

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 86/2

1718 SJ HB 2

C E R T I F I C A T E

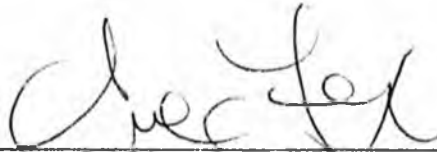
STATE OF ALASKA)
FIRST JUDICIAL DISTRICT) ss

I, EVE FOX, a Notary Public, duly commissioned in and for the State of Alaska, do hereby certify that the foregoing Record of the May 12, 1982 Senate Judiciary Committee proceedings relating to the lands issue HB 2, HB 34, HB 548, HB 473, HB 848, and HB 621 were recorded by the Senate Judiciary Committee and thereafter was transcribed by the Senate Records Staff under the direction of the Senate.

I further certify that the transcript consisting of pages 1 to 52, both inclusive, is a full, true and correct Record of the proceedings, considering the quality of the tape and the information furnished to me.

I further certify that the Senate Records Staff is not a relative of any of the parties, nor financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 19th day of May, 1982.



Notary Public, for the State of Alaska
My Commission Expires: ~~My Commission Expires~~
March 25, 1985



SENATE JUDICIARY
STANDING COMMITTEE
April 13, 1982
9:00 a.m.

Members Present: Senator Pat Rodey, Chairman
Senator Nels Anderson
Senator Charlie Parr
Senator Bill Ray

Members Absent: Senator Don Bennett

COMMITTEE CALENDAR

HB 34 "An Act requiring the preparation of a course transfer ability guide covering courses offered in post-secondary institutions; and providing for an effective date".

HB 2 Amended Title "An act relating to land; and providing for an effective date".

HB 548 Amended Title "An Act providing for legal services in civil cases for persons who are financially unable to obtain legal counsel".

HB 473 "An Act changing the classification of the punishment for certain crimes against the person".

HB 637 "An Act relating to the regulations of taking, purchase, or sale of certain fishery resources; and providing for an effective date".

WITNESS REGISTER

Mr. Haynes, Deputy Commissioner
Department of Natural Resources
Pouch M
Juneau, Alaska 99811
465-2400

Position Statement: On HB 548 explained the amendment only deals with a credit against taxes in the range of \$2 to \$5 million dollars per year range average over a period of time. On HB 2 explained that of the 3 and 1/4 million acres designated; 3 million 1 thousand acres is for reindeer grazing lands, and 200 thousand acres has been rail belt, road map work, etc.

Mr. Bruce
Judiciary Committee Assistant
c/o Senator Rodey
Pouch V
Juneau, Alaska 99811
465-3717

Position Statement: On HB 34 explained the recent chain reactions of the bill. On HB 548 explained that DNR had amendments to the bill. On HB 2 explained that DNR had submitted language that referred to clearing and cultivating of the land.

PREVIOUS ACTION

- HB 548 The bill is in reference to seismic information obtained by the state, the amendment is in reference to credit against taxes. Senator Ray made the motion to move HB 548 from committee with the credit against taxes amendment. Senators Parr, Rodey signed do not pass. And Senators' Ray, Anderson signed do pass with no recommendations.
- HB 34 The bill is in reference to University of Alaska Trust lands. Senator Ray moved to have the Senate Resources letter of intent attached to the bill when passed. Senator Parr moved to pass HB 34 from committee with letter of intent. The bill passed from committee.
- HB 2 The bill is in reference to Homestead Limited Entry lands. Senator Anderson proposed for committee consideration an amendment by Senator Kerttula that is in reference to establishing state grazing lands. Senator Ray made a motion to move the amendment and the bill out of committee.
- HB 473 The bill is in reference to the change of classification of certain charges to a person, more commonly known as the rape bill. Senator Ray moved to adopt the amendment of the committee substitute. Senators Rodey, Ray and Anderson voted to adopt the committee substitute and Senator Parr voted not to adopt the committee substitute.

ACTION NARRATIVE

Tape #0044
Recording
Number 0001

Senator Rodey: The regional portion of the bill which is really the University of Alaska section endorses the settlement between the state and the University which is now HB 34. It is exactly the language which the Senate passed previously. I did check with the University and it is still in it's exact state. Ms. Tutten did you examine HB 34 to ensure that all portions of the bill were exactly as required by law.

Number 0006

Ms. Tutten: No, Senator I have not seen a copy of that bill.

Number 0007

Senator Rodey: Mr. Bruce, they are the same.

Number 0007

Mr. Bruce: Mr. Chairman, they are the same.

Number 0009

Senator Rodey: Yes, they are exactly the same as the....

Number 0010

Unanimous: Does that mean that the language that you may adopt today is exactly the language that is passed out of Senate Resource Committee or on the House or Senate floor.

Number 0011

Senator Rodey: Yes it is exactly the same. It is the Resource language.

Number 0012

Senator Parr: I move to pass out the Senate Committee Substitute for HB 34.

Number 0014

Senator Rodey: The motion has been made to pass HB 34 from Committee with individual recommendations. Is there any objections to that motion. (hearing no objection). The bill is passed from the Committee with individual recommendations.

Number 0015

Mr. There was a Senator Resources Committee letter of intent. And I don't know whether the committee examined that one or not.

Number 0016

Senator Ray: I would move also the Letter of Intent along with the bill.

Number 0017

Senator Rodey: The motion has been made to pass the Letter of Intent along with the bill, is there any objection to that motion? (hearing no objection). The Letter of

Intent will go along with the bill.

- Number 0027 Senator Rodey: Next I would like to take up House Bill 548. This is the seismic data portion of the House bill. This is the amendment proposed yesterday by Exxon was not included.
- Number 0032 Senator Ray: I move the Senate Committee Substitute.
- Number 0032 Senator Rodey: The motion is made that the Senate Committee Substitute. Does that yes, Mr. Bruce.
- Number 0033 Mr. Bruce: Well the Department of Natural Resources had some amendment and the Committee added something else to it.
- Number 0036 Senator Rodey: This is the credits amendment. Is there any objection. Senator Ray's motion has been withdrawn. What is the preference of this committee for this amendment, this is the 50% credit amendment proposed by the Department. Mr. Haynes do you have any comment on this amendment?
- Number 0039 Mr. Haynes: The only thing that was asked yesterday that we couldn't answer at the time was were our financial exposure would be, if this credit provision passed. And we really can't tell exactly but we asked and they estimate probably it is somewhere in the \$2 to \$5 million per year range average over a period of time. It would be approximately what the state's exposure would be on the credit.
- Number 0046 Senator Parr: Mr. Chairman I gave this thing some more thought last night. I guess my position at this point is that that should be, the question of the data should be a prerequisite to requiring the permit and so that is what the CS does.
- Number 0050 Senator Rodey: Mr. Haynes your amendment does not effect the concept of leasing preconditioned upon being able to have access to data. Is that correct.
- Number 0052 Mr. Haynes: That's correct.
- Number 0052 Senator Rodey: The amendment only deals with a credit against taxes.

- Number 0054 Senator Parr: What I am saying Mr. Chairman is that my position is the precondition of getting the permit is furnishing the information, and I don't think to furnish it for \$2 to \$5 million dollars a year.
- Number 0057 Senator Rodey: You are opposing it sir, at any cost. That might be associated with.....
- Number 0058 Senator Ray: I repropose my motion to move it out.
- Number 0059 Senator Rodey: Senator Ray has moved that the bill pass from Committee with individual recommendations. All those people in favor of the motion.
- Number 0061 Senator Rodey: Did you wish to speak for the motion?
- Number 0061 Senator Ray: It's a lousey bill.
- Number 0062 Senator Rodey: I understand that Senator, I feel the same way. All those in favor of passing the bill out with individual recommendations raise your right, all those opposed. The bill is passed from Committee with individual recommendations. (Senator Parr signed do pass, Senator Rodey signed do not pass, Senators Anderson and Ray signed pass with no recommendations). Next I will like to take HB 2, homesteading limited entry. Mr. Bruce we have Senate Committee Substitute. We do not have a Judiciary Committee Substitute?
- Number 0071 Mr. Bruce: No we don't have a Judiciary Committee Substitute. I think everyone can follow the language that the Department of Natural Resources submitted taking care of the concerns that we went over yesterday about clearing and cultivation mandatory. And also there is an amendment in the file from Senator Anderson.
- Number 0074 Senator Rodey: Senator Anderson do you wish to speak on the amendment.
- Number 0076 Senator Anderson: This is an amendment that has to do with grazing lands proposed by Senator Kerttula. States notwithstanding the other provision of law state lands classified.....do you have a copy in front

of you.

- Number 0078 Senator Rodey: Yes sir, I believe that every member has it in his file, second sheet right hand side.
- Number 0080 Senator Parr: I might ask what's the amendment I am not quite clear on that.
- Number 0081 Senator Rodey: I think I can answer the question, it is to preserve the grazing lands particularly in Senator Ferguson's area. I presume the Senator is concerned with the reindeer.
- Number 0084 Senator Parr: That would be land under the exempt from homestead entry?
- Number 0085 Senator Rodey: No it does not go that far. It only says that grazing land shall remain in its current category and shall not be classed as other kinds of agricultural lands would be. Except. Quite frankly it is very remote that land from that point on will be classified, that particular land would be classified as agricultural land.
- Number 0089 Senator Parr: I wonder if the Department of Natural Resources has seen that amendment.
- Number 0093 Mr. Haynes: Well, I think I understand the purposes is to obtain an existing state grazing lands classified for that purpose is apparently suitable for that purpose to obtain the current user classification for that intended into perpetuity.
- Number 0094 Senator Anderson: Well as long as its used for that purpose.
- Number 0096 Senator Parr: My question is that this section of the bill is talking about a homestead entry under AS 05.05.070 may not exceed 320 acres as agricultural. Does that apply to this too. Does this come under that category?
- Number 0099 Mr. Haynes: Well my question is that approximately three and a quarter million acres of state land is currently designated and after this action is classified as grazing lands, 200 thousand acres of that has been rail-belt, road map work, what ever

area. About 3 million 1 hundred thousand acres is, out west, is for reindeer grazing. Since that is all recent T.A., that reindeer grazing land, I doubt if any of it has to be reclassified. It would be presently unclassified. However, if it is designated as being fairly permanently reserved for that classification, that sort of like establishing a state grazing area out there. And I assume that that would be considered the primary use on all of those lands. And that's the way we will have to manage them. So because it shall retain that current use, it is really hard to judge what constraints that puts on us management wise in terms of things like mineral entry for example, or extend this excluded land disposal in those areas. I'm not quite sure I understand what the intent is in terms of limiting the Department management in this.

- Number 0118 Senator Parr: Let me rephrase my question differently. I'm sorry, it is early in the morning for me. Would a person who lived out in that area be able to get a 320 acre homestead of this grazing land for the purpose on this bill. Or is that bared from the homestead entry?
- Number 0123 Senator Ray: It wouldn't bar it if you wanted to keep that agricultural use for grazing land.
- Number 0124 Senator Parr: That is what I am trying to find out.
- Number 0124 Mr. Haynes: What this would do sir is, were we to open this area to promote parcel stakes for agricultural reasons for land disposals. Then they would be able to get 320 acres.
- Number 0125 Senator Parr: It would have to be for grazing right?
- Number 0126 Mr. Haynes: It would be an adverse title only which includes (sic).....
- Number 0128 Senator Rodey: Is there any other questions with regard to Senator Anderson's amendment. Is there objections to Senators Anderson's amendments.
- Number 0130 Senator Ray: I object to it.

- Number 0131 Senator Fahrenkamp: Are you leaving Ray with the best legislation covering suitable for grazing? If you leave that in, that's (sic).....
- Number 0139 Senator Parr: The intent is misleading, and not adopt the amendment, and give us all more time to think and to find out more about it. I am not saying that I am opposed to it, it's just that it's not exactly the clearest thing in the world.
- Number 0144 Senator Rodey: You would call your amendment with the intention of raising it on the floor for speed of the bill from committee. Every member has the amendment proposed by the Administration.
- Number 0150 Senator Ray: I move that amendment.
- Number 0151 Senator Rodey: Is there any objection of the adoption of that amendment by the committee (hearing no objection) the amendment is adopted.
- Number 0152 Senator Ray: I move to move the bill out with individual recommendations Mr. Chairman.
- Number 0153 Senator Rodey: The motion is made that HB 2 pass from committee with individual recommendations. Is there any objection to that motion. (hearing no objection) The bill is passed from Committee with individual recommendations. Next I would like to take up HB 473, to change the classification of certain charges to a person, this is the rape bill.
- Number 0159 Senator Anderson: Did we adopt the Committee Substitute?
- Number 0161 Senator Rodey: No sir we did not. The matter was left for the members to consider in the evening.
- Number 0162 Senator Parr: Again I would like this held over because I have not really had time to go through the amendments with the Department of Law. I did go through it last night, and I do have some problems with it. What they are trying to do is go the person with the first offense, under circumstances (sic). I don't have any objection in going

to that whether a defendant used a firearm or a dangerous instrument that causes serious physical injury. (Indisc.) but I am not willing to ...(indisc)....

- Number 0166 Senator Rodey: I understand your position Senator Parr and I presume from previous conversation that you are not being very enthusiastic about the bill.
- Number 0172 Senator Rodey: The title is a little deceiving because the Committee Substitute is not the same title as...
- Number 0174 Senator Ray: As far as 473 either the House or the suggested Substitute, I am not particularly pleased with either one, but I would just assume move it out, either up or down on the floor.
- Number 0182 Senator Rodey: In the mean time, we can...quite frankly we all know there will be a conference committee on this point and I think that as we can maybe come back and talk about a committee position.
- Number 0187 Senator Ray: With that Mr. Chairman I would move that we move the Committee Substitute.
- Number 0187 Senator Rodey: The motion has been made, Senator Parr.
- Number 0187 Senator Parr: I object.
- Number 0188 Senator Rodey: Senator Parr objects. All those in favor of adopting the Senate Committee Substitute and passing the Committee Substitute for 473 from committee, raise your right hand, all those opposed. The bill passes from committee with individual recommendations. (Senators' Ray, Rodey, and Anderson voting to move the committee substitute and Senator Parr voting not to move the committee substitute). Technically the bill is in committee still. Gentlemen we will be called upon a regular basis between now and whenever we adjourn to meet both past bills and consider in some detail measures from the Committees. In the closing days if I could know your schedules and preferences so we can plan committee meetings that will meet with the meetings and members. Do we have a meeting scheduled for this afternoon Mr. Bruce.

Number 0198

Mr. Bruce: No, Mr. Chairman we don't.

Number 0199

Senator Rodey: Do we have any bills that are to be moved today from other committees to us that require immediate attention.

Number 0200

Mr. Bruce: No.

Number 0202

Senator Rodey: Perhaps to be safe we should schedule a meeting for 1:30 p.m. today, is that agreeable with the members that maybe a very short meeting and if for some reason no business does transpire shortly before noon. The Judiciary Committee is recessed until 1:30 a.m.

SENATE RESOURCES COMMITTEE

LETTER OF INTENT

SCS CSHB 2(Res)

Sections 13 - 17 of this bill relate to the settlement of certain claims by the University of Alaska against the State of Alaska, Departments of Natural Resources, Administration, and Revenue.

It is the intent of the Senate Resources Committee in passing out Senate Committee Substitute for Committee Substitute for House Bill 2 (Resources) that the Board of Regents of the University of Alaska develop a plan for distribution of revenues derived from university lands to be submitted to the legislature by January 10, 1983. The Committee intends that in developing this plan the Board consider a policy of reinvesting part of the revenues from university lands located within the boundaries of local governments so as to benefit the people within such communities. The Committee further intends that such a policy give appropriate weight to statewide and other area's needs, while addressing the objective of benefiting communities near revenue-producing university lands.

The Committee further intends that the University and the Municipality of Anchorage negotiate to settle their claims presented in litigation (3AN 79 2801 Civil), Third Judicial District and that the two parties shall report to the legislature by the tenth day of the 1983 session on the results of their discussions.

As originally introduced in the Senate, this bill was accompanied by companion legislation, originally SB 876, which provided funds to implement the Settlement Agreement between the State and the University date March 12, 1982.

The companion legislation, passed as part of the FY 83 budget, provided that \$500,000 in lapsed funds of the University of Alaska be used to conduct research to determine the total dollar compensation due the University as a result of the Settlement Agreement. The funds will be used to employ independent professional fee appraisers to determine the fair market value of certain University-grant lands which have been utilized and/or disposed of by the State at less than fair market value, and to appraise certain state lands which might be conveyed to the University or relinquished to the State; to conduct research on financial transactions involving University grant-lands; and to process the quitclaim deeds necessary to convey clear title to all University-grant lands involved in the settlement.

Specifically, the Department of Law, as recipient of these funds, is to allocate \$110,000 directly to the Department of Natural Resources and the balance of \$390,000 directly to the University of Alaska, Statewide Office of Land Management. The attached budget contains a breakdown use of these funds.

C E R T I F I C A T E

STATE OF ALASKA)
FIRST JUDICIAL DISTRICT) ss

I, EVE FOX, a Notary Public, duly commissioned in and for the State of Alaska, do hereby certify that the foregoing Record of the May 13, 1982 Senate Judiciary Committee proceedings relating to the lands issue HB 2, HB 34, HB 548, HB 637, and HB 473 were recorded by the Senate Judiciary Committee and thereafter was transcribed by the Senate Records Staff under the direction of the Senate.

I further certify that the transcript consisting of pages 1 to 10, both inclusive, is a full, true and correct Record of the proceedings, considering the quality of the tape and the information furnished to me.

I further certify that the Senate Records Staff is not a relative of any of the parties, nor financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 19th day of May, 1982.



A handwritten signature in cursive script, appearing to read 'Eve Fox', written over a horizontal line.

Notary Public, for the State of Alaska
My Commission Expires: My Commission Expires
March 25, 1983



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
Sta. Capitol
Juneau, Alaska 99811

MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

MAY 10, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

Legislation Before Committee:

- HB 678 - "An Act relating to membership in electric and telephone cooperatives."
- HB 668 - "An Act relating to the release of records by the Department of Fish and Game to the Department of Public Safety; and providing for an effective date."
- HJR 77 - Proposing an amendment to the Constitution of the State of Alaska relating to annulment of regulations by the legislature.
- HB 210 - "An Act relating to child custody."
- HB 577 - "An Act repealing provisions relating to justification of the use of force in resisting or interfering with arrest."
- HB 575 - "An Act relating to culpable mental states prescribed as elements of criminal assaults."
- HB 2 - "An Act relating to land; and providing for an effective date."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:10 P.M. Committee members present were: Senators Rodey, Parr, and Anderson. Senators Bennett and Ray were absent.

010 - Call to order.

023 - Chairman Rodey brought HB 678 before the committee.

043 - *Anderson* moved to pass from committee with individual recommendations. There was no objection.

057 - HB 668 was brought before the committee.

077 - Senator Anderson moved to adopt the Senate committee substitute. There was no objection.

088 - Senator Parr moved to pass out of committee with individual recommendations. There was no objection.

109 - HJR 77 was brought before the committee.

131 - Senator Parr moved to adopt the committee substitute. There was no objection.

138 - Senator Anderson moved to pass out of committee with individual recommendations. There was no objection.

208 - Chairman Rodey announced that the committee will be hearing HB 2 in specific sections, dividing the bill up between University lands, homesteading, and seismographic material.

212 - Teresa Hebert, Exxon attorney, testified giving a language suggestion. She asked that the committee not adopt Sec. 11 & 12 of HB 2 which deal with seismographic material.

445 - Chairman Rodey returned HB 2 to the file.

453 - Chairman Rodey brought HB 210 before the committee.

465 - Representative Rogers testified, stating he would rather have mandatory mediation, but he also wished to avoid a fiscal note on the bill.

679 - Senator Parr moved to adopt the committee substitute. There was no objection.

685 - Senator Anderson moved to pass the bill from committee with individual recommendations. There was no objection.

689 - The next item of business was HB 577.

691 - Representative Anderson testified in favor of this bill.

786 - For the record, Senator Ray entered the meeting.

097 - Senator Parr asked the committee to hold the bill over until the next meeting. There was no objection and the bill was laid on the table.

140 - The last item of business was HB 575.

277 - After discussion, Senator Ray moved to pass HB 575 with individual recommendations.

285 - After a brief discussion, Senator Ray withdrew his motion.

298 - Senator Ray moved to add the provisions in SB 535 on to HB 575 as a committee substitute. There was no objection, and the committee substitute was adopted.

306 - Senator Ray moved to pass the committee substitute with individual recommendations. There was no objection.

314 - The meeting was adjourned at 2:20 P.M.

Sec. 38.09.040. PATENT FOR HOMESTEAD ENTRY. (a) [Same]

(1) [Same]

(2) [Same]

(3) clears and prepares for cultivation not less than one-fourth of the land entered if the land is limited to agricultural use except that the commissioner may, in his discretion, substitute a development plan in lieu of the clearing requirement if he determines that clearing is inappropriate..

(4) [Same]

(5) [Same]

[Rest of section the same]



Official Business

Alaska State Legislature

Senate

Office of the President

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

160 12 $\frac{1}{2}$

TO: Senator Rodey
FROM: Senator Kerttula
SUBJECT: Proposed University of Alaska Land Settlement
DATE: April 28, 1982

The proposed land settlement between the State and the University of Alaska involves a considerable portion of properties located in the District I represent.

Specific legislative intent or some other type of assurance requiring the University to reinvest a SPECIFIC DESIGNATED portion of these properties for a capital development program should be included in the settlement agreement. This will prevent the University from bleeding off all these lands to support central administration at the main campus.

JK/gt/bb

MEMORANDUM


State of Alaska

TO: Senator Pat Rodey
Chairman
Committee on Judiciary

DATE: May 10, 1982

FILE NO:

TELEPHONE NO:

FROM: 
Jeff Haynes
Deputy Commissioner
Department of Natural Resources

SUBJECT: Homesites

As mentioned at the Senate Resources Committee hearing last week, the Department does not favor removal of the habitable dwelling and on-site residency requirements for homesites. This program was originally aimed at persons of limited means who were willing to undertake the sweat equity requirements in return for land for which the purchase price was forgiven. Were these requirements eliminated, the competition for homesites would become extremely intense as standard subdivisions parcels would no longer be attractive by comparison. As a result, those originally intended as beneficiaries of the homesite program could easily be squeezed out.

The Department recognizes that the method of homesite disposal, which requires compliance with the sweat equity provisions before patent is issued, makes it impractical to obtain financing for the construction of homesite dwellings. However, many homesite parcels are located sufficiently distant from existing settlements and public services as to render bank financing questionable regardless of title considerations. Moreover, State action to make full AHFC financing available for homesites would tend to dilute the sweat equity requirements of the program, again making it more difficult to reach the intended recipients of the homesite program.

A possible approach which would recognize both the objectives of the program and the existing problems relating to financing would be the offering of State backed loans for the materials necessary to construct the habitable dwelling on a homesite parcel. The labor for constructing the dwelling would still be provided by the homesite recipient. Should you elect to pursue this suggestion, we would recommend that you contact the Department of Commerce & Economic Development to determine the particulars of such a program. We would be pleased to assist you in this matter should it be desired.



Alaska State Legislature

SENATE Resources Committee

POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Official Business

BETTYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI

MEMBERS PRESENT

Senator Fahrenkamp
Senator Fischer
Senator Bradley
Senator Eliason
Senator Gilman
Senator Mulcahy
Senator Sturgulewski

May 6, 1982
8:10 a.m.

Beltz Room
Capitol - 211

Hearing:

CSHB 637 Relating to the regulation of the taking, purchase, or sale of certain fishery resources.

CSHB 2 Relating to land.

CSHB 637

Senator Mulcahy moved the adoption of the Resources Committee Substitute for CSHB 637. He then moved SCSCSHB 637 (Res) with individual recommendations.

CSHB 2

Senator Mulcahy moved that the Commissioner be required to keep all exploration data and its derivations confidential. There was no objection.

Larry Vavra, Union Oil of California, reiterated the possibility of litigation if the seismic amendment is adopted, particularly if the effective date is January 1, 1982, and quoted from Chapter .01 regarding Retroactive Statutes.

Senator Mulcahy stated that he believes the State should share the cost of obtaining the data.

John Katz, Commissioner, Department of Natural Resources, stated that the Department would try to develop a sequence for obtaining the data that would reduce the possibility of litigation.

Jim Dale, Exxon, Alaska Division Attorney, suggested that the State be allowed to obtain raw and first run data on group shoots, but only raw data on proprietary shoots.

Katz suggested an approach that would consist of listing the permutations suggested by Dale and the Department, and allow the Commissioner to use

May 6, 1982

Page 2

those he found necessary to make decisions on a particular lease sale.

Senator Eliason expressed objection to taking the data from the companies without compensation.

Senator Sturgulewski moved the adoption of the short definition of uninterpreted exploration data and asked unanimous consent.

Senator Gilman moved the deletion of the January 1, 1982 effective date, and a roll call vote was taken: Mulcahy, Eliason, and Gilman yea; Fischer, Sturgulewski, and Fahrenkamp nay. So the motion failed.

Senator Mulcahy moved to replace Sections 10 and 11 with the substitute language proposed by the Department, as amended. There was no objection.

Senator Fischer moved the adoption of the revised Sections 12-16 relating to University lands. There was no objection.

Senator Sturgulewski, in addressing the homestead portion of the bill, stated that lands good for agriculture and forestry are generally the best for homesteads, also.

Jeff Haynes, Deputy Commissioner, Department of Natural Resources, stated the intent of the Department is to focus the homestead option on lands with agricultural potential but that do not meet the soil classification standards for true agricultural lands.

Senator Sturgulewski moved that remote parcels be limited to 40 acres in size. There was no objection.

Senator Sturgulewski moved that the habitable dwelling size be increased to 400 square feet. There was no objection.

Senator Sturgulewski moved to increase the occupancy requirement from 35 to 55 months, and a roll call vote was taken: Fischer, Sturgulewski yea; Bradley, Mulcahy, Eliason, Gilman nay. So the motion failed.

Senator Fahrenkamp recessed the meeting at 9:20 a.m. to allow staff to prepare a "cut and paste" version of the Resources Committee Substitute.

The meeting was called back to order at 1:15 p.m.

Senator Eliason moved that the Committee rescind its action on the amendment limiting remote parcels to 40 acres in size. There was no objection.

Senator Fischer moved that a person who has received more than 15 acres of state land be ineligible for land under CSHB 2, and asked unanimous consent.

Senator Rodey proposed an amendment that would enable homesite recipients to obtain financing for dwellings, by deleting the requirement that a dwelling be built before title to the land could be received, and by deleting the 5-year residency requirement.

Senator Fahrenkamp expressed concern over the proposal, as it eliminates the "sweat equity" concept of the bill.

Haynes expressed opposition to the proposed amendment, as it might increase competition for homesites, and not allow the people who want to live and work the land to benefit from the program. He suggested loans only to obtain materials, not for actual construction.

Katz explained that the Department is attempting to work out a method of reimbursing the oil companies for the seismic data. Possibilities are a credit against future royalties or bonuses, or a sufficient capital budget. Fair market value of the seismic information would be determined by an independent appraiser, with a penalty levied against companies who refuse to sell.

Senator Mulcahy moved the adoption of the Resources Committee Substitute for CSHE 2. He then moved SCS CSHE 2 (Res) with individual recommendations.

Senator Sturgulewski moved for the adoption of the Letter of Intent to accompany SCS CSHE 2 (Res).

The meeting was adjourned at 1:45 p.m.



Alaska State Legislature

SENATE Resources Committee

POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Official Business

MEMBERS PRESENT

BETTYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI

Senator Fahrenkamp
Senator Fischer
Senator Bradley
Senator Eliason
Senator Gilman
Senator Mulcahy
Senator Sturgulewski

May 5, 1982
1:40 p.m.

Beltz Room
Capitol - 211

Hearing:

HB 888 Relating to the sale of royalty oil by the State of Alaska to the Tesoro Alaska Petroleum Company.
CSHB 889 Relating to the sale of royalty oil by the State of Alaska to Doyon, Ltd.
CSHB 2 Relating to land.

HB 888

Senator Gilman moved HB 888 with individual recommendations.

CSHB 889

Senator Gilman moved CSHB 889 with individual recommendations.

CSHB 2

Senator Sturgulewski moved the adoption of an amendment changing "him" to "the Commissioner" on page 7, line 3. There was no objection.

John Katz, Commissioner, Department of Natural Resources, stated he had reservations about Senator Bennett's proposed amendment, which would require that land exchanges above 640 acres receive legislative approval. He stated that Bennett's amendment raises a real concern relating to public notification and hearings on proposed land exchanges, but feels this is already covered in the current statute, and that Bennett's concerns can be resolved through proper implementation of the statute.

Katz spoke in support of Senator Anderson's proposed amendment, which would allow the State to grant survey money to municipalities.

Senator Fischer moved the adoption of the Anderson amendment, and Senator Sturgulewski asked unanimous consent.

Marv Halloran, Special Assistant to the Commissioner, Department of Natural Resources, proposed new seismic language that would extend the provision of confidentiality to the analysis, reproduction, and interpretation of data; increase the penalty for breach of confidence to a Class B felony; require that employees who have access to the confidential data post a bond in an amount to be determined by the Commissioner; and include an effective date of January 1, 1982.

Jim Dale, Exxon, Alaska Division Attorney, expressed opposition to the seismic language which states that geological and geophysical data is required in every presale analysis, and to the January 1, 1982 effective date.

Senator Fischer proposed an amendment to delete page 6, lines 26-29, and replace it with "In order to achieve the purposes of this Chapter, the". There was no objection.

Dale explained that because of the value of proprietary data to the company, some may decide to legally challenge any law requiring them to provide the State with such data.

Gene Wiles, Chevron, reiterated Chevron's opposition to the amendment. He urged that it be mandatory that the Commissioner keep the data and its analysis, reproduction, and processing confidential.

Halloran urged support for the January 1, 1982 effective date, stating that the data gathered this past winter is needed by the Department to carry out the upcoming Beaufort lease sale.

The Committee was adjourned at 3:10 p.m. until 8:00 a.m. May 6, 1982.

Alaska State Legislature



SENATE

Resources Committee

POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Official Business

BEITYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI

MEMBERS PRESENT

Senator Fahrenkamp
Senator Fischer
Senator Bradley
Senator Eliason
Senator Gilman
Senator Mulcahy
Senator Sturgulewski

May 3, 1982
1:35 p.m.

Beltz Room
Capitol - Room 211

Hearing:

CSHB 2 An Act relating to land; and providing for an effective date.

John Katz, Commissioner, Department of Natural Resources, presented a proposed amendment that would allow the Department to obtain seismic data from the oil companies. He stated that the data is needed to assess which bidding method to use and to evaluate the bids received, and that because of a low capital budget this year, the Department is unable to purchase the data from the companies. The Department could best utilize raw data run once through the computer. In urging adoption of the amendment, he also urged an effective date of January 1, 1982, which would enable DNR to obtain data from this past winter's exploration.

Jim Dale, Exxon, Alaska Pacific Division Attorney, opposes the amendment, stating that Exxon's geologic and geophysical data forms the basis of its competitive nature, and thus is confidential and proprietary. Exxon proposed an amendment which would allow the State to obtain only raw data and materials necessary to process the data, and would require that the reproduction, analysis, processing, and interpretation of the data must be kept confidential. Dale explained that data run even once through the computer can reveal a company's proprietary stand. He urged stronger penalties for disclosure of the information, and expressed Exxon's opposition to allowing DNR to obtain data gathered prior to the actual effective date of the bill.

Larry Vavra, Union Oil Company of California, expressed opposition to a requirement that the oil companies provide DNR with data run once through the computer, but urged a speedy resolution of the issue, so as to avoid any delay of lease sales.

May 3, 1982

Page 2

Gene Wiles, Chevron, stated that Chevron opposes DNR's proposed amendment in its entirety, and does not think the data will benefit the state. In response to questions raised by Senator Fischer, Wiles stated that he is not opposed to DNR having the raw data, but the processing procedures must be kept confidential and the interpreted data must not be misused.

Beverly Ward, ARCO, stated that ARCO has not taken a strong position on the amendment, but is philosophically opposed to giving its "secrets" away. Ward urged stiff penalties for a breach of confidence, and expressed opposition to a January 1, 1982 effective date. She concluded by emphasizing the complex definitions of "processed data" and "interpreted data".

Merry Tuten, Director of Land Management, University of Alaska, expressed support for the portions of the bill relating to University lands, and also expressed support for Senator Bennett's proposed amendment.

Senator Fahrenkamp stated that HB 2 would be held in Committee until Wednesday to allow further work to be done.

The meeting was adjourned at 3:00 p.m.

Received
5/3/82

Madam Chairman and members of the Committee, my name is Jim Dale and I am here on behalf of Exxon as Division Attorney for the Alaska/Pacific Division in Houston. With me is Theresa Hebert, an attorney in our Anchorage office. As you may know, the Alaska/Pacific Division is responsible for Exxon's onshore and offshore exploration activities in Alaska. Earl Stout, the Alaska/Pacific Division Manager, has asked me to convey his apologies for not being here today to discuss Committee Substitute for House Bill No. 2, however, another critical matter has prevented his attendance. Therefore, I am here on his behalf to address Sections 9 and 10 of this bill, which, as you know, would give the DNR the authority to obtain our geological and geophysical data prior to a lease sale.

This issue is one which is of extreme importance to Exxon. We believe that the geological and geophysical data and information which we acquire, process, and interpret prior to a lease sale form the basis of our competitive position in the lease sale. Exxon considers this data and information so highly confidential and proprietary that very few employees within our own company are permitted access to this information, and then only under very guarded conditions.

In addition, this data is acquired at very substantial costs to Exxon, or some \$15,000-30,000 per mile of seismic shoot onshore.

A typical seismic shoot of 500 miles will cost anywhere from \$7,500,000 to \$15,000,000. This data then must be processed at a sum of approximately \$600/mile to \$1,000/mile.

We oppose, for several reasons, any bill which would require us to provide this data to the DNR prior to a lease sale at very little cost. Before I explain our position in more detail, I would point out that after we acquire a lease, we are required to provide all data associated with the lease to the DNR. We believe that being required to forfeit this data prior to a lease sale jeopardizes the very confidential and proprietary worth of the data to us. Disclosure of this data, whether intentional or unintentional, would destroy the very competitive nature of the bidding system. Second, we believe that such a requirement furthers a policy which we oppose - that is, placing the government in competition with private enterprise rather than relying on the competitive nature of the free market to guarantee the state maximum economic and physical recovery of the resources. Third, this bill would allow the state to avoid paying fair market value for the data. We believe that such legislation would be counter to that provision of the Alaska constitution which provides that "private property shall not be taken or damaged for public use without just compensation." We believe the Alaska Constitution prohibits governmental taking or damage of our geological and geophysical data without just compensation.

However, over the past few weeks, we have had discussions with the DNR in an attempt to accommodate the DNR because of its budgetary constraints which we are painfully aware of in view of the fact that we are subject to the same conditions which have created those constraints.

Those very open and straightforward discussions focused on several major issues. First, the bill as written would require that all persons conducting geophysical exploration on unleased land provide the commissioner access to and copies of all uninterpreted exploration data acquired from these activities. I would point out that this requirement will not just affect oil companies but will affect geophysical companies, which make their livelihood from acquiring and selling this data to third parties.

As written, this bill would require forfeiture of raw field data and processed data, because only interpreted data is excluded. It was this issue which resulted in a fundamental breakdown in agreement with the DNR - that is, what level of data and under what terms we would provide that data to DNR prior to a lease sale. The fundamental difference occurred when it was made clear that DNR wants data beyond our raw field data, or in other words, that data which we consider to be processed and thus highly confidential and proprietary. Keep in mind that raw field data is required at approximately

\$15,000/mile onshore or \$7,500,000 for a typical seismic shoot while it is then processed at a comparably insignificant sum of approximately \$375,000. So, as you can see, the cost of processing, which DNR is trying to avoid, is not the primary reason why we strenuously object to forfeiting our processed data. The major forfeiture, or \$7,500,000, has already occurred if raw field data is provided. It is the intrinsic worth of the data to Exxon which is so important to us.

In this regard, Exxon presented language to the DNR which would authorize the DNR to obtain our raw field data and all associated materials necessary to process and analyze that data. We believe this language represented a substantial compromise from both our legal and corporate position. The DNR found this language unacceptable because it wanted data which is processed.

Second, we believe that the legislation does not provide strenuous enough penalties for the release of this confidential data. The bill would make disclosure of this information subject to the lowest form of misdemeanor, or a Class A misdemeanor. We hardly think the penalty meets the crime. We also believe that this legislative body should not go on record as declaring such an offense a "less serious offense against property interests or a less serious offense against

public administration or order," as a Class A misdemeanor is defined. We believe that the legislature should provide a more adequate penalty for knowing and willful release of this data, which could have devastating effects on free market competition, and on public administration and order.

Third, this bill, as worded, would allow the DNR to acquire data which is being generated under permits issued prior to the effective date of the bill. In our particular instance, we applied for permits to conduct seismic activity believing that we ultimately would not have to turn this data over to the state prior to a lease sale because, in our opinion, the state lacked the authority to require such data. As you know, one of the superior courts of the State of Alaska has agreed with our opinion. To require data generated under those permits will deprive us of the opportunity to decide whether to seek the permit in the first place, knowing that the result of our efforts must be made available to the state. In the spirit of compromise, however, we informed the DNR that we would be willing to provide data generated under existing permits if the bill requires only our raw field data and associated materials necessary to process and analyze that data. Since this bill would require processed data, we must maintain our original position.

We also believe that the bill contains a major oversight. It now provides that all data submitted to the DNR shall be kept confidential. It does not provide the same degree of protection to any reproduction, analysis, processing, or interpretation of that data which the DNR or a third party on behalf of the DNR might prepare. Unless analyses or interpretations are also kept confidential, our data has little worth to us.

This bill would also deprive the commissioner of flexibility if he later determines, as we and other companies have maintained, that a pre-sale evaluation based on geological and geophysical data is not necessary in order to choose a proper bidding method. As presently drafted, the bill requires the commissioner to obtain copies of all uninterpreted data from persons conducting geological and geophysical operations on unleased state land. We believe this mandatory requirement should be removed. First, taking the current situation as an example, if the commissioner is required to obtain data from all persons currently conducting seismic surveys on the North Slope, he will obtain approximately 10 times the data that Exxon will obtain and, logically, will require a staff much larger than the staff which we have devoted to geophysical operations. Without flexibility, we believe that the DNR will have to create an enormous staff to handle this workload. Second, we believe that the DNR may some day, and soon we hope, reassess its position in light of the unfortunate

experiences which led the DOI to move away from pre-sale evaluations based on G&G data. Without flexibility, the commissioner is not free to make such a decision.

In conclusion, we would sincerely appreciate the opportunity to contribute draft language which incorporates what we understand to be the DNR's position as well as our position, except for our fundamental disagreement. This language would allow the DNR to obtain our raw field data and all associated materials necessary to process and analyze that data. As I said before, we believe that this represents a substantial compromise from both our legal and corporate position in view of the intrinsic worth of this data to us and also in view of the substantial sums that we expend to acquire this data.

In addition, I would be glad to provide you additional language which incorporates what we consider to be sufficient penalties for release of this data.

Madam Chairman and members of the Committee, we thank you for the opportunity to express our views on Sections 9 and 10 of Committee Substitute for HB 2. Again, for the reasons cited above, we would ask this committee not to approve Sections 9 and 10 of the bill in its current form.



Alaska State Legislature

SENATE Resources Committee

Official Business

BETTYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI

POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

TO: Senator Fahrenkamp
Chairman

DATE: 5/5/82

FROM: Resa King *R.K.*
Staff

RE: Committee Action on
CS HB 2(Fin) am

The following reflects my notes on the Committee's action this afternoon on CS HB 2(Fin) am:

- ✓ 1. Approved changing "him" to "the commissioner"
- ✓ 2. Approved Senator Anderson's language on municipal lands.
- ✓ 3. A proved on the first page of DNR's substitute language:
Delete "(a) of this section . . . managing resources underlying state land"
Inserted "this chapter" after "the purposes"
The first part would read "(aa) In order to achieve the purposes of this chapter the commissioner may . . ."
- ✓ 4. Approved on the first page of DNR's substitute language, mid-page:

Delete: "Upon request of the persons supplying the information"

Other language suggestions not acted upon.

~~⊗~~ First page of DNR's substitute language, toward the bottom, dealing with penalties, a suggestion similar to the following:

"Whenever any employee of the State reveals information in violation of this section, the permittee who supplied such information to the department, and any person to whom such permittee has sold such information under promise of confidentiality, may commence a civil action for damages in the appropriate superior court of the state of Alaska against the State. In any action commenced against the State pursuant to this section, the State may not raise as a defense any claim of sovereign immunity or any claim that the employee who revealed the confidential information which is the basis of such suit was acting outside the scope of his employment in revealing such information."

There was a question raised about the effective date being January 1, 1982. *1. 1982 5. 1982*
5. 1982 6. 1982
May Feb. 1982

- ③ Under DNR's substitute language "short definition" language was suggested similar to the following:

"It is also the intent of this definition that a permittee shall provide only raw field data and associated material necessary to locate, identify, analyze or interpret the field data in the event of a proprietary survey."

- 4. University of Alaska lands settlement language is in the folders.

- 5. Homestead language changes are in the folders.

NO motion

NO motion

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE:

March 26, 1982

The Honorable Nels Anderson
Alaska State Senate
Pouch "V"
Juneau, Alaska 99811

Re: Financial Assistance for Municipal
Land Disposal Programs

Dear Senator Anderson:

Commissioner Katz has asked me to furnish you with language that would allow all municipal lands to qualify for state financial assistance for disposal programs. This Department will recommend the change in our land disposal presentation to the Legislature. We would be pleased to support it if it is introduced as legislation.

The required bill would state:

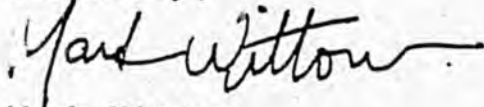
"AS 38.04.021(a) is amended to read:

Sec. 38.04.021. Disposal of municipal [GRANT] land [ENTITLEMENTS]. (a) A municipality may apply for financial assistance for the execution of a land disposal program [OF GENERAL GRANT LAND ENTITLEMENTS RECEIVED FROM THE STATE UNDER AS 29.18.201 - 29.18.213] by submitting a request to the commissioner for inclusion in the request submitted to the legislature under AS 38.04.020(e). A municipality may request financial assistance for expenses of surveying land, designing subdivision plats, installing improvements required by municipal ordinance or regulation of the local platting board, and other reasonable direct costs of land disposal."

The Honorable Nels Anderson
March 26, 1982
Page 2

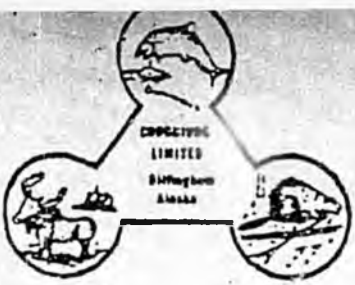
Please let me know if you or your staff have any questions.
I would be please to provide further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Mark Wittow". The signature is written in dark ink and is positioned above the typed name.

Mark Wittow
Special Assistant
to the Commissioner

cc: Tom Hawkins, Choggiung, Ltd.



CHOGGING LIMITED

P.O. BOX 247X • DILLINGHAM, ALASKA 99576 • PHONE (907) 842-5218
196

March 8, 1982

John Katz, Commissioner
Dept. of Natural Resources
Pouch M
Juneau, Alaska 99811

Dear John:

Thanks for the response on the survey monies for land disposal issue. I suppose that the recollection of your staff is correct as far as legislative intent of that provision of HB 31 is concerned. I guess that you realize that your answer does not correct the legislature's oversight as it pertains to communities in this neck of the woods.

You state that the law may not expressly exclude other municipalities but the legislature's intent effectively establishes a prioritization that leaves us at the long end of a short line. Do we amend the legislation or the intent? What is the preferred mechanism for including those municipalities that do not have on HB 133 land entitlement.

This issue has been discussed with rural legislators who support our contention that all municipalities should qualify even if the source of their land base is not HB 133. Please advise me how to effect this modification.

I have discussed the matter with Community and Regional Affairs and they will support the adjustment that you deem most appropriate. Senator Nels Anderson has also indicated support conceptually but has requested me to determine what action is required. This strikes me as a housekeeping matter but I would like your perception on the proper path on which to proceed.

Sincerely,

Tom Hawkins
Landman

TH:tms

cc: Larry Kimball
Senator Nels Anderson
Representative Joe Chuckwuk
Mayor DuWayne Johnson

AS 38.05.180 is amended by adding a new subsection to read:

(aa) In order to achieve the purposes of (a) of this section, to conduct the pre-sale analysis required by (f) of this section, and to assist the department in knowledgeably managing resources underlying state land, the commissioner may require persons conducting geophysical exploration for oil or gas resources or drilling a stratigraphic test well on unleased state land to provide him with access to and copies of all uninterpreted exploration data acquired from these activities. The commissioner shall pay all reasonable costs of reproducing the data. The commissioner shall keep all exploration data submitted to the department under this subsection confidential in accordance with AS 38.05.035(a)(9)(C). All employees, agents or contractors of the department who have access to exploration data submitted under this subsection are subject to AS 11.56.860. All agents or contractors of the department who have access to exploration data submitted under this subsection shall execute and post a bond in an amount to be determined by the commissioner. The bond shall be to the benefit of the State and the permittee.

AS 38.05.180(aa) added by Sec. ___ of this Act applies to uninterpreted data acquired from geophysical surveys which were commenced on unleased state lands on or after January 1, 1982.

Alaska State Legislature

SENATOR
DON BENNETT
P.O. BOX 2801
FAIRBANKS, ALASKA 99707



LEGISLATIVE ADDRESS

POUCH V - STATE CAPITOL
JUNEAU, ALASKA 99811

5/3/82
received
12:20pm

Senate

May 3, 1982

Senator Bettye Fahrenkamp
Senate Resources Committee
Beltz Room

Dear Bettye:

As you know, the state is involved in numerous land swaps with other organizations. In many instances these exchanges involve considerable acreage and often have an impact on public policy. Unfortunately, these land swaps are not now subject to legislative review in most cases. To correct that situation, may I ask you and the Senate Resources Committee to consider including the enclosed language in HB 2 when the committee takes up that bill. Thank you for your consideration.

Best Regards,

A handwritten signature in cursive script that reads "Don Bennett".

Senator Don Bennett

DB/jk

2

STATE OF ALASKA
THE LEGISLATURE

POUCH - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 30, 1982

SUBJECT: Legislative approval of land exchanges
(Work Order No. 12-2747)

TO: Senator Don Bennett
Co-Chairman, Senate Finance Committee

FROM: Richard A. Bradley *B*
Legislative Counsel

You have requested a bill which requires legislative review and approval of land exchanges between the state and any other party.

In preparing this work order for you, I made a computer search of the Alaska Statutes data base to determine the sections involved in "exchange" with "land". Some 38 different sections in the Alaska Statutes have these words within the same sentence. After discussing the matter with Dick Robinett on your staff, I prepared the enclosed bill not dealing with land exchanges involved in state programs where the exchange seems collateral to the main program, e.g., highway acquisition [AS 19.05.070], management of the Mendenhall Wetlands [AS 16.20.034], or management of the Trading Bay State Game Refuge [AS 16.20.038].

While I have not limited the authority of the state under AS 29.18.290 - 29.18.210, [municipal exchanges] I recognize that these sections come close to those you are concerned about. I understand that these authorities are carried over into the new municipal code.

Similarly I have not amended those involving exchanges after a natural disaster where land is rendered useless or less useful [AS 38.05.348] or where necessary to effectuate a flood control project [AS 38.05.349].

A copy of the computer search is included for your information.

Without the enactment of AS 38.50, the Department of Natural Resources would be without authority to make any land exchanges not collateral to another program. There is, of course, no constitutional requirement that the legislature grant this authority to the executive. As the Supreme Court said in State v. Lewis, 559 P.2d 630 (Alaska 1977), no Act of Congress requires "that a state dispose of its lands at all". (599 P.2d at 637). No provisions of the Alaska Constitution require that the state dispose of its lands.

There are, however, impediments to the exercise of this power by the legislature. The direct grant (or sale, lease, exchange, etc.) by the legislature of land to individual members of the public, if sought to be done in all cases where the state is transferring land, would undoubtedly be a violation of the prohibition against special and local legislation. Article II, Sec. 19, Alaska Constitution. [It would also very likely violate the separation of powers doctrine to the extent that a "legislative veto" was involved (requiring the executive to submit for legislative approval items normally within the executive power). Because the special and local legislation prohibition is more narrowly on point and seems dispositive of the basic constitutional policy question and because of the limitations of time, I have ignored the separation of powers arguments in these comments.]

By analogy, note that the power to grant divorces is historically a legislative power, not a judicial power. The reason why most modern legislatures may not exercise the power is because almost all states have prohibitions against the exercise of special and local acts "if a general act can be made applicable".

For these same reasons, the approval by the legislature of each individual transfer of land from the state would violate the requirement against special and local legislation because general legislation establishing procedures for the transfer of the title to land "can be made applicable".

On the other hand, I believe that the Alaska Supreme Court has indicated that there is no violation of the local and special law prohibition by that unique situation where the size of the transfer or exchange is not provided for under general law or as a matter of policy should have legislative approval. The so-called Cook Inlet transfer raised these questions and the Court concluded that the transfer did not violate the special and local provisions. State v. Lewis, supra, starting at 642.

The Court held that Chapter 19, SLA 1976, the Act that approved the Cook Inlet transfer was "a general act, addressing a matter which is unique, but of statewide concern".

Ample evidence in the record supports our conclusion that Chapter 19, SLA 1976 is designed to facilitate statewide land use management and to resolve a host of pressing legal issues arising out of the context of ANSCA. The conflict between [the] Cook [Inlet Regional Corporation] and the government concerning the adequacy of withdrawals for Native selection implicated both future state selections and existing state patents. Clouds on title could have resulted in protracted litigation and impaired effective planning for a variety of state needs.

State v. Lewis, supra, at 643.

The case approved the relatively individualized legislative action in the Cook Inlet transfer; the language of the Court is clear enough, however, that a more generalized transfer, if it does not implicate the significant state issues found in the Cook Inlet case, might well not survive judicial scrutiny.

The logic of these concerns in the context of the legislation you requested seems to be this: a requirement of legislative approval for the exchange of state land for other lands will be upheld if broad policy questions are raised and addressed in the legislation.

The reciprocal of this rule is that legislative approval of individual exchanges between the state and anyone else of insignificant amounts of land or perhaps of more significant

Senator Don Bennett
Page 4
March 30, 1982

exchanges not presenting complex policy issues may be held to violate the requirement against special and local legislation.

It is for these reasons that the bill has been drafted to require legislative approval of exchanges involving more than 640 acres. I would prefer that the threshold be higher but I pegged it at that low a point because your request had no threshold stated.

And having provided you with this advice, we will, of course, provide you with a bill that has no thresholds, if you wish. Such a bill would be in my view clearly unconstitutional.

If I may assist further, please advise.

RAB:ljb

Enclosures

SEARCH - QUERY
0001-EXCHANGE WITH LAND

S13.16.410	DOCUMENT=	1 OF	38
S13.26.280	DOCUMENT=	2 OF	38
S16.20.034	DOCUMENT=	3 OF	38
S16.20.038	DOCUMENT=	4 OF	38
S18.26.050	DOCUMENT=	5 OF	38
S19.05.070	DOCUMENT=	6 OF	38
S19.05.100	DOCUMENT=	7 OF	38
S19.22.020	DOCUMENT=	8 OF	38
S19.27.050	DOCUMENT=	9 OF	38
S29.18.030	DOCUMENT=	10 OF	38
S29.18.209	DOCUMENT=	11 OF	38
S29.18.210	DOCUMENT=	12 OF	38
S30.15.040	DOCUMENT=	13 OF	38
S35.20.030	DOCUMENT=	14 OF	38
S38.05.030	DOCUMENT=	15 OF	38
S38.05.348	DOCUMENT=	16 OF	38
S38.05.349	DOCUMENT=	17 OF	38
S38.50.010	DOCUMENT=	18 OF	38
S38.50.020	DOCUMENT=	19 OF	38
S38.50.030	DOCUMENT=	20 OF	38
S38.50.040	DOCUMENT=	21 OF	38
S38.50.050	DOCUMENT=	22 OF	38
S38.50.060	DOCUMENT=	23 OF	38
S38.50.070	DOCUMENT=	24 OF	38
S38.50.080	DOCUMENT=	25 OF	38
S38.50.090	DOCUMENT=	26 OF	38
S38.50.100	DOCUMENT=	27 OF	38
S38.50.110	DOCUMENT=	28 OF	38
S38.50.120	DOCUMENT=	29 OF	38
S38.50.130	DOCUMENT=	30 OF	38
S38.50.140	DOCUMENT=	31 OF	38
S38.50.150	DOCUMENT=	32 OF	38
S38.50.160	DOCUMENT=	33 OF	38
S38.50.170	DOCUMENT=	34 OF	38
S38.95.050	DOCUMENT=	35 OF	38
S38.95.060	DOCUMENT=	36 OF	38
S43.80.015	DOCUMENT=	37 OF	38
S45.55.130	DOCUMENT=	38 OF	38

0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the exchange of state land and
7 interests in state land by the commissioner of natural
8 resources."

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

0 * Section 1. AS 38.50.040 is amended to read:

1 Sec. 38.50.040. LAND SUBJECT TO EXCHANGE. Except as otherwise
2 provided in this chapter, the director is authorized to convey for pur-
3 poses of a single exchange not to exceed 640 acres of [ANY] state land
4 or an interest in land regardless of the authority under which the land
5 or interest was obtained by the state. The conveyance of university
6 land shall be approved in the manner prescribed in AS 38.05.030.

7 * Sec. 2. AS 38.50.050 is amended to read:

8 Sec. 38.50.050. CONVEYANCE OF MINERAL RIGHTS. Subject to the
9 requirements of this chapter, the director is authorized to exchange
0 mineral rights in not to exceed 640 acres of state land to the extent
1 that the conveyance is authorized by the state constitution and appli-
2 cable federal law. The director may not exchange or receive the surface
3 estate of land or the mineral rights in it, one without the other,
4 unless the separation of estate is necessitated by a prior separation of
5 ownership or by restrictions in applicable law, or the director other-
6 wise finds that the conveyance or receipt of the surface or mineral
7 estates, one without the other, is necessary to achieve a significant
8 public purpose.

Alaska State Legislature



SENATE Resources Committee

Official Business

BETTYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY TO:
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI

Bettye Fahrenkamp
Chairman

DATE: 5/5/82

POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

FROM: Resa King
Staff

RK.

RE: CS HB 2 - Relating to
to Land - Seismic Section

Attached is a copy of the Department of Natural Resources suggested substitute language for the seismic portion of the bill.

In conversation with Exxon employees the following changes are requested:

First sentence, after "In order" delete "to achieve the purposes of (a) of this section, to conduct the pre-sale analysis required by (f) of this section, and"

They stated if this language remained that it would allow for one more avenue to challenge a lease sale.

Under penalties they requested language be added to be consistent with the OCS Lands Act:

"Whenever any employee of the State reveals information in violation of this section, the permittee who supplied such information to the department, and any person to whom such permittee has sold such information under promise of confidentiality, may commence a civil action for damages in the appropriate superior court of the state of Alaska against the State. In any action commenced against the State pursuant to this section, the State may not raise as a defense any claim of sovereign immunity or any claim that the employee who revealed the confidential information which is the basis of such suit was acting outside the scope of his employment in revealing such information."

Under the short definition of exploration data they would like to see the following language added:

"It is also the intent of this definition that a permittee shall provide only raw field data and associated material necessary to locate, identify, analyze or interpret the field data in the event of a proprietary survey."

There was also some discussion regarding the language on the first page, of the substitute language, mid-page, "Upon the request of the persons supplying the information". The discussion centered around the need for this language and why not just have the Commissioner keep the data confidential?

A copy of the Attorney General's opinion referenced in Commissioner Katz's testimony was requested. I have been informed that there is not an official written Attorney General's opinion on the subject of the need for seismic data for pre-sal' analysis.

The personnel from Exxon did supply a copy of a January 23, 1980 opinion authored by Tom Koester which addressed the issue. I would call your attention to page 5, top of the page. I have checked with the author of the memorandum and have been informed that there has not been an update to this memorandum.

Also, attached is a copy of our Legal Counsel's opinion on the term "uninterpreted date".

Attachments

MEMORANDUM

State of Alaska

TO: Senator Bettye Fahrenkamp
Chairman, Senate Resources

DATE: May 5, 1982

FILE NO:

TELEPHONE NO:

FROM: Mary Halloran *M. Halloran*
Special Assistant
to the Commissioner
Natural Resources

SUBJECT: Substitute language for
CSHB 2 (Fin) am,
Secs. 10 and 11 (seismic)

In response to your request, we have prepared substitute language for Secs. 10 and 11. The substitute language differs from the current version of HB 2 in the following:

1. It provides that the Commissioner's authority to require data is permissive rather than mandatory by changing the word "shall" to "may" in the first sentence.
2. It provides that not only the exploration data, but also any reproduction, analysis, processing, or interpretation of such data shall be kept confidential upon the request of the persons supplying the data. This change makes it explicit that the confidentiality provision applies to generated or derived material.
3. It provides a penalty of not more than \$50,000 or imprisonment for not more than 10 years, or both, for the disclosure of such data by any person, employee, agent or contractor of the State. This change increases the penalty provision from a Class A misdemeanor (one year and \$5,000 fine) to that equivalent to a Class B felony.
4. It provides that agents or contractors of the department who have access to exploration data or derived information post a bond to the benefit of the State and the permittee.
5. It provides that the provisions of the subsection apply to uninterpreted data acquired from geophysical surveys commenced on unleased state lands on or after January 1, 1982.

At your request, we are also providing for the Committee's consideration two definitions of exploration data, a long definition and a shorter one. We would prefer that the longer definition not be adopted by the Committee as we have not had sufficient time to extend the courtesy of review of the language to all members of industry. It would be our intent, however, to propose the longer definition as implementing regulation for this subsection, thus affording industry the opportunity to review and comment on its highly technical content.

Attachments

sk 10
SUBSTITUTE LANGUAGE FOR CSHB 2 (Fin) am,
Sec. 10 and Sec. 11

Sec. 10. AS 38.05.180 is amended by adding a new subsection to read:

(aa) In order ~~to achieve the purposes of (a) of this~~
~~section, to conduct the pre-sale analysis required by (f)~~
~~of this section, and to assist the department in knowledgeably~~
~~managing resources underlying state land,~~ *In Order To Achieve the purposes of*
this Chapter the commissioner may
require persons conducting geophysical exploration for oil
or gas resources or drilling a stratigraphic test well on
unleased state land to provide him with access to and copies
of all uninterpreted exploration data acquired from these
activities. The commissioner shall pay all reasonable
costs of reproducing the data. ~~Upon request of the persons~~
~~supplying the information,~~ The commissioner shall keep
confidential all exploration data submitted to the department
under this subsection and any reproduction, analysis, processing,
or interpretation of such data prepared by the department or
any third party on behalf of the department which is based
in whole or in part upon such data. Notwithstanding
AS 11.56.860(c), any person, including any employee, agent
or contractor of the State, who knowingly and willfully
reveals any data or information required to be kept
confidential under this subsection shall, upon conviction,
be punished by a fine of not more than \$50,000 or by
imprisonment for not more than 10 years, or both. All
agents or contractors of the department who have access
to exploration data or information derived from the data
submitted under this subsection shall execute and post a

bond in an amount to be determined by the commissioner.
The bond shall be to the benefit of the State and the
permittee.

~~Debate~~

Sec. 11. AS 38.05.180(aa) added by Sec. 10 of this
Act applies to uninterpreted data acquired from geophysical
surveys which were commenced on unleased state lands on or
after January 1, 1982.

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110
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4.

Short definition of exploration data.

moved gk

As Unintegrated

↳ Exploration data means all field data which have been initially processed and are ready for geologic and geophysical analysis, and associated material necessary to locate, identify, analyze, or interpret the field data. It is the intent of this definition that the permittee shall provide data which corresponds to the data which a geophysical contractor would provide participants in a group seismic survey.

Definition of exploration data.
(long version)

"Exploration data" means all field data which have been initially processed and are ready for geologic and geophysical analysis, and associated material necessary to locate, identify, analyze, or interpret the field data. This includes but is not limited to the velocity spectra, final common depth point stack seismic record section, navigation tapes, shot point location base map, field or surveyor's notes, migrated sections, observed gravity values with locations, magnetic total intensity values with locations, and checkshot surveys from stratigraphic test wells. It is the intent of this definition that the permittee shall provide data which corresponds to the data which a geophysical contractor would provide participants in a group seismic survey.

(A) Strike the last sentence of Section 1 and substitute the following language:

"Any person, including any employee, agent or contractor of the State, who knowingly and willfully reveals any data or information required to be kept confidential by this section shall, upon conviction, be punished by a fine of not more than \$50,000, or by imprisonment for not more than 10 years, or both."

(B) I recommend also that the proposed section be amended to allow for a civil action for damages against the State. This amendment would be consistent with the OCS Lands Act and would also provide greater incentive for the State to take positive steps to assure that its employees do not reveal confidential information:

"Whenever any employee of the State reveals information in violation of this section, the permittee who supplied such information to the department, and any person to whom such permittee has sold such information under promise of confidentiality, may commence a civil action for damages in the appropriate superior court of the state of Alaska against the State. In any action commenced against the permittee pursuant to this section, the State may not raise as a defense any claim of sovereign immunity or any claim that the employee who revealed the confidential information which is the basis of such suit was acting outside the scope of his employment in revealing such information."

Exploration management does not support any legislation which would give the State the right to access geological and geophysical data acquired by a permittee on unleased land because of the potential adverse impact on our competitive position on unleased acreage should that information be released (whether unintentionally). However, Exploration management will not oppose such legislation if the legislation provides (1) that the Commissioner may access uninterpreted and unprocessed data only and (2) that such legislation is not retroactive. Exploration management also strongly believes that the legislation should contain the penalties proposed herein and should also grant the right to sue the state for civil damages. However, should the Legislature believe that a \$100,000 fine and a potential 1 year imprisonment (which would still be only a misdemeanor since a misdemeanor is a crime for which a sentence for a term of more than 1 year may not be imposed) would serve as an appropriate deterrent, our management would support such a measure as an acceptable compromise.

TO: Geoffrey Haynes
Deputy Commissioner
Department of Natural Resources

DATE: January 23, 1980

FILE NO: J-66-734-79

TELEPHONE NO: 465-3684

FROM: AVRUM M. GROSS
ATTORNEY GENERAL

SUBJECT: Oil & Gas Leasing Schedule

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

You requested answers to several questions relating to oil and gas leasing. To comport with the time frame within which you needed answers to those questions, we advised you verbally. This memorandum is to memorialize those answers.

"1. Are there any limitations in the oil and gas leasing law provisions relating to the leasing schedule against advancing entry on the schedule to an earlier date?"

In general, there are such limitations. In a January 16, 1980 Opinion (our file J-66-539-79) we pointed out that AS 38.05.180(c) appears to preclude advancing sales once a proposed oil and gas leasing program has been submitted. See Opinion, pp. 3-4.

In the context of the transitional schedule authorized by section 7, chapter 155 SLA 1978, however, the result is not as clear. All that is required under the transitional provision is that all areas to be leased in 1979 through 1983 be covered in the proposed program submitted to the First Session of the Eleventh Legislature. Leases issued in 1979, 1980 and 1981 would be valid if included in that program. An argument might be made that an area listed for 1981 could be leased in 1980, without the leases issued being ruled invalid, on the ground that the legislature did not tie lease validity to the sale occurring as scheduled.

However, we believe the intention of the legislature in the provisions requiring the submission of a five-year oil and gas leasing schedule was that there be sufficient prior notice of anticipated oil and gas lease sales to allow thorough public comment and discussion prior to leasing. Advancing a lease sale would be counter to this intent. For this reason, and because lease invalidity (or even the threat thereof) would diminish industry interest in a given

sale, it is our opinion that lease sales should not be advanced during the transitional years (1979-1981) without express legislative authorization.

"2. What, if any, legislative history is there on AS 38.05.137? Do you believe that this section is completely open-ended regarding subject matter contained in oil and gas cooperative leasing agreements other than constitutional limitations?"

There is very little legislative history on AS 38.05.137. What little legislative history there is suggests that the statute is open-ended. AS 38.05.137 was part of SB 225, enacted as chapter 30 SLA 1964. SB 225 was introduced at Governor Egan's request. His January 31, 1964 transmittal letter to the legislature included a January 30, 1964 memorandum describing the purposes of the bill, including the proposed new section, AS 38.05.137. That purpose was described as follows: "Section 3 adds a new section, AS 38.05.137 which provides that the Commissioner of Natural Resources is authorized to enter into cooperative mineral leasing agreements with the United States regarding lands which are the subject of a title dispute between Federal and State authorities and further provides that any such lease need not conform to the provisions of state law applicable to state leases issued under the authority of AS 38.05." (Emphasis added.) (For ease of reference, copies of Governor Egan's transmittal letter and memorandum are attached.) Looking to introductory executive messages is an accepted method of determining legislative intent, Homer Electric Ass'n, Inc. v. City of Kenai, 423 P.2d 285 (Alaska 1967), and it appears to have been Governor Egan's intent to except leases on disputed lands from all provisions of AS 38.05.

Perhaps more importantly, that is what the literal language of the statute provides:

The commissioner is authorized to enter into a cooperative mineral leasing agreements with the United States regarding lands which are the subject of a title dispute between federal and state authorities. Any such lease need not conform to the provisions of state law applicable to state leases issued under the authority of this chapter.

(Emphasis added.) Under the literal language of the statute, the commissioner is given broad discretion in entering into cooperative agreements with the federal government for the leasing of lands which are the subject of a title dispute

between the state and the federal government; that discretion appears bounded only by constitutional limitations. As a policy matter, of course, the commissioner might attempt to include in any such cooperative agreement terms and conditions which would permit leases issued to conform to the chapter, AS 38.05. However, this is not a legal requirement under the statute; the statute expressly excuses leases issued pursuant to a cooperative agreement from other provisions of the chapter.

"3. Does AS 38.05.180 permit the Commissioner to specify that cash bonus bids be paid in installments? (e.g., 20% per year for 5 years)."

At the outset, we note that AS 38.05.180(f)(1)-(7), all of which require a "cash bonus bid," does not specify how the cash bonus must be paid to the state. The statute does provide (in part) that "[t]he commissioner may issue oil and gas leases on state land to the highest responsible qualified bidder determined by competitive bidding under regulations adopted by the commissioner." (Emphasis added.) AS 38.05.180(k) provides that "[t]he commissioner shall define all terms and adopt all regulations necessary for a reasonable understanding and evaluation of a particular bidding method for the public announcement of the terms of proposed sale employing that method." (Emphasis added.) Finally, AS 38.05.180(a)(1)(A)-(B) is a legislative finding that the people of Alaska have an interest in the development of the state's oil and gas resources to "maximize the economic and physical recovery of the resources" and "maximize competition among parties seeking to explore and develop the resources."

Reading these provisions together, it would seem permissible for the commissioner to adopt a regulation providing that cash bonuses are to be paid in installments. In Kelly v. Zamarello, 486 P.2d 906 (Alaska 1971), regulations governing competitive bidding for oil and gas leases under AS 38.05.180 (prior to its amendment in 1978) were challenged. Specifically, plaintiffs urged that the commissioner's interpretation (by regulation) of the term "bonus" in the statute was inconsistent with the legislative enactment. The court held that it should not examine the content of the regulations to judge their wisdom but, where the regulations were adopted in accordance with statutory procedures and it appeared that the legislature intended to commit the matter forming the subject of the regulation to the discretion of the agency, the inquiry should be limited to whether the regulations were consistent with and reasonably necessary to carry out the purposes of the statutory provisions conferring

rule-making authority and then whether the regulations were reasonable and not arbitrary.

The regulations in Kelly v. Zamarello, supra, defined the word "bonus" in AS 38.05.180(a) as a cash bonus as opposed to a combination of cash and additional royalty. The court noted that the legislature had committed the type of bonus which would be accepted to the discretion of the commissioner. It also noted that ". . . a reservation or a payment of a part or percentage of production under a lease which is to continue throughout the life of the lease is regarded as "royalty," and a sum certain to be paid in cash or out of production is regarded as "bonus." "Kelly v. Zamarello, supra, at 913, quoting Griffith v. Taylor, 291 S.W.2d 673, 676 (Tex. 1956) (emphasis added by Alaska Supreme Court).

Under that definition of "bonus," a definition which the Alaska Supreme Court found neither unreasonable nor arbitrary, no particular method of payment is specified. While the precise question you have asked was not addressed in that case, the court did state:

Similarly, it is not unreasonable for the Commissioner to determine that it is in the state's best interest to receive compensation for the leases immediately upon the award of the lease, rather than to wait for uncertain sums to arrive in the form of premium royalties. Plaintiffs would have this court substitute its judgment on the merits of cash bidding, but this we will not do.

Kelly v. Zamarello, supra, at 912. If it is not unreasonable for the commissioner to determine that a sum certain should be received immediately upon the award of the lease, it would seem not unreasonable for the commissioner to determine that the sum certain should be received in five annual installments. This seems particularly true in light of the legislative findings that maximizing the economic recovery of the resources and maximizing competition among parties seeking to explore and develop those resources is in the public interest.

For the foregoing reasons, we believe it would be permissible for the commissioner to specify that cash bonus bids were to be paid in installments. Such a specification should be by regulation, as it would represent a policy formulation, see Kelly v. Zamarello, supra, at 909, under what the Alaska Supreme Court has described as "the commissioner's broad authority" concerning competitive bidding procedures. Champion Oil Co. v. Harbert, 578 P.2d 961, _____ (Alaska 1978).

"4. In Section 38.05.180(f), it is stated that 'following a pre-sale analysis, the Commissioner may choose at least one of the following leasing methods'. What constitutes a pre-sale analysis for purposes of law?"

There is no definition of "pre-sale analysis" in the statute, and nothing in the way of legislative history to indicate precisely what the legislature meant by that term. It appears, however, that the pre-sale analysis contemplated by the legislature is a procedural safeguard to ensure that the state receives the maximum return for its oil and gas resources. We believe the legislature contemplated that the commissioner would evaluate a number of variables (e.g., geologic prospects, including the probability of discovering oil and gas in paying quantities, projected market factors, financial condition of the industry, the state's economic outlook, etc.) in an attempt to maximize the state's return on its resources. The legislature left the details of that analysis to your department's expertise.

It is obvious that the number of variables, coupled with the length of time for which projections must be made (i.e., ten years from lease sale to producing status plus the life of the field), makes such an analysis problematic at best. Given this reality, should your "pre-sale analysis" be challenged in court, the inquiry would not be directed at the precise result of that analysis (i.e., the precise mix of bidding systems selected); rather, the inquiry would be directed to determining whether the analysis performed provided a reasonable basis for the ultimate decision reached.

For example, in Moore v. State, 553 P.2d 8 (Alaska 1976), the Kachemak Bay oil and gas lease sale was challenged on the ground that the Director of the Division of Lands failed to determine that the sale would best serve the interest of the state, as required by AS 38.05.035(a)(14). In holding that this question was judicially reviewable, the court stated:

The legislative procedural directive of AS 38.05.035(a)(14) requires of the Director an independent, recent evaluation of a proposed sale. Although he is not expressly obligated to make a formal written finding, he must at a minimum establish a record which reflects the basis for his decision. 20/

20/ The purpose of this record is not to enable the court to undertake an elaborate reconsideration of the substantive merits of the Director's decision at some later date. Under the constitutional principles discussed previously, this court has neither the authority nor competence to decide whether the public interest is "best served" by a proposed disposition of land. Nonetheless, a limited review of the Director's decision would be available simply to ensure that it was not arbitrary, capricious, or prompted by corruption. A record is necessary to facilitate this check, as illustrated by an earlier decision involving review of another discretionary executive decision. Mobil Oil Corp. v. Local Boundary Comm'n, 518 P.2d 92, 98-99 (Alaska 1974), was a challenge to a decision of the Commission to authorize incorporation of the North Slope Borough. We said (emphasis added):

[The] Commission has been given a broad power to decide in the unique circumstances presented by each petition whether borough government is appropriate. Necessarily this is an exercise of delegated legislative authority to reach basic policy decisions. Accordingly, acceptance of the incorporation petition should be affirmed if we perceive in the record a reasonable basis of support for the Commission's reading of the standards and its evaluation of the evidence.

See also Jager v. State, 537 P.2d 1100 (Alaska 1975); Swindel v. Kelly, 499 P.2d 291 (Alaska 1972).

553 P.2d at 35-36.

Applying the rationale of Moore v. State, supra, to the pre-sale analysis question, it is obvious that the legislature has given the commissioner broad discretion in choosing one or more of the authorized leasing methods. As a procedural safeguard, he is required to make a "pre-sale analysis" before selecting one or more of the methods authorized. A judicial review of his decision will not address the merits of that decision so much as the record developed as a part of the analysis. While we have only limited familiarity

with the technical details of the analysis performed prior to the recent joint federal-state Beaufort Sea oil and gas lease sale, we believe it was the type of analysis contemplated by the legislature, the analysis that a prudent trustee of public land would perform prior to making a decision on disposition of an interest in that land....

"5. Under existing state oil and gas law, may the Commissioner engage in two stage leasing of tracts, the first stage being for exploration and the second being for development?"

Our initial answer to this question was that, while we believed it legally possible for the commissioner to engage in two-stage leasing under the existing statute, we would urge that you obtain express legislative authority for such a practice prior to doing so. On further reflection, while it appears that an argument can be made if such a practice is permissible, it is unlikely that that argument would prevail.

At the outset, we note that the state has never practiced such leasing, and engaging in two-stage leasing at this time would be a marked departure from past administrative practice and construction of the statutes authorizing the leasing of state lands for oil and gas development.

Moreover, AS 38.05.180(f) authorizes seven specific methods for leasing state lands for oil and gas development, all of which call for a cash bonus plus a royalty share of production and/or a share of net profit derived from the lease. Both the royalty share and the net profit share component of the authorized bid methods require production from the lease. Accordingly, it appears that AS 38.05.180 does not authorize exploratory leasing.

Any argument that existing law authorizes such a practice would stem from the commissioner's general powers under AS 38.05.020, and would be weak at best. If it is your desire to initiate such a practice, we suggest that you first obtain express legislative authorization.

"6. Under AS 38.05.180(j), the Commissioner may adopt regulations to allow for the reduction of royalty on leases, to compensate for increased costs in later stages of production decline. How much latitude may the Commissioner include in such regulations? Could they, for example, be sufficiently flexible to permit the Commissioner to specify the royalty rate on a month-by-month basis at his discretion?"

Again, Kelly v. Zamarello, 486 P.2d 905 (Alaska 1971), is instructive: Where the legislature intended to commit a particular matter to agency discretion, the Supreme Court first will ascertain whether the regulation is consistent with and reasonably necessary to carry out the purposes of the statutory provisions conferring rule-making authority on the agency to ensure that the agency has not exceeded the power delegated by the legislature, and then will determine whether the regulation is reasonable and not arbitrary. Within these broad guidelines, the Commissioner has considerable flexibility, including (it would appear) sufficient flexibility to specify the royalty rate on a month-by-month basis. All that the statute requires is that the regulations "allow reduction of royalty;" it does not specify the details how that is to be accomplished. Those details have been left to the commissioner's discretion.

We hope this answers your questions. We have been somewhat hampered in answering these questions (as well as preparing the new oil and gas lease form, our file A-66-139-78, and interpreting the scheduling provisions of AS 38.05.180(b)-(e), our file J-66-539-79) by the lack of legislative history of AS 38.05.180. Because it appears that we will be operating under this statute for some time, and certainly the Beaufort Sea oil and gas leases will be interpreted with respect to the statute as it now exists, it would be advisable for transcripts of the legislative deliberations on HB 854 (Tenth Alaska Legislature) to be prepared. We bring this matter to your attention at this time in the hope that this undoubtedly lengthy project can be initiated now rather than waiting until a judicial proceeding is initiated.

If you have further questions, we are at your disposal.

GTR:dla

January 31, 1964

Honorable Lester Bronson
Chairman, Senate Rules Committee
Alaska State Legislature
Juneau, Alaska

Dear Senator Bronson:

Pursuant to State law and the Uniform Rules of the Legislature, I am submitting for introduction a bill to amend and add to the State Land Act.

The purposes of the bill are explained in the attached memorandum from the Department of Law dated - January 30, 1964.

Sincerely,

William A. Egan
Governor

GT:ir

cc: Law
Natural Resources

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL / BOX 2170 - JUNEAU

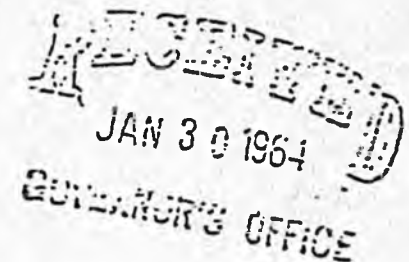
January 30, 1964

MEMORANDUM

TO: William A. Egan
Governor

FROM: John K. Brubaker
Assistant Attorney General

RE: An Act to change and add provisions
to AS 38.05, the State Land Act



Enclosed is a bill which was drafted at the request of the Department of Natural Resources. The purposes of this bill are as follows:

1. Section 1 provides that orders classifying lands issued by the commissioner after January 3, 1959, are not required to be adopted under the Administrative Procedures Act, AS 44.62. The reason that this change is necessary is to eliminate any question as to whether or not orders by the commissioner of natural resources classifying lands are regulations which must be adopted under the provisions of the Administrative Procedures Act. The commissioner has, since statehood, classified lands by internal departmental orders and it has been generally recognized that he possesses the power to do so without conforming to the procedures for adopting regulations under the Administrative Procedures Act. Recently, however, in a court proceeding the issue was raised as to whether the commissioner possessed the power to make orders classifying lands without complying with the procedures for adopting regulations under the Administrative Procedures Act. The case has been dropped. It has become necessary, however, to introduce a bill to clarify the power of the commissioner to make orders classifying lands.

2. Section 2 repeals and re-enacts AS 38.05.135 exactly as it presently appears in the Alaska Statutes. This provision was changed inadvertently when it was incorporated into the Alaska Statutes. The purpose of this provision is to have AS 38.05.135 re-enacted to clarify the legislative intent.

3. Section 3 adds a new section, AS 38.05.137 which provides that the commissioner of natural resources is authorized to enter into cooperative mineral leasing agreements with the United States regarding lands which are the subject of a title dispute between Federal and state authorities and further provides that any such lease need not conform to the provisions of state law applicable to state leases issued under the authority of AS 38.05.

4. Section 4 adds a new section (b) to AS 38.04.145. The purpose of this section is to clarify the State Land Act by placing the present AS 38.05.180(f) in AS 38.05.145. This change makes new subsection (b) of AS 38.05.145 applicable to all Leasing Act minerals, whereas due to its present location in the Act it applies only to oil and gas.

5. Section 5 deletes a sentence from 38.05.180(a) in order to make it consistent with 38.05.135.

6. Section 6 amends AS 38.05.180(d) to permit extension of the term of a lease if all or part of the lease is included in an approved unit line for program of secondary recovery operation to bring about or restore production.

7. Section 7 amends AS 38.05.180(e) by changing the word "competitive" to "noncompetitive." The word "non-competitive" was inadvertently changed in the Alaska Statutes. The purpose of the amendment is to make the language of AS 38.05.180(e) conform to that of the original enactment.

8. Section 8 repeals AS 38.05.180(f) which is incorporated in this bill as AS 38.05.145(b).

9. Section 9 repeals AS 38.05.180(i) which is obsolete.

10. Section 10 amends AS 38.05.180(k) to provide that an assignee of a Federal lessee, as well as the lessee himself, may exercise the preference right for a state lease on shore lands included inside the exterior boundaries of a Federal lease. The section deletes the requirement that the application for the preference be made 60 days after the issuance of the Federal lease. This section also specifically provides that the state preference shall terminate if the Federal lease is terminated for any reason.

11. Section 11 amends AS 38.05.300 to provide that no state land, water, or land and water area shall,

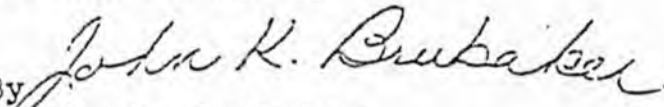
except by act of the state legislature, be closed to multiple purpose use if the area involved contains more than 640 acres. Section 38.05.300 as it presently reads is misleading because it carries the implication that classification of tracts of land over 640 acres by the commissioner withdraws the land from being used for the purposes specified in AS 38.05.300(1), (2) and (3). This is not the case. The classification of land is a temporary designation and merely indicates that it presently appears that the wisest and best use of the land would be for the purpose indicated in a classification. The legislature therefore provided that tracts of land over 640 acres could not be withdrawn from settlement, location, sale or entry, reserved for special use, or restricted from operation of the mining and mineral leasing provisions of this chapter if the area involved in withdrawal, reservation or restriction exceeds in the aggregate of 640 acres except by act of the legislature. Under this provision should lands be classified as grazing and timber lands the classification would be ineffective without a ratifying act of the legislature. The proposed amendment would allow the preliminary classification of tracts of land larger than 640 acres, subject to change of classification from time to time at the discretion of the commissioner in order to assure multiple purpose use. Lands could be closed to multiple purpose use only by an act of the legislature.

12. Section 12 repeals and re-enacts AS 38.05.365(14). The purpose of this section is to remove the present citation to 38 Stat. 1214, as amended by 48 U.S.C. 353 which was repealed by sec. 6(k) of the Statehood Act, and insert in its place a citation to sec. 6(k).

13. Section 13 provides that section 1 of the act insofar as it applies to orders classifying lands issued after January 3, 1959, is expressly declared to be retroactive.

Respectfully submitted,

GEORGE N. HAYES
ATTORNEY GENERAL

By 
John K. Brubaker
Assistant Attorney General

JKE:eb

STATE OF ALASKA
THE LEGISLATURE

FOUCH - STATE CAPITOL
JUNEAU, ALASKA 99801
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 5, 1982

SUBJECT: "Uninterpreted data" as the term is used
in CSHB 2 (Fin) am

TO: Senator Bettye Fahrenkamp
Chairman, Senate Resources Committee

FROM: Richard A. Bradley *B*
Legislative Counsel

You have asked that I offer some comments on the meaning of the term "uninterpreted data" as it is used in subsection (aa) to AS 38.05.180 as added in CSHB 2(Fin) am.

The term is undefined in the bill and does not appear otherwise within the Alaska Statutes. The term "noninterpretative data" is used in AS 38.05.180(x) and seems to have the same meaning as "uninterpreted data". The difference between sec. 180(x) and sec. 180(aa) is that the former applies to existing leases and the latter applies to exploratory work before a lease.

Its meaning does not seem obscure -- though it may be.

The provision of law to which the amendment pertains is AS 38.05.180, a section permitting "Oil and Gas Leasing" and dealing, among other things, with an "exploration", an "exploratory well", as well as "geophysical work . . . performed [before a] lease sale. . . ." [Sec. 180(i).]

And as suggested, sec. 180(x) requires that the commissioner be provided access to "all noninterpretative data" obtained from a lease of oil or gas.

What I have assumed was being described here was the core samples and similar geological material obtained from exploratory drilling activities. As such, they would be "uninterpreted" in the sense that their implications for the presence, absence, or quantity of oil or gas or other minerals

have not been made. Those interpretations when made at a later time would be, in the usual situation, proprietary and be retained by the driller or the entity for which the exploratory drilling was made.

But in discussing this question with Resa King this morning, it is assumed by some individuals that it is not raw geological data that is being requested by the state or that the state is seeking access to but rather computer analyses of the raw geological data. The question then becomes at what point the computer analysis is stopped and further analyses are done for either proprietary purposes or by the Department of Natural Resources for evaluation of the state land.

It is clear that the information is useful to the department. It is useful to the department as it makes the same determinations that the oil companies make in their bids for state land: what is the land worth? But if the question is when the analysis is stopped or rather when computer processing turns data from its status as "uninterpreted" to "interpreted," then I agree that the term is ambiguous and further refinement of it is necessary.

I do note that existing law requires oil companies to provide "noninterpretative data obtained from the lease." [Sec. 180(x).] To that extent, there is an existing practice which apparently has meaning; the answer may simply be to require the same information now required under leases from the exploratory procedures. To accomplish that, would delete (aa) and amend (x) appropriately.

If I may assist further, please advise.

RAB:jdn



Alaska State Legislature

SENATE Resources Committee

POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
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Official Business

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TO: Senator Fahrenkamp
Chairman

DATE: 5/6/82

FROM: Resa King *R.K.*
Staff

RE: Cut-and-paste of
SCS CSHB 2 and letter
of intent.

Attached is the requested cut-and-paste of SCS CSHB 2.

Since the meeting this morning a couple of suggestions have arisen:

1. Found another "he" on page 2, line 16 - that you may want to neuter.
2. *(15)* Senator Fischer proposed an amendment for page 2, after line 19 - dealing with not being eligible for homsteading if a person has received 5 acres or more of state land.
3. Senator Rodey may be delivering a memorandum expressing a desire for language resolving the problem of not being able to obtain a loan in order to construct a habitable dwelling.
4. Letter of Intent - in putting the three letters together, with attachment, is now three pages.

Original sponsors: Beirne, Bettisworth
and Randolph

Offered: 4/6/82
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 *SOS* CS FOR HOUSE BILL NO. 2 (Finance) am
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to land; and providing for an effec-
7 tive date."

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

9 * Section 1. AS 38.05.082(a) is amended to read:

10 (a) The director, with the approval of the commissioner, may lease
11 tide [AND] submerged, and shore lands for fisheries development.
12 Fisheries development includes the utilization of shore gill nets [OR] set nets, or fish wheels for the taking of fish. Every lease issued
13 under this section shall reserve to the public a right-of-way for access
14 to navigable waters and other tide [AND] submerged, and shore lands.

15 * Sec. 2. AS 38 is amended by adding a new chapter to read:

16 CHAPTER 09. HOMESTEAD ENTRY.

17 Sec. 38.09.010. HOMESTEAD ENTRY. (a) The director may designate
18 and make available for homestead entry under this chapter state land
19 available

20 (1) under AS 38.05.057; or

21 (2) under AS 38.05.077 unless the director determines that
22 the land is more suitable for recreational or residential use.

23 (b) A homestead entry made under AS 38.05.057 may not exceed 320
24 acres.

25 (c) A homestead entry made under AS 38.05.077 may not exceed 160
26 acres.

27 (d) A person who has applied for or received state land under this
28 chapter is not eligible for a loan under AS 03.10 for the habitable

1 dwelling or the clearing of the land required under AS 38.09.040.

2 Sec. 38.09.020. QUALIFICATIONS FOR HOMESTEAD ENTRY. A person is
3 qualified to apply for a homestead entry under this chapter if the
4 person is

5 (1) qualified under AS 38.05.057 to participate in the dis-
6 posal of land by lottery; or

7 (2) qualified under AS 38.05.077 to make an entry under the
8 remote parcel disposal procedures.

9 Sec. 38.09.030. APPLICATION FOR HOMESTEAD ENTRY. (a) A person
10 who has staked the exterior boundaries of a homestead entry under AS 38.
11 05.077 and a person who has been selected to purchase land designated
12 for homestead entry by lottery shall apply for the homestead entry on a
13 form prepared by the department.

14 (b) The department may charge a fee for filing an application
15 under this chapter.

16 (c) A person applying for a homestead entry shall certify that he
17 has not previously leased a remote parcel from the state or applied for
18 homestead entry under this chapter within the eight years immediately
19 preceding the date of the application.

20 *Senator Fracker*
(d) A person who has received more than 1.5 acres of state land
is not eligible for land under this chapter.

21 Sec. 38.09.040. PATENT FOR HOMESTEAD ENTRY. (a) A person who has
22 made a homestead entry under this chapter and filed an application under
23 AS 38.09.030(a) is entitled to a patent if, within seven years from the
24 date of the application, the applicant

25 (1) occupies the land for a total of 35 months;

26 (2) erects a habitable dwelling;

27 (3) clears and prepares for cultivation not less than

28 (A) one-fourth of the land entered if the land is limited
to agricultural use; or

29 (B) one-eighth of the land entered if the land is not

1 limited to agricultural use;

2 (4) brushes the boundaries of the homestead entry and main-
3 tains the brushed boundaries so that they are easily visible from the
4 ground;

5 (5) causes a survey of the homestead entry to be made that is
6 acceptable to the director.

7 (b) The director shall require an applicant for homestead entry to
8 submit proof necessary to establish compliance with the requirements of
9 (a) of this section. An applicant is not required to submit proof under
10 (a)(4) or (5) of this section if the land comprising the homestead entry
11 has been surveyed.

12 (c) As used in this section, "habitable dwelling"

13 (1) means a permanent dwelling of not less than ⁴⁰⁰ ~~200~~ square
14 feet and its fixtures and facilities;

15 (2) does not include a mobile home unless it is permanently
16 attached to a permanent foundation.

17 Sec. 38.09.050. HOMESTEAD APPLICATION VOID. An application for
18 homestead entry and the interest of the applicant under the homestead
19 entry is void if the applicant fails to comply with a requirement of
20 AS 38.09.040(a). On the request of the director, the attorney general
21 shall bring an action to declare the homestead entry void and, if neces-
22 sary, to eject the homestead applicant.

23 * Sec. 3. AS 38.04.020(g)(3) is amended to read:

24 (3) Land designated agricultural, commercial, industrial, or
25 suitable for other disposal may (SHALL) be sold under AS 38.05.055 or
26 38.05.057. Land designated agricultural or suitable for disposal other
27 than as commercial or industrial may be sold under AS 38.05.077.

28 * Sec. 4. AS 38.05.057(a) is amended to read:

29 (a) The commissioner may dispose of land, including land limited

1 to use for agricultural purposes, by lottery. The purchase price of
2 land sold by lottery shall be the fair market value of the land as
3 determined by the commissioner. The commissioner may sell land by
4 lottery for less than the fair market value of the land if he determines
5 that scarcity of land for private use in the area of the land to be sold
6 has resulted in unrealistic land values. Before the commissioner deter-
7 mines the purchase price for land which is located in a municipality and
8 which is to be sold under this section, he shall consult with the
9 assessor of the municipality. The lottery shall be conducted in public
10 by the commissioner or his representative. An applicant may not be
11 selected to purchase land unless he is present on the date and at the
12 place that the lottery is conducted unless medical reasons, attendance
13 at school, or military service [OUTSIDE THE STATE] prevent attendance.
14 [AN APPLICANT MAY BE REPRESENTED BY AN AGENT ON THE DAY OF THE LOTTERY
15 IF THE LAND OFFERED FOR SALE IS COMMERCIAL, INDUSTRIAL, OR AGRICULTURAL
16 LAND.] On the day of the lottery a purchaser selected by lot shall
17 deposit an amount equal to five percent of the purchase price, or if the
18 purchaser elects to use land discounts granted under AS 38.05.058, five
19 percent of the purchase price after deduction of the discount. If the
20 land is designated for homestead entry, the applicant selected by lottery
21 for homestead entry must file an application under AS 38.09.030(a).

Sec 5 "AS 38.04.021(a) is amended to read:

Senator Anderson
Sec. 38.04.021. Disposal of municipal [GRANT] land [ENTITLEMENTS]. (a) A municipality may apply for financial assistance for the execution of a land disposal program [OF GENERAL GRANT LAND ENTITLEMENTS RECEIVED FROM THE STATE UNDER AS 29.18.201 - 29.18.213] by submitting a request to the commissioner for inclusion in the request submitted to the legislature under AS 38.04.020(e). A municipality may request financial assistance for expenses of surveying land, designing subdivision plats, installing improvements required by municipal ordinance or regulation of the local platting board, and other reasonable direct costs of land disposal."

22 * Sec. ~~38~~⁶. AS 38.05.077(a) is amended to read:

23 (a) The commissioner shall designate remote parcel selection areas
24 and shall dispose of remote parcels in accordance with AS 38.04.020.
25 The commissioner may set the number of remote parcels that may be
26 selected in each remote parcel selection area. A remote parcel may be
27 purchased under AS 38.05.078 or an applicant may receive a patent to a
28 remote parcel under AS 38.09. A remote parcel purchased under AS 38.05.
29 078 may not exceed 40 acres. A remote parcel acquired under AS 38.09.-

1 may not exceed 160 acres.

2 * Sec. ¹ AS 38.05.077(b) is amended to read:

3 (b) The commissioner may designate remote parcel selection areas
4 where staking will be restricted to aliquot parts when parcels are 40
5 acres or larger and shall prescribe parcel selection procedures for each
6 remote parcel selection area designated under (a) of this section. The
7 parcel selection procedures shall include

8 (1) the maximum size of a remote parcel that may be selected
9 in the parcel selection area;

10 (2) (repealed)

11 (3) the minimum distance between remote parcels in the parcel
12 selection area;

13 (4) parcel dimensions, configuration, orientation and other
14 parcel design requirements;

15 (5) a description of land within the area that may not be
16 included in a parcel;

17 (6) a requirement that landmarks, monuments or other points
18 be used as points of reference for the measurement of distances within
19 an area; and

20 (7) specification for the type of stakes to use to mark the
21 corners of a parcel.

22 * Sec. ⁸ AS 38.05.077(d) is amended to read:

23 (d) Not later than 15 days after staking the exterior boundaries
24 of a remote parcel, the person who staked the parcel shall file a sketch
25 plat with the department which shows the location of the remote parcel.
26 At the time of filing the sketch plat, the person who staked the parcel
27 shall apply to lease the land or apply for homestead entry under AS 38.
28 09. An application [TO LEASE THE LAND] shall be on a standard form
29 prepared by the department. The annual rental payment for the first

1 year of the lease shall be submitted to the department with the applica-
2 tion. After the application to lease a remote parcel is approved, the
3 commissioner shall offer to lease the land to the person who staked the
4 remote parcel. A lease granted under this section shall contain the
5 following terms:

6 (1) a remote parcel may be leased for five years;

7 (2) a remote parcel lease may be renewed at the option of the
8 lessee for a second five-year period under the same terms as provided
9 for the first five-year period of the remote parcel lease;

10 (3) a rental payment shall be paid annually and shall be \$10
11 for each acre;

12 (4) unless the land is surveyed, the lessee shall, within one
13 year of approval of the lease application and continuously for the lease
14 period, physically delineate the boundaries of the parcel by brushing a
15 line so that they are readily visible from the ground.

16 * Sec. ~~9~~ AS 38.05.077(i)(3) is amended to read:

17 9 (3) certify that he has not previously leased a remote parcel
18 from the state not made application for a homestead entry on state land
19 within eight years immediately preceding the date of staking a remote
20 parcel.

21 * Sec. ~~9~~¹⁰ AS 03.10.030 is amended by adding a new subsection to read:

22 (g) A person who has received state land under AS 38.09 is not
23 eligible for a loan under this chapter for improvements to that land
24 before patent to the land has been received.

25 * Sec. ~~9~~¹¹ AS 38.05.180 is amended by adding a new subsection to read:

(aa) In order to achieve the purposes of this chapter the commissioner
may require persons conducting geophysical exploration for oil
or gas resources or drilling a stratigraphic test well on
unleased state land to provide ^{the commissioner} [him] with access to and copies
of all uninterpreted exploration data acquired from these

DNR

confidential all exploration data submitted to the department under this subsection and any reproduction, analysis, processing, or interpretation of such data prepared by the department or any third party on behalf of the department which is based in whole or in part upon such data. Notwithstanding AS 11.56.860(c), any person, including any employee, agent or contractor of the State, who knowingly and willfully reveals any data or information required to be kept confidential under this subsection shall, upon conviction, be punished by a fine of not more than \$50,000 or by imprisonment for not more than 10 years, or both. All agents or contractors of the department who have access to exploration data or information derived from the data submitted under this subsection shall execute and post a bond in an amount to be determined by the commissioner. The bond shall be to the benefit of the State and the permittee.

definition of exploration data.

Uninterpreted

Exploration data means all field data which have been initially processed and are ready for geologic and geophysical analysis, and associated material necessary to locate, identify, analyze, or interpret the field data. It is the intent of this definition that the permittee shall provide data which corresponds to the data which a geophysical contractor would provide participants in a group seismic survey.

* Sec. ¹² 31. AS 38.05.180(aa) added by Sec. 10 of this Act applies to uninterpreted data acquired from geophysical surveys which were commenced on unleased state lands on or after January 1, 1982.

Page 6 - Continued

CS HB 2(F)

¹³
* Section 12. The purpose of secs. 12-16 of this Act is to provide for the settlement of certain claims and litigation and to transfer legal title and management of university-grant lands from the Department of Natural Resources to the Board of Regents of the University of Alaska.

U. of A.
* Sec. ¹⁴13. Nothing in secs. 12-16 of this Act precludes or prejudices negotiations between the Municipality of Anchorage and the University of Alaska to settle Case Number 3AN-79-2801 Civil, Third Judicial District, State of Alaska or prejudices or otherwise affects the pursuit or outcome of that litigation or diminishes or affects the rights or interests of the University of Alaska or the Municipality of Anchorage in that pending litigation.

* Sec. ¹⁵14. The commissioner of the Department of Natural Resources is authorized and directed to convey to the Board of Regents of the University of Alaska all right, title, and interest of the State of Alaska in and to those university-grant lands identified in Appendices E and N in the document entitled "Settlement Agreement Between the Department of Natural Resources, the Department of Revenue, and the Department of Administration and the University of Alaska," which was submitted to the Alaska State Legislature on March 26, 1982, the date of the introduction of this bill, the terms of which are hereby ratified as to the duties and obligations of the State of Alaska and the Board of Regents of the University of Alaska. However, the compensation due the University in land or money shall be subject to further appropriation by the 1983 Legislature.

* Sec. ~~16~~¹⁶ AS 14.40.170(a)(4) is amended to read:

(4) have the care, control and management of all the real and personal property of the university, including the management of those university-grant lands conveyed to the Board of Regents of the University of Alaska pursuant to sec. ~~2~~¹⁵ of Committee Substitute for House Bill No. 2 (Finance) (Twelfth Legislature) in accordance with the purposes provided for by the Act of March 4, 1915 (38 Stat. 1214), as amended, and the Act of January 21, 1929 (45 Stat. 1091), as amended;

* Sec. ~~17~~¹⁷ AS 14.40.170(a) is amended by adding a new paragraph to read:

(7) adopt reasonable rules providing for prudent trust management, and providing for adequate public notice of all sales, leases, exchanges or other dispositions of university-grant lands, or interests therein.

12 * Sec. ~~18~~¹⁸ Sections 2 - ~~8~~¹⁰ of this Act take effect July 1, 1982.

13 * Sec. ~~19~~¹⁹ Sections 1, and ~~16~~¹¹ - ~~17~~¹⁷ of this Act take effect immediately in
14 accordance with AS 01.10.070(c).

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SENATE RESOURCES COMMITTEE

LETTER OF INTENT

SCS CSHB 2(Res) .

Sections 13 - 17 of this bill relate to the settlement of certain claims by the University of Alaska against the State of Alaska, Departments of Natural Resources, Administration, and Revenue.

It is the intent of the Senate Resources Committee in passing out Senate Committee Substitute for Committee Substitute for House Bill 2 (Resources) that the Board of Regents of the University of Alaska develop a plan for distribution of revenues derived from university lands to be submitted to the legislature by January 10, 1983. The Committee intends that in developing this plan the Board consider a policy of reinvesting part of the revenues from university lands located within the boundaries of local governments so as to benefit the people within such communities. The Committee further intends that such a policy give appropriate weight to statewide and other area's needs, while addressing the objective of benefiting communities near revenue-producing university lands.

The Committee further intends that the University and the Municipality of Anchorage negotiate to settle their claims presented in litigation (3AN 79 2801 Civil), Third Judicial District and that the two parties shall report to the legislature by the tenth day of the 1983 session on the results of their discussions.

As originally introduced in the Senate, this bill was accompanied by companion legislation, originally SB 876, which provided funds to implement the Settlement Agreement between the State and the University date March 12, 1982.

The companion legislation, passed as part of the FY 83 budget, provided that \$500,000 in lapsed funds of the University of Alaska be used to conduct research to determine the total dollar compensation due the University as a result of the Settlement Agreement. The funds will be used to employ independent professional fee appraisers to determine the fair market value of certain University-grant lands which have been utilized and/or disposed of by the State at less than fair market value, and to appraise certain state lands which might be conveyed to the University or relinquished to the State; to conduct research on financial transactions involving University grant-lands; and to process the quitclaim deeds necessary to convey clear title to all University-grant lands involved in the settlement.

Specifically, the Department of Law, as recipient of these funds, is to allocate \$110,000 directly to the Department of Natural Resources and the balance of \$390,000 directly to the University of Alaska, Statewide Office of Land Management. The attached budget contains a breakdown use of these funds.

PATRICK RODEY
ANCHORAGE

601 W. 5TH AVE. SUITE 820
ANCHORAGE, ALASKA 99501

Alaska State Senator
JUNEAU, ALASKA 99811

1:30 pm

DURING SESSION

POUCH V
JUNEAU, ALASKA 99811

M E M O R A N D U M

DATE: April 5, 1982
TO: All Members, Senate Resources Committee
FROM: Senator Rodey *PMR*
RE: Proposed Amendment to HB 2

Please find attached a proposed amendment to AS 38.08, Homesites, which I would request you include in the committee substitute for HB 2.

This amendment addresses the problem I'm sure you are all aware of, the "Catch 22" title problem in the Homesite program. The Homesite program requires an individual to build a habitable dwelling prior to receiving title to the land, but individuals attempting to borrow money to build a habitable dwelling cannot obtain financing because they don't have title.

Last year I authored a bill, SB 579, which would have established a loan guarantee account in Revenue to facilitate financing for individuals confronted with this situation. Although that would have solved the problem, I did not pursue it because, frankly, I can't quite see the need for us to have to appropriate and spend state money to accommodate a problem in state law that more properly could be handled by a simple change in statutory language.

As for criticism that this amendment would make the Homesite program a "freebie", I would argue that the purpose of the program is to make it possible for Alaskans to own a five-acre piece of land on which to establish a home - a homesite. The provision which restricts individuals to one of these parcels during his/her lifetime seems to me to be adequate to ensure that no speculation takes place, and that in fact the purpose of the program is served.

I would urge the committee to adopt this amendment. Thank you.

* Amend AS 38.08.060 by the deletion of (a) (1) and (a) (2), and renumber accordingly.

4/30/82

Edson

FOR AN ACT ENTITLED: "An Act relating to state lands; and providing for an effective date."

✓

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

* Section 9 AS 38.05.180 is amended by adding a new subsection to read:

(aa)

(1) In order to assist the department in knowledgeably managing the development of oil and gas resources underlying state land, the commissioner may in his discretion require persons conducting geophysical exploration for oil or gas resources or drilling a stratigraphic test well on unleased state land to provide him with access to and copies of all field data and associated material necessary to locate, identify, process, analyze, or interpret the field data. The commissioner shall pay all reasonable costs of reproducing the data and associated material. (2) The commissioner shall keep the following confidential in accordance with AS 38.05.035(a)(9)(c).

- A. All field data and associated material submitted to the department under this subsection, and
- B. Any reproduction, analysis, processing, or interpretation of such data and associated material prepared by the department or by any third party on behalf of the department which is based in whole or in part, upon such data or associated material.

(3) The commissioner shall keep all exploration data and exploration information submitted to the department under this subsection confidential in accordance with AS 38.05.035(a)(9)(c). In the event a third party reproduces, analyzes, processes, or interprets such data or associated material on behalf of the department, the third party must agree in writing that it will not disclose the data or associated information derived or generated from the data to any other party and that it will not acquire any interest in the land evaluated by the data. The third party shall execute and post a bond in an amount to be determined by the director. The bond shall be to the benefit of the state and the permittee. All employees, agents, or contractors of the department who have access to exploration data or exploration information submitted under this paragraph are subject to AS 11.56.860.

* Section 10. This Act takes effect immediately in accordance with AS 01.10.070(c).

TRH:cas/410

FOR AN ACT ENTITLED: "An Act relating to state lands; and providing for an effective date."

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

* Section 1 AS 38.05.180 is amended by adding a new subsection to read:

(v) (1) In order to assist the department in knowledgeably managing the development of oil and gas resources underlying state land, the commissioner may in his discretion require persons conducting geophysical exploration for oil or gas resources or drilling a stratigraphic test well on unleased state land to provide him with access to and copies of all field data and associated material necessary to locate, identify, process, analyze, or interpret the field data. The commissioner shall pay all reasonable costs of reproducing the data and associated material. (2) The commissioner shall keep the following confidential in accordance with AS 38.05.035(a)(9)(c).

- A. All field data and associated material submitted to the department under this subsection, and
- B. Any reproduction, analysis, processing, or interpretation of such data and associated material prepared by the department or by any third party on behalf of the department which is based in whole or in part, upon such data or associated material.