that has been withheld except bare from sale or disposition."

Similarly, Black's Law Dictionary (4th Ed. 1951) defines "appropriation of land" as follows:

"The act of selecting, devoting, or setting apart land for a particular use or purpose." Ibid.

Mental Health School and University lands are, in our opinion, appropriated and reserved lands within the meaning of the definitions quoted above and AS 07.10.150. Several statutes have established the status of Mental Health School and University lands. Mental Health lands in Alaska were established under a Federal grant which directed that the lands be administered as a public trust and the income therefrom "be applied to meet the necessary expenses of the Mental Health program of Alaska." (70 Stat. 709, 711). Similarly, School and University lands were established by a Federal grant which directed that such lands "shall be reserved" for the support of schools. An additional grant of Federal lands was made "for the exclusive use and benefit of" the university. (38 Stat. 214 as amended by 48 Stat. 153). The grants by the Federal Government of School and University lands and Mental Health lands were confirmed and transferred to the State of Alaska upon its admission to the Union under Section 6K of the Alaska Statehood Act (72 Stat. 359), with the express proviso that they be used for the purposes for which they were reserved.

Since Statehood, the State of Alaska has continued to use these lands and the proceeds derived therefrom for the special purposes for which the Federal Government originally granted these lands to the Territory of Alaska. The Director of the Division of Lands is authorized by AS 38.05.035 to select, administer and dispose of Mental Health lands for the support of the Mental Health program. AS 38.05.035(a)(13) provides as follows:

Opinion No. 7

September 14, 1964

-3-

The Honorable Phil R. Holdsworth
Juneau, Alaska

"select, administer, and dispose of
mental health lands for the support of the
mental health program;" (Emphasis added)

The Legislature has clearly established a policy that Mental Health lands continue to be dedicated for the support of the Mental Health program. Similarly, School and University lands are dedicated for the purpose of supporting schools. See Title 11, Alaska Administrative Code, Sec. 202.012-014.

In conclusion, it is our opinion that the Mental Health School and University lands of the State are not unappropriated, unreserved State lands within the meaning of AS 07.10.150 and are not subject to selection by a borough under that Act.

I trust this answers your question.

Yours very truly,


~~WARREN G. COOVER~~
ATTORNEY GENERAL

WCC/rg

cc: William A. Egan
Governor

Floyd L. Guertin, Commissioner
Department of Administration

XERO COPY

XERO COPY

XERO COPY

XERO COPY

Handwritten notes:
See
advisory
memo

61

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL / POUCH K, STATE CAPITOL - JUNEAU 99801

February 10, 1967

DEPARTMENT OF
NATURAL RESOURCES

FEB 13 1967

RECEIVED
JUNEAU, ALASKA

MEMORANDUM

TO: Phil R. Holdsworth, Commissioner
Department of Natural Resources

FROM: D. A. Burr
Attorney General

By: Edward J. Reasor
Deputy Attorney General

RE: Mental Health Lands Exchange

You have asked whether the Division of Lands has the authority to exchange mental health lands for general grant lands in order to aid the borough selection program. The answer is that mental health lands may be exchanged for general grant lands when: Such an exchange is carried out under the auspices of the state in furtherance of a legitimate state purpose, e.g., aiding the borough selection program; the integrity of the mental health trust is preserved, i.e., the trust receives lands of at least equal value in exchange; and the exchange, at least in part, supports the mental health program.

The original grant of mental health lands to the Territory of Alaska is found in Title II, § 202 of Public Law 820, 84th Congress, 2nd Session. Subsection (e) of that section reads as follows:

(e) All lands granted to the Territory of Alaska under this section, together with the income therefrom and the proceeds from any dispositions thereof, shall be administered by the Territory of Alaska as a public trust and such proceeds and income shall first be applied to meet the necessary expenses of the mental health program of Alaska. Such lands, income, and proceeds shall be managed and utilized in such manner as the Legislature of Alaska may provide. Such lands, together with any property acquired in exchange therefor or acquired out of the income or proceeds therefrom, may be sold, leased, mortgaged, exchanged, or otherwise disposed of in such manner as the Legislature of Alaska may provide, in order to obtain funds or other property to be invested, expended, or used by the



Memo to Phil R. Holdsworth, Commissioner
Page Two

February 10, 1967

Territory of Alaska. The authority of the Legislature of Alaska under this subsection shall be exercised in a manner compatible with the conditions and requirements imposed by other provisions of this Act.

Such grants were continued after statehood under the same terms and conditions as existed before statehood by virtue of § 6(k) of the Alaska Statehood Act, Public Law 85-500 which reads in part: "Grants previously made to the Territory of Alaska are hereby confirmed and transferred to the State of Alaska upon its admission."

The United States Supreme Court dealt with a similar proposition in the recent case of Lassen v. Arizona, Opinions of the U.S. Supreme Court No. 84, October Term 1966 (Decided January 10, 1967). In that case the State of Arizona sought to acquire certain lands for highway purposes which had been granted to the State by the federal government for the support of education. The terms of the grant were extremely restrictive, much more so than the mental health grant to Alaska, and authorized disposal of such lands by sale or lease at public auctions only. The court found that the purpose of such provisions was "to guarantee, by preventing particular abuses through the prohibition of specific practices, that the trust received appropriate compensation for trust lands." The court reasoned: "We see no need to read the Act to impose these restrictions or transfers in which the abuses they were intended to prevent are not likely to occur, and in which the trust may in another and more effective fashion be assured full compensation." "The trust will be protected, and its purposes entirely satisfied, if the State is required to provide full compensation for the land it uses." In light of their language and the more liberal provisions of the mental health grant, it would seem consonant with the duties of the State of Alaska with respect to the trust terms, to exchange mental health lands for other lands of equal value, especially where the borough selection program, so vital to the future growth of the State, would be aided.

There is, however, an additional limitation imposed on such an exchange contained in AS 38.05.035(13) which, apparently, is not, in light of the Lassen case (supra), imposed by virtue of the terms of the original grant.

AS 38.05.035(13), implementing in part the provisions of the grant, provides that the Director of the Division of Lands shall "select, administer, and dispose of mental health lands for the support of the mental health program." It seems clear that an exchange of lands is permissible under this section with the limitation that such exchange be "for the support of the mental health program." That is, an exchange of mental health lands cannot be solely for the benefit of the borough

Memo to Phil R. Holdsworth, Commissioner
Page Three

February 10, 1967

selection program. On the other hand, it is not necessary that such an exchange solely benefit the mental health program, and, indeed, it would be advantageous and desirable if such an exchange benefited all programs concerned.

Edward J. Reaso
DAB:EJR:amt

MCR

NOTED
FEB 14 1967
PHIL R. HOLDSWORTH
Commissioner

9201

TO: Members, Ad Hoc Land
Advisory Panel

DATE: February 8, 1977

FILE NO:

TELEPHONE NO:

FROM: Thomas E. Meacham
Assistant Attorney General
Anchorage - AGO

SUBJECT: Brief Synopsis of School,
University and Mental
Health Trust Land Statutes

I have been requested by members of the panel to prepare an outline of the legal constraints presently placed upon lands conveyed from the federal government to the former Territory of Alaska, and later the State, for specific support of school, university and mental health programs. This outline will discuss each of the three land grant programs separately, though several of their aspects are similar. An extensive discussion of the legal precedents applicable to administration of these programs will not be attempted, though some significant legal point will be mentioned. Some of the material in this outline was abstracted from Alaska's School, University and Mental Health Lands, by Ronald L. McCowan, a 1975 legal intern with the Division of Lands.

I

UNIVERSITY LANDS

A. Federal Law. University lands were first granted to the Territory of Alaska by the Act of March 4, 1915, 48 U.S.C. Sec. 353, which states at Sec. 353:

Reservation of lands for educational purposes; proceeds or income set aside; lands excluded. When the public lands of the Territory of Alaska are surveyed, under direction of the Government of the United States, sections numbered 16 and 36 in each township in said Territory shall be reserved for the sale or settlement for the support of common schools in the Territory of Alaska; in section 33 of each township in the Tanana Valley between parallel 64, 65 north latitude, and between the 145th and 152nd degrees west longitude (meridian of Greenwich) shall be reserved from sale or settlement for the support of a Territorial agricultural college and school of mines established by the legislature of Alaska

FILE # 2008

upon the tracts granted in Section 354 of this title; provided, however, that if settlement with a view toward homestead entry has been made upon any part of the section reserved by . . . other lands may be designated and reserved thereof in the manner and reserved thereof in the manner and reserved in lieu thereof in the manner provided in sections 851 and 852 of Title 3; provided further, that the Territory may, by general law, provide for leasing said land in area not to exceed one section to any one person, association or corporation for not longer than ten years at any one time; and provided further, that the entire proceeds or income derived from said reserved lands are appropriated and set apart as separate and permanent funds in the Territorial treasury, to be invested and the income from which shall be expended only for exclusive use and benefit of the public schools of Alaska or of the agricultural college and school of mines, respectively, in such a manner as the Legislature of Alaska may by law direct. . . .

Section 354 of the same act granted Section 6, T 1 South, R. 1 West, Section 31, T. 1 North, R. 1 West, Section 1, T. 1 South, R. 2 West, and Section 36, T. 1 North, R. Two West, Fairbanks Meridian, to the Territory of Alaska, under the express conditions that they " . . . shall be forever reserved and dedicated to use as a site for an agricultural college and school of mines; . . . "

It is clear from the quoted statute that the university lands granted by the federal government to the Territory were to be subject to lease only, and that the "entire proceeds or income derived" were to be appropriated as a permanent fund for the university under the direction of the territorial legislature; and as to the enumerated sections of land transferred by Section 354, they were to be used exclusively as the physical location of the university.

On January 21, 1929, another federal act was adopted which granted additional lands to the Territory of Alaska for university purposes. 48 U.S.C. Sec. 354(a) states:

Agricultural college and school of mines; additional grant of public lands; conditions and limitations. In addition to the provision made by Sections 353 and 354 of this title, for the use and benefit of the agricultural college and school of mines, there is granted to the Territory of Alaska for the exclusive use and benefit of the agricultural college and school of mines, one hundred thousand acres of vacant non-mineral surveyed unreserved public lands in the Territory of Alaska, to be selected, under the direction and subject to the approval of the Secretary of the Interior, by the Territory, and subject to the following conditions and limitations:

(a) the college and school provided for in this section shall forever remain under the exclusive control of the said Territory, and no part of the proceeds arising from the sale or disposal of any lands granted herein shall be used for the support of any denominational or sectarian college or school.

(b) It is declared that all lands granted to said Territory and especially transferred and confirmed to the said Territory and shall be by the said Territory held in trust, to be disposed of, in whole or in part, only in the manner herein provided, and for the objects specified in the granting provisions, and that the natural products and money proceeds of any of said lands shall be subject to the same trusts as the lands producing the same. Disposition of any of said lands or of any money or thing of value directly or indirectly derived therefrom or any object other than that for which such particular lands or the lands from which such money or thing of value shall be derived or granted or in any manner contrary to the provisions of this section shall be deemed a breach of trust.

(c) No mortgage or other encumbrance of said lands shall be valid in favor of any persons for any purpose or any circumstances whatsoever. Said lands shall not be sold or leased, in whole or in part, except to the highest bidder at public auction, notice of which public auction shall first have been duly given by advertisement, which shall set forth the nature, time, and place of the transaction to be had, with full description of the lands to be offered, published once each week for not less than ten successive weeks in a newspaper of general circulation, published regularly at the capital and in a newspaper of like circulation which shall then be regularly published nearest to the location of the land so offered; nor shall any sale or contract for the sale of any timber or natural product of such lands be made, save at the place, in the manner and after the notice is thus provided for sales and leases of the lands themselves; provided however, that nothing herein contained shall prevent said territory from leasing any of said lands referred to in this section for a term of five years or less without such advertisement herein required.

(d) All lands, leasehold, timber and other products of the land before being offered shall be appraised at their true value, and no sale or other disposal thereof shall be made for a consideration of less than a value so ascertained, nor, in the case of the sale of the land, less than a minimum price of \$5 per acre . . .

(e) A fund shall be established in the Territorial treasury to carry out the purposes of this section, . . . the Territorial treasurer shall keep all such money invested in sale interest bearing securities . . . the income from said fund may and shall be used exclusively for the purposes of such agricultural and school of mines, providing that no portion of said income shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair or any building or buildings.

(f) Every sale, lease, conveyance, or contract of or concerning any of the lands granted or confirmed or the use thereof of the natural products thereof, not made in substantial conformity with the provisions of this section, shall be null and void. It shall be the duty of the Attorney General of the United States to prosecute in the name of the United States and in its courts such proceedings at law or in equity as may from time to time be necessary to enforce the provisions thereof relative to the application and disposition of the said lands and the products thereof, and the funds derived therefrom.

This act, unlike the Act of 1915, permitted the sale of university lands received under it, provided that proper notice, appraisal and sale procedures were first used. Like the 1915 act, the 1929 act required the holding of all income derived from university lands or from products of university lands to be placed in trust for the support of the university, with only the income earned by that trust account available for expenditures to support the university.

According to figures compiled in 1975, university lands applied for by the Territory under the 1915 act, (which granted Sections 33 only) totalled 11,000.43 acres with 8,666.8 acres of that total patented to the Territory. Under the 1920 additional university land grant, application had been made for 99,303.3 acres and patent had been received for 99,414.5 acres, the difference in acreage being accounted for by correction of surveys after patent was received.

On July 7, 1958, the Alaska Statehood Act was passed, which stated in Section 6(k):

Grants previously made to the Territory of Alaska are hereby confirmed and transferred to the State of Alaska upon its admission. Effective upon the admission of the State of Alaska into the Union, Section 1 of the Act of March 4, 1915 [the school and university lands act], as amended, . . . [is] repealed and all lands therein reserved under the provisions of Section 1 as of the date of this Act, shall, upon the admission of said

state into the Union, shall be granted to such state for the purposes for which they were reserved; but such repeal shall not affect any outstanding lease, permit, license or contract issued under said section 1, as amended, where any rights or powers with respect to such lease, permit, license, or contract, shall not effect the disposition of the proceeds or income derive prior to such repeal from any lands reserved under said section 1, as amended, or derived thereafter, from any disposition of reserved lands or interest therein made prior to such repeal.

This grant to the State of the university lands "for the purposes for which they were reserved" is the grant under which the State of Alaska presently administers the university lands. It is important to note that the "purposes" for which the lands were first reserved were preserved by the Statehood Act, but the explicit conditions under which the Territory was required to manage the lands were not expressly continued into statehood, and were arguably repealed by repeal of the underlying act.

On September 19, 1966 Public Law 89-588, 80 Stat. 811, an act which repealed sections 3 through 7 of the 1929 University Land Grant Act (which include paragraphs (b) through (f) quoted previously). The purpose of this repeal was to give the State and the university more freedom in administering and disposing of lands granted by the 1929 act, without being constrained by the restrictive conditions imposed by the original act, a purpose which was previously achieved by Section 6(k) of the Statehood Act with regard to the 1915 university and school land grant act.

B. State Constitution and Statutes

Article VIII, Section 6 of the Alaska Constitution states:

State public domain. Lands and interest therein, including submerged and tide lands, possessed or acquired by the state and not used or intended exclusively for governmental purposes, constitute the state public domain. The legislature shall provide for the selection of lands granted to the state by the United States and for the administration of the state public domain.

Article VIII, Section 8 of the Alaska Constitution states:

Leases. The legislature may provide for the leasing of, and the issuance of permits for exploration of, any part of the public domain or interest therein, subject to reasonable concurrent uses . . .

Article VIII, Section 9 of the Alaska Constitution states:

Sales and Grants. Subject to the provisions of this section, the legislature may provide for the sale or grant of state lands, or interests therein, and establish sale procedures. All sales or grants shall contain such reservations to the State of all resources as shall be required by Congress or the State and shall provide for access to these resources . . .

Article VIII, Section 10 of the Alaska Constitution states:

Public Notice. No disposal of leases of state lands, or interests therein, shall be made without prior public notice and other safeguards of the public interest as may be prescribed by law.

Thus, subject to any reservations prescribed by Congress, university lands are subject to lease and sale under procedures adopted in conformity with the Constitution.

Article VII, Section 2 of the Alaska Constitution states:

The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law.

AS 38.05.365(16) defines "state lands" as follows:

'State lands' or 'lands' means all lands including shore, tide and submerged lands, or resources belonging to or acquired by the state.

AS 38.05.370(20) defines "university lands" as:

'University lands' means all Sections 33 reserved to the university under 38 Stat. 1214, as amended, 48 U.S.C. 353 and all lands granted to or reserved for the benefit of the university.

AS 38.05.020, concerning the authority and duties of the Commissioner of the Department of Natural Resources, contains the following provision:

(a) The commissioner shall supervise the administration of the land division.

AS 38.35.035 concerning the powers and duties of the Director of the Division of Lands, contains the following provisions:

(a) The director shall . . . (2) manage, inspect or control state lands and improvements on them belonging to the state and under the jurisdiction of the division . . .

(4) prescribe application procedures and practices for the sale, lease or other disposition of available lands, resources, property, or interest in them; . . .

(6) Under the conditions and limitations imposed by law and the commissioner, issue deeds, leases or other conveyances disposing of available lands, resources, property or any interests in them;

(7) Have jurisdiction over state lands, except for those lands acquired by the Alaska World War II Veterans' Board and the Agricultural Loan Board . . .

Section 38.05.030, which is an exception to the general statutory provisions regarding the sale or lease of state lands, states as follows:

(a) The sale, lease or other disposal of university lands shall be made by the commissioner in accordance with the provisions of this chapter. University lands may be exchanged for (1) state lands; (2) privately owned lands; (3) vacant, unappropriated and unreserved public lands; and (4) lands owned by a city, borough or other public entity. However, all lands exchanged for other university lands must have the same fair market value as the other university lands. No sale, lease, or other disposal of university lands may be made without the approval of the Board of Regents of the University of Alaska.

AS 14.40.350, regarding the authority of the University Board of Regents, states:

Sec. 14.40.350. Board of Regents authorized to lease lands. The Board of Regents may execute leases for mining, agriculture, or other purposes to the lands granted for the benefit of an agricultural college and school of mines for Alaska by the Act of Congress approved March 4, 1915, for such time and at such rent or royalty as may seem just and as provided by law.

AS 14.40.360 states:

Sec. 14.40.360. Board of Regents authorized to select and to sell or lease lands granted by Act of Congress. The Board of Regents may select the lands granted to Alaska by the Act of Congress approved January 21, 1929, and may sell or lease them and deposit the proceeds in the state treasury in conformity with that Act.

Pursuant to the statutes, regulations have been adopted providing for the sale or lease of state land, with appropriate provisions where university lands may be involved. It is evident that the state statutes have been interpreted to require management of the university lands, together with other state lands, by the Department of Natural Resources and the Division of Lands.

II

School Lands

A. Federal Statutes. The federal statute granting surveyed sections 16 and 36 to the Territory of Alaska (48 U.S.C. Sec. 353) has been previously quote with regard to university lands granted by the same act. That statute, as originally enacted in 1915, provided only for the lease of such lands, and did not specifically allow the Territory to sell school lands. Further, the income derived from the lease of school lands was to be appropriated for the permanent fund, and only the income earned by that fund was to be used for school purposes.

Pursuant to the school grant, by 1975 Alaska had applied for 110,905.2 acres of federal lands, and had received patent to 100,202.3 acres.

In 1958, the Alaska Statehood Act was adopted, and provided in Section 6(k), as previously quoted, that grants previously made to the Territory were to be confirmed and transferred to the State of Alaska upon its admission, to the Union, repealing the Act of March 4, 1915 and granting them to the State "for the purposes for which they were reserved".

B. State Constitution and Statutes. The State constitutional provisions regarding the State public domain and the sale and lease of State lands, quoted previously in the context of university lands, are equally applicable to school lands received by the State.

The state statutes at Title 38, pertaining to the duties of the Commissioner of Natural Resources and the Director of the Division of Lands, quoted in the context of the university lands, apply equally to the administration of school lands. In addition, other state statutes specifically concern school lands. AS 38.05.365(14) states:

'School lands' means those rectangular sections 16 and 36 within each township surveyed on or before January 3, 1959, and confirmed and transferred to the State of Alaska upon its admission under Section 6(k), Alaska Statehood Act, 72 Stat. 339, and any other lands designated solely for school revenues.

AS 35.05.030(e), pertaining to exceptions to the general sale and lease policy of the State, states:

The sale, lease or other disposal of school land under the jurisdiction of the Department shall be made by the commissioner in accordance with the provisions of this chapter. However, disposal of school lands, under this subsection, other than disposal by lease for a term of years, shall be made only for sites for school facilities or for public park and public recreation purposes. School lands may be exchanged for (1) state lands; (2) vacant, unappropriated and unreserved public lands, and (3) lands owned by a city, borough or other public entity. In the case of unequal value, cash may be used to equalize land values. If the Department determines that it is in the best interest of the State to dispose of the school lands located in Sections 16 and 36 in an organized borough or city of any class,

the borough or city is authorized, and has preference for six months after notice, to acquire the land at the appraised value by purchase or exchange of land acceptable to the Department. No sale, lease, exchange or other disposal of school lands may be made without the approval of the State Board of Education. The State Board of Education shall act as a trustee of school lands. The Board may obtain private counsel or other professional assistance when necessary, to carry out its duties as a trustee.

AS 38.05.032 states:

SCHOOL LAND DISPOSITION PROCEDURES.

(a) Before the sale, lease or other disposal of school land, the director shall

(1) cause the preparation of a development plan which adequately describes the manner in which the land will be developed or utilized; however, no development plan is required for an exchange of school land to a public entity;

(2) make notice under sec. 345 of this chapter of the proposed development plan, stating that a disposal of the land for such use is under consideration, and that interested persons may make comments and submit alternative proposals for development and use within 30 days of the last publication of notice; and

(3) notify municipalities as provided in sec. 305 of this chapter at the same time notice is published or posted under (2) of this subsection; no further notice to municipalities need be given at the time of disposal.

(b) In the case of school land to be disposed of within municipalities, no disposal may be made until the municipal planning authority has held a public hearing on development plans and applications relating to the land

to be disposed of. The director shall make development plans and applications available to municipal planning authorities for this purpose. No disposition of land may be made sooner than three weeks after a hearing held under this subsection. No disposition of land may be made unless the development plan is approved by the municipal planning authority.

AS 38.05.070(c) states:

A lease may be issued for a period up to 55 years . . . However, a nonrenewable lease for school lands may be issued for a period not to exceed 99 years.

School lands have been subject to lease for a term longer than the ten-year term originally set by the federal law in 48 U.S.C. Sec. 353, and such lands have also been subject to disposal by sale. It is thus clear that the interpretation given Section 6(a) of the Alaska Statehood Act is that upon confirmation of the grants previously received by the Territory for school and university purposes, the federal statute (48 U.S.C. Section 353-354 was repealed in its entirety, and only the purposes of the original grants, and not the conditions limiting the disposal of the original grants remained to govern State administration of these lands after statehood.

III

MENTAL HEALTH LANDS

A. Federal Law. On July 28, 1956, Public Law 830 (70 Stat. 709, 48 U.S.C. Sec. 46-3), entitled "Authority of the Territory of Alaska in the Field of Mental Health", was enacted. Title 2 of that Act made certain special grants to the Territory of Alaska for support of the mental health program, including certain land grants contained in Section 202 of the Act, in the following language:

- (a) The Territory of Alaska is hereby granted and shall be entitled to select, within ten years from the effective date of this Act, not to exceed one million acres from the public lands of the United States and Alaska which are vacant, unappropriated, and unreserved at the time of their selection . . .

- (b) The lands authorized to be selected by the Territory of Alaska by Subsection (a) of this section shall be selected in such manner as the laws of the Territory may provide, and in conformity with such regulations as the Secretary of the Interior may prescribe. The authority to make selections shall never be alienated or bargained away, in whole or in part, by the Territory. . . .
- (c) All grants made or confirmed under this section shall include mineral deposits; providing, however, that mineral deposits in lands which on January 1, 1956 were subject to Public Land Order No. 82 of January 22, 1942, shall not be included.
- (d) Following the selection of lands by the Territory pursuant to Subsection (b), but prior to the issuance of final patents, the Territory shall be authorized to lease and make conditional sales of selected lands.
- (e) All lands granted to the Territory of Alaska under this section, together with the income therefrom and the proceeds from any dispositions thereof, shall be administered by the Territory of Alaska as a public trust and such proceeds and income shall be first applied to meet the necessary expenses of the mental health program of Alaska. Such lands, income and proceeds shall be managed and utilized in such a manner as the legislature of Alaska may provide. Such lands, together with any property acquired in exchange therefor or acquired out of the income or proceeds therefrom, may be sold, leased, mortgaged, exchanged, or otherwise disposed of in such a manner as the legislature of Alaska may provide, in order to obtain funds or other property to be invested, expended or used by the Territory of Alaska. The authority of the Legislature of Alaska under this subsection shall be exercised in a manner compatible with the conditions and requirements imposed by other provisions of this act.

COOK
INLET

The Alaska Statehood Act at Section 6(k), quoted previously, confirmed this grant of lands to the State of Alaska. However, the 1956 Mental Health Act was not repealed by the Statehood Act, since at that time Alaska had approximately eight years remaining within which it was permitted to select lands under the Act. As of 1975, Alaska had selected 1,026,147.9 acres of land under its mental health grant, and had obtained patent to 787,532.8 acres. In addition, it had obtained tentative approval to 187,294.1 acres of mental health selections.

Lands selected and tentatively approved to the State under the Mental Health Act have also been selected by various Native Village corporations under the Alaska Native Claims Settlement Act. The Alaska Native Claims Appeal Board has ruled that those Native selections are not valid, since mental health lands did not "pass to" the State of Alaska pursuant to ANCSA, but were a previous grant prior to Statehood, and thus not subject to selection under ANCSA. It is expected that further Court proceedings may be anticipated to resolve this issue.

B. State Constitution and Statutes. The State constitutional provisions applicable to mental health lands, as part as the State public domain, have been previously quoted in the section discussing university lands. State statutory provisions concerning the authority of the Commissioner of Natural Resources and the Director of the Division of Lands, quoted previously, apply with equal force to the management of mental health lands, with some additions. AS 38.05.365(8) states:

'Mental Health Lands' means
lands granted under Title II,
Section 202, of Public Law 830,
84th Congress, 2nd Session, as
heretofore or hereafter amended.

AS 38.05.035, regarding the powers and duties of the Director of the Division of Lands, states in subsection (a)(13) that the Director shall:

select, administer and dispose
of mental health lands for the
support of the mental health program,
except that no mental health lands
may be disposed of without the
approval of a board composed of the
director of the Division of Mental
Health, Chairman of the Mental Health
Advisory Council, and the Commissioner
of Revenue.

IV

COURT DECISIONS

There have been no Supreme Court decisions in Alaska regarding an interpretation of the trust status of school, university or mental health lands. A 1975 Alaska Supreme Court case had the opportunity to examine the specific deed restrictions imposed on university lands granted for the site of the University. U. of Alaska v. National Aircraft Leasing, Ltd., 536 P.2d 121 (1975). A 1964 opinion of the Attorney General, which has some persuasive effect but which does not have the force of law, determined that trust lands, after they are transferred to the State of Alaska, under the Alaska Statehood Act, were subject to the express proviso that they be used for the purpose for which they were originally reserved. A copy of this opinion of the Attorney General is attached hereto.

State courts in other states have discussed the trust responsibilities of states regarding lands granted to them under the terms of a particular federal act, and have generally held that the administration of the lands must conform to the grant, and to the acceptance of that grant by the State. Magnolia Petroleum Co. v. Price, 206 P. 1033 (Okla. 1922); State Highway Commission v. State, 297 N.W. 194 (N.D. 1941); Application of Dasburg, 1133 P.2d 569 (N.M. 1941). This subject has also been discussed by the Supreme Court of the United States in Lassen v. Arizona, 385 U.S. 458, 17 L.Ed. 2d 515 (1967).

This brief discussion of applicable case law is not intended to be exhaustive or analytical, but merely to indicate that there is general case-law support for the position that the administration of school, university and mental health trust lands is a trust responsibility, and is governed to a degree by the language and conditions of the original statutory grant of lands. The extent to which such original grant still controls details of the methods and terms under which such lands may be leased or sold, however, is not discussed here, as it is a subject upon which there are no clear guidelines in Alaska at the present time.

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL / BOX 2170 -- JUNEAU

1964 Opinions of the
Attorney General No. 7

September 14, 1964

The Honorable Phil R. Holdsworth
Commissioner
Department of Natural Resources
Juneau, Alaska

Re: Selection of Mental Health School
and University Lands by Boroughs

Dear Commissioner Holdsworth:

You have asked whether a borough may select Mental Health School and University lands pursuant to AS 07.10.150. It is our opinion that these lands are not subject to selection by a borough pursuant to AS 07.10.150, which provides:

"An organized borough may select 10 per cent of the vacant, unappropriated, unreserved state lands located in its boundaries within five years after the date of availability of state lands in the borough. Nothing in this section affects any valid existing claim, location, or entry under the laws of the state or the United States, whether for homestead, mineral, right-of-way, or other purposes, or affects the rights of any owner, claimant, locator, or entryman to the full use and enjoyment of the land so occupied."

AS 07.10.150 permits a borough to select 10 per cent of the vacant, unappropriated and unreserved State lands within the borough. This limitation on selection of State lands by a borough protects State lands which have been set aside for some special purpose from being used for other than the special

The Honorable Phil R. Holdsworth
Juneau, Alaska

September 14, 1964
-2-

purpose without referring to those special purposes individually. The question presented is whether the State's Mental Health School or University lands are lands set aside for special purposes which are therefore within the limitation of AS 07.10.150.

Section 07.10.150 prohibits a borough from selecting "reserved land." "Reserved land" is defined in Black's Law Dictionary (4th Ed. 1951) as follows:

"Public land that has been withheld or kept back from sale or disposition."

Similarly, Black's Law Dictionary (4th Ed. 1951) defines "appropriation of land" as follows:

"The act of selecting, devoting, or setting apart land for a particular use or purpose." Ibid.

Mental Health School and University lands are, in our opinion, appropriated and reserved lands within the meaning of the definitions quoted above and AS 07.10.150. Several statutes have established the status of Mental Health School and University lands. Mental Health lands in Alaska were established under a Federal grant which directed that the lands be administered as a public trust and the income therefrom "be applied to meet the necessary expenses of the Mental Health program of Alaska." (70 Stat. 709, 711). Similarly, School and University lands were established by a Federal grant which directed that such lands "shall be reserved" for the support of schools. An additional grant of Federal lands was made "for the exclusive use and benefit of" the university. (38 Stat. 214 as amended by 48 U.S.C. 353). The grants by the Federal Government of School and University lands and Mental Health lands were confirmed and transferred to the State of Alaska upon its admission to the Union under Section 6K of the Alaska Statehood Act (72 Stat. 339), with the express proviso that they be used for the purposes for which they were reserved.

Since Statehood, the State of Alaska has continued to use these lands and the proceeds derived therefrom for the special purposes for which the Federal Government originally granted these lands to the Territory of Alaska. The Director of the Division of Lands is authorized by AS 38.05.035 to select, administer and dispose of Mental Health lands for the support of the Mental Health program. AS 38.05.035(a)(13) provides as follows:

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES

8672

388

1531.6 SCOMM 56A: JNT. SPEC. MENTAL HEALTH TRUST LAND, 1987

The Honorable Phil R. Holdsworth
Juneau, Alaska

Opinion No. 7

September 14, 1964
-3-

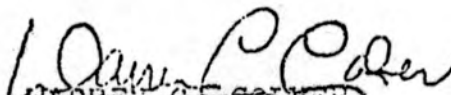
"select, administer, and dispose of
mental health lands for the support of the
mental health program;" (Emphasis added)

The Legislature has clearly established a policy that Mental Health lands continue to be dedicated for the support of the Mental Health program. Similarly, School and University lands are dedicated for the purpose of supporting schools. See Title 11, Alaska Administrative Code, Sec. 202.012-014.

In conclusion, it is our opinion that the Mental Health School and University lands of the State are not unappropriated, unreserved State lands within the meaning of AS 07.10.150 and are not subject to selection by a borough under that Act.

I trust this answers your question.

Yours very truly,


WARREN G. COEVER
ATTORNEY GENERAL

WCC/grg

cc: William A. Egan
Governor

Floyd L. Guertin, Commissioner
Department of Administration

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 8, 1982

Hon. Hugh Malone
Alaska State Legislature
Pouch V
Juneau, AK 99811

LEAD & ...

FEB 22 1982

Director's Office

Re: Mental health trust fund
Our file: J66-534-81A

Dear Representative Malone:

You have asked us to review HB 151 and HB 152 to determine whether they, if enacted, would satisfy the state's obligation to the mental health trust fund. In our opinion, the bills as drafted would not entirely satisfy the state's obligation to the mental health trust fund. In addition, the existing legislation which HB 151 would amend presents a problem under our constitutional prohibition against dedicated funds. We have also reviewed SB 710 and SB 711 which affect the mental health trust fund. We will discuss the development of the mental health trust fund, and make specific suggestions for legislative action.

The Alaska Mental Health Enabling Act, P.L. 84-830, § 202, 70 Stat. 709 (July 28, 1956) (copy attached), authorized the Territory of Alaska to select one million acres from the public lands of the United States in Alaska which were vacant, unappropriated, -unreserved at that time. The statute required that these lands be administered by the Territory "as a public trust" and that proceeds and income of these lands "first be applied to meet the necessary expenses of the mental health program of Alaska." The statute authorized the territory to sell, lease, mortgage, exchange or otherwise dispose of the land in order to obtain funds or other property to be invested, expended, or used by the territory. The committee report which accompanied that legislation stated that "amounts not needed for the mental health program can be used for other public purposes as the legislature may determine." Senate Report No. 2053, 84th Cong., 2nd Sess., reprinted in (1956) U.S. Code Congressional and Administrative News at 3639.

In 1958, Congress passed the Alaska Statehood Act, P.L. 85-508, 72 Stat. 339 (July 7, 1958). Section 6k of the

Statehood Act provided that "grants previously made to the Territory of Alaska are hereby confirmed and transferred to the State of Alaska upon its admission." That section also specifically repealed two earlier federal acts under which land had been reserved, and granted the reserved lands to the state "for the purposes for which they were reserved." This proviso applied to lands reserved for the benefit of the public schools and university under the Act of March 4, 1915, P.L. 61-330, 38 Stat. 1214; it also applied to lands within the naval petroleum reserves under the Act of February 15, 1920, P.L. 66-146, 41 Stat. 450. However, this provision did not apply to the lands reserved under the Mental Health Enabling Act.

A section of the Mental Health Enabling Act which authorized federal grants for mental health treatment in Alaska was repealed in 1959 by the Alaska Omnibus Act, P.L. 86-70, 73 Stat. 148 (June 25, 1959), § 31(b)(1). That Act did not effect the land grant or trust provisions of the Mental Health Enabling Act. The attorney general opined in 1964 that lands received pursuant to the Alaska Mental Health Enabling Act were reserved and thus could not be selected by municipalities under state land disposal laws. 1964 Opin. Alaska Atty. Gen. #7. Subsequently, the attorney general advised that mental health lands could be exchanged for land of equivalent fair market value. Inf. Opin. Alaska Atty. Gen., Feb. 10, 1967.

In 1978, the Alaska Legislature redesignated mental health lands as general grant lands and established a mental health trust fund which was to receive one and one-half percent of the total receipts derived from the management of state land. 1978 Alaska Sess. L., ch. 181, §§ 3 and 4; AS 37.14.070. We understand that this percentage of state revenues was intended to approximate the value of the trust lands. However, since no appraisal was made of the fair market value of these lands, it is impossible to determine whether the substituted revenue source meets or exceeds the fair market value of the trust lands. Since the dedication of a percentage of state revenues has no termination date, it will presumably exceed the value of the trust lands at some time.

In addition, the 1978 legislation conditioned the placement of this percentage of state revenues in the mental health trust fund upon appropriation by the legislature. We understand that to date no appropriation has been made to the mental health trust fund. We also understand that the legislature has made regular appropriations for the purpose of mental health treatment in Alaska and that the Department of Health and Social Services contains a division which is responsible

for mental health treatment in the state.

Our review of the statutes and relevant cases leads us to conclude that the Alaska Mental Health Enabling Act did impose affirmative responsibilities on the Territory of Alaska to review the needs for mental health treatment in the territory and to meet those needs with revenues from the mental health trust lands before using any proceeds from those lands for other purposes. The Alaska Supreme Court has ruled that the public trust established by the federal government for the benefit of the university in territorial days still requires that the state compensate the university for the fair market value of any land reserved for the university under that trust. State v. University of Alaska, 624 P.2d 807 (Alaska 1981). The mental health trust differs greatly from the federal trusts for the public schools and university in that the use of the latter was restricted absolutely for the benefit of the public schools and university respectively. Income and proceeds of the mental health trust lands could be spent for purposes other than mental health at the discretion of the legislature, if the mental health needs in the state had been met. Nevertheless, we think it unlikely that a court would find that the Alaska Mental Health Enabling Act did not impose some affirmative trust obligation on the territory.

We also think it unlikely that a court would find that the mental health trust obligation was terminated by the Statehood Act. Section 6k of that act specifically repealed certain portions of the public school and university trust legislation and transferred to the state lands reserved under those acts "for purposes for which they were reserved." Since the Alaska Mental Health Enabling Act was not repealed, we presume that it remains effective.

The general language in section 6k of the Statehood Act confirming previous grants made to the territory could be construed to impliedly repeal any restrictions on those grants, such as were contained in the Alaska Mental Health Enabling Act. However, the act could as easily be read to reaffirm and transfer the existing trust obligations to the new state. Since the latter view reconciles the Acts, it would probably be preferred by the courts. Sands, SUTHERLAND STATUTORY CONSTRUCTION (1973) §§ 51.01, 51.02.

If the Statehood Act did not terminate the mental health trust, then the trust obligation as to those lands selected under the Alaska Mental Health Enabling Act remains in effect. If the substitution of revenue for the trust imposed

by the 1978 state legislation was not equal to the fair market value of the trust lands, then the trust has been breached. Lassen v. Arizona, 385 U.S. 458 (1967). Even if the substituted revenue source were equal to the fair market value of the trust lands, the state's failure to appropriate that money to the trust may be a breach of the trust.

In addition, the dedication of one and one-half percent of total receipts from state lands will probably at some time exceed the fair market value of the trust lands. To that extent, the dedication is prohibited by article IX, § 7, of the Alaska Constitution. */ The dedication of revenues to the mental health trust fund is permitted under the Alaska Constitution only to the extent that it is required by federal law.

Thus, our review of the history of the mental health trust fund indicates that (1) a trust obligation probably exists under federal law, and (2) the state has probably breached that trust obligation by redesignating the mental health trust lands as general grant lands, and failing to compensate the trust for the fair market value of those lands. We have identified three alternative courses of legislative action and will discuss them briefly.

First, the legislature may follow its past course and do nothing to fund the mental health trust fund. There is a risk of litigation over the state's obligations in a suit brought by either the federal government or some beneficiary of mental health programs in the state. We note that the Alaska Mental Health Enabling Act does not provide any mechanism for enforcement of the trust. Therefore, the state may be immune from any action to enforce the terms of the trust under the

*/ Alaska Constitution, article IX, section 7 provides:

DEDICATED FUNDS. The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

Eleventh Amendment of the United States Constitution. Scott, Law of Trusts § 95 (1967). */ This is an issue which should be explored more thoroughly if litigation appears likely. In addition, there is the possibility that the legislative appropriations for mental health programs over the years have been adequate to meet the need for mental health treatment in the state. If past appropriations have been rationally based on reasonable assessments of mental health needs in Alaska, then the state may have fulfilled its basic trust responsibilities despite the failure to establish a separate fund with the trust lands. In that case, there may be no effective remedy for any possible breach of trust.

Second, the state may attempt to comply with the terms of the Alaska Mental Health Enabling Act. We believe that this would require:

(1) an assessment of the fair market value of the lands which were selected by the state under the Alaska Mental Health Enabling Act, as of the date of their redesignation by statute as general grant lands;

(2) some regular review (perhaps by the senate and house HESS committees) of the need for mental health treatment in the state; a report to the legislature with recommendations for appropriations for mental health treatment and facilities in the state; a legislative finding that these needs are met before money in the mental health trust fund is appropriated for any other purpose; **/

*/ The state has partially waived its immunity from suit in state courts for contract, quasi-contract and certain tort claims. AS 09.50.250. It is doubtful that a suit to enforce a federal trust obligation could be brought under this statute.

**/ The attorney general opined in 1961 that money received from the mental health trust lands in excess of the needs of the mental health program could be transferred to the general fund without specific legislative authorization. 1961 Opin. Alaska Atty. Gen. No. 11. We agree that the transfer of money into the general fund does not require an appropriation. However, we believe that the mental health trust obligation requires a rationally based legislative determination that the current needs of the state mental health program are met before trust money is expended for another purpose. We do not know whether past appropriations for the mental health program would be found to have satisfied this requirement.

(3) transfer of money to the mental health trust fund until the fund has received money equaling the fair market value of the trust lands.

We believe that these measures would satisfy the state's obligation under the Alaska Mental Health Enabling Act, while retaining flexibility as to the use of money in the mental health trust fund. At present, AS 37.14.040 provides that the principal of the fund shall be reinvested, and the income of the fund may be appropriated only for the support of a state mental health program. This section is much more restrictive than the federal trust obligation would require. Any restriction on the use of money beyond that required by federal law may violate the Alaska constitutional prohibition on dedicated funds.

We also note that the current statute requires that money be appropriated into the mental health trust fund. AS 37.14.050. Once in the fund, it must again be appropriated before it can be spent. The dual appropriation requirement is unnecessary to satisfy the federal trust obligation. In fact, it makes compliance with the federal trust obligation more difficult, by interposing the appropriation requirement before money can be placed in the fund. Money may be placed in the fund without an appropriation to the extent required by federal law, without violating our dedicated fund provision. We recommend direct transfer of money to the mental health trust fund until the fund reaches an amount indicated by an appraisal of the mental health trust lands. Under the terms of the federal law, the legislature may use money in the fund for any public purpose, once it has determined that the needs of the mental health program in the state have been met. This determination must be made by the legislature and must have a rational basis.

HB 151 and SB 710 each contain provisions consistent with some of our recommendations. HB 152 and SB 711 each contain appropriations to the mental health fund. We hope that our comments are helpful in the legislative consideration of these bills. Please let us know if we may be of further assistance in this matter.

~~The third alternative which may be pursued along with either one of the first two is to seek repeal of the Alaska Mental Health Enabling Act by Congress. If the restrictions of the trust unreasonably interfere with the prudent management of state resources and are unnecessary to ensure adequate funding of mental health treatment programs in the state, then Congressional repeal of the Alaska Mental Health Enabling Act may be~~

Hon. Hugh Malone
Alaska House of Representatives

February 8, 1982
Page #7

appropriate. We cannot advise you on the likelihood of obtaining such a repeal. However, we expect that Congress would be more favorably disposed toward the state if our actions demonstrated a commitment to carrying out our obligations under the Alaska Mental Health Enabling Act.

Very truly yours,

WILSON L. CONDÓN
ATTORNEY GENERAL

By: 
Laura L. Davis
Assistant Attorney General

LLD/pjg

cc: Hon. Charles Parr
Alaska State Senate

Carole Burger
Office of the Governor