

ALPHABETICALLY

1861 HRES - SB 796. SB 875. 12/1



EAGLE STUDIES

CHILKAT VALLEY COOPERATIVE BALD EAGLE STUDY

Principle Investigator:
National Audubon Society

PURPOSE

The primary purpose of the National Audubon Society's four-year multi-disciplinary cooperative study is to gather scientific information on bald eagle ecology adequate to determine how to permanently protect the essential bald eagle habitat in the Chilkat and Chilkoot River Valleys. Of special concern to the National Audubon Society is the possibility that extensive clearcut logging or future mining activities might seriously affect the delicate balance between soils, forest cover, hydrology, salmon spawning and rearing, and eagle use.

Intensified research, balancing of multiple resource values in agency decision-making, and ongoing public participation are essential for fair and equitable solutions to be found to potential resource conflicts.

FIELD ACTIVITIES

Now in its second year, considerable progress is being made in the cooperative study effort. U.S. Fish and Wildlife Service and Audubon biologists are continuing their study of eagle ecology, with the Service primarily responsible for radio telemetry aspects of the study, and conducting aerial surveys and censuses.

A total of 16 weekly ground censuses were conducted by Audubon biologists at 17 predetermined census points between October 10 and January 23.

PRELIMINARY FINDINGS

During the winter of 1980-1981 a peak population of 3,250 eagles was reached on November 28, 1980.

A five mile stretch of the Kléhini River above its confluence with the Chilkat supported the largest number of eagles during October, when the eagles first began their concentration. Following freezeup, most of the birds were found along the Chilkat River between mileposts 19 and 22 on the Haines Highway. Eagle distribution throughout the season was directly related to the availability of salmon, with dead or dying chums the preferred food source.



Bald eagle perched in a cottonwood during the winter concentration of eagles along the Chilkat River.

Although findings are considered preliminary, the fact that eagles use substantial amounts of habitat beyond the boundaries of the existing Critical Habitat Area has been reaffirmed and more precisely defined. A map of essential bald eagle habitats shows approximately 26,074 acres in the Chilkat Valley and 2,580 in the nearby Chilkoot Valley. Another 22,285 acres above the Wells Bridge along the Chilkat River are essential breeding habitat. Thus, a total of about 50,939 acres in the two systems are at this time deemed by Audubon as deserving of permanent protection for eagles. Only about 5,486 acres of the total appear to involve spruce-hemlock stands with potential commercial value. These acreages are believed by Audubon to constitute critical winter eagle roosting habitat and may well prove crucial to the area's hydrologic system.

FUTURE STUDIES

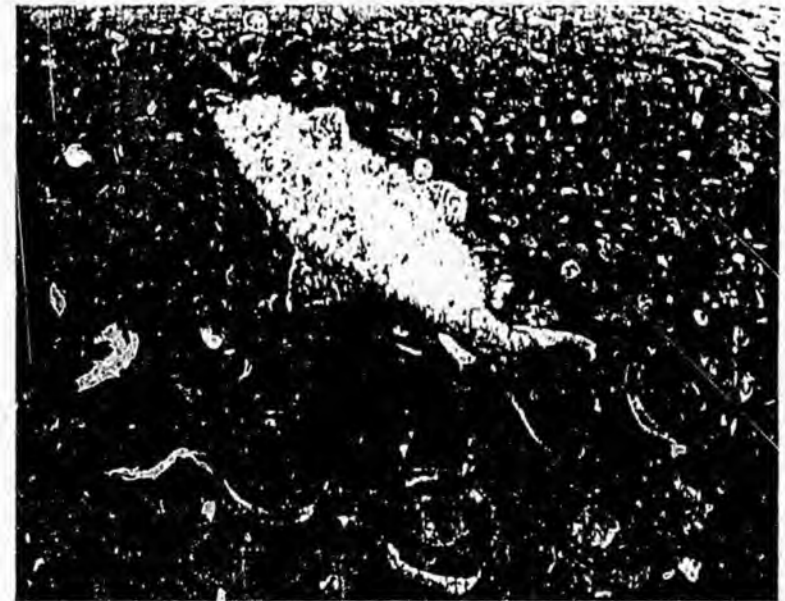
The Audubon Society plans two more field seasons studying eagle ecology. In addition, the Audubon Society recommends a Scientific Advisory Committee to the cooperative study. The Scientific Advisory Committee to the study should evaluate scientific findings from the studies and develop an ecosystem model for the Chilkat Valley. The Audubon Society is also proposing that the State provide funds to thoroughly evaluate the possibility of establishing a resource education and interpretive center in Haines and an eagle observatory on the Chilkat River. When the center becomes operational, Audubon would like to co-sponsor an International Bald Eagle Symposium there.

Immediate management actions recommended for the state's Chilkat River Critical Habitat Area include marking its boundaries adjacent to the Haines Highway, paving of three highway turnouts, installing rustic interpretive signs at the turnouts and adopting formalized management regulations.

The National Audubon Society remains committed to helping obtain sound scientific information vital to protection and management of the Chilkat bald eagles, educating the public as to their many values, and to finding the best means of placing essential eagle habitats under permanent protection. The cooperative efforts now under way are intended to assure that these goals are achieved with the participation of all concerned parties, in a way that will bring the State of Alaska and the community of Haines widespread recognition for its role in perpetuating one of our nation's great wildlife spectacles.



Audubon biologists Erv Boeker and Andy Hansen set padded traps around a salmon carcass to trap an eagle they will harness with a radio transmitter used to track eagle movements.



Padded traps set and waiting for the arrival of an eagle.

EAGLE SURVEY AND RADIO TELEMETRY

Principle Investigator:
U.S. Fish and Wildlife
Service

PURPOSE

The U.S. Fish and Wildlife Service has a long-standing interest in the unique concentration of bald eagles on the Chilkat River. Over the past two years the service has intensified its normal eagle survey work to accomplish the following objectives:

- to determine the habitat requirements of the bald eagles in the Chilkat Valley
- to document the numbers and distribution of eagles in the Chilkat and Chilkoot valleys during the concentration period
- to determine the nesting populations that are using the Chilkat River and the migration patterns of bald eagles to and from the valley

Because the Service is also interested in the welfare of the eagles after they leave the Chilkat Valley, its survey and telemetry work will include all of Southeastern Alaska, though the Chilkat Valley is an area of primary interest.

FIELD ACTIVITIES

Aerial counts were made of eagles during the concentration period; aerial nesting surveys were performed and fourteen eagles were trapped and fitted with radios so they could be tracked.

PRELIMINARY FINDINGS

Aerial nesting surveys were done in 1979 and 1980. There are approximately 90 nests in the Chilkat and Chilkoot Valleys. The percent of nests in use in late spring was 48% in 1966, 35% in 1979 and 30% in 1980. In 1980 only four of the 27 nests fledged any young and each had only one young bird.

Radio telemetry work helped establish movement patterns of eagles within the Chilkat Valley during the concentration period. After the eagles left the valley in January, the Service was able to track their



Erv Boeker and Andy Hansen examine trapped eagle prior to attaching a radio transmitter.



Erv Boeker and Andy Hansen harness a radio transmitter to the back of an eagle.

movements - in some cases - even to Washington State.

The widespread movements of those eagles which were tracked throughout Southeast Alaska would lead one to infer that some of the eagles use coastal British Columbia.

FUTURE STUDIES

The U.S. Fish and Wildlife Service plans to continue its eagle survey work during the 1981-82 field season.

The aerial population surveys will be continued and expanded if weather permits. Much more intensive radio tracking will be conducted both within the valley and throughout the expected range of movements of the eagles. Alternate food sources that the eagles are using during the winter months after departing the Chilkoot Valley will be documented.



Captured bald eagle ready for release.



SOIL AND VEGETATION INVENTORY

Principle Investigator:
U.S. Soil Conservation
Service cooperating with
the Alaska Department of
Natural Resources

PURPOSE

Soils are a basic element contributing to the ability of the land to produce various types of vegetation and - assuming a desire to maintain their productivity - they are the limiting factor for many activities. Therefore, information on soils is essential if resource management is to get optimum return from the use of all resources while protecting and maintaining renewable resources.

The Department of Natural Resources and the Soil Conservation Service plan a three year inventory program to gather essential soils data for state lands in the Haines area, so that the Department's long term management will in fact realize optimum return from the use of all resources while protecting, maintaining and enhancing renewable resources.

FIELD ACTIVITIES

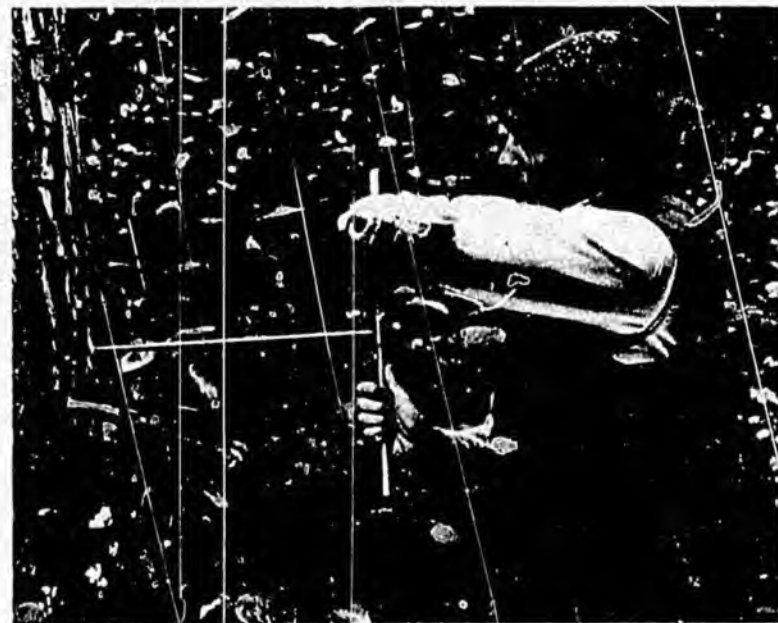
The Soil Conservation Service has just begun to gather basic soils and forest inventory data which will be interpreted to the Department's specifications.

Maps will be at a 1:24,000 scale and interpretations will include the following:

- soils
- slope breaks at 5%, 20%, 40% and 70%
- potential gross annual growth by species (ft.³ and bd. ft. Scribner)
- depth of bogs (under and over 3 feet)
- suitability as rock source for roads
- stabilization recommendations for exposed soils (road building and logging)



Soil scientist analyzes aerial photography to aid in collecting and interpreting field data.



Member of the vegetation inventory team takes a core sample of a cottonwood tree near the Klehini River above Kukwan.

- preferred harvest methods (skidder, lowground pressure skidder, skyline, highlead)
- operating constraints (wet soil, dry soil, frozen ground)
- seedling survival projections
- slope stability (mass wasting such as slumps or slides)
- road construction constraints (extra fill, extra drainage, sidecasting vs. end hauling, full vs. partial benching)
- wind throw hazard

The topographic mapping project should prove very useful to this project as it will allow for accurate slope projections.

PRELIMINARY FINDINGS

Because the project started in May of 1981, it is too early to expect findings.

FUTURE STUDIES

Eight field personnel will work in Haines for part of the next three seasons.

Over the three year period, approximately 200,000 acres in the Haines area will be inventoried and interpreted. Preliminary data will be available on December 31 of each year and investigations are targeted to areas where timber harvest is to occur soon, so the Department's foresters will have soils information available to them when they administer the Haines timber sale.



Member of the vegetation inventory team measures the height of trees.

TOPOGRAPHIC MAPPING



TOPOGRAPHIC MAPPING

Principle Investigator:
Air Photo Tech for the
Alaska Department of
Natural Resources

PURPOSE

Forest managers for the Department of Natural Resources are hampered by the lack of good topographic maps when planning timber harvest layouts, road alignments, inventories and other day-to-day management activities. This project will produce topographic maps with a twenty foot contour interval at a 1"=400' scale. It is intended that the maps will be used by forest managers, other land managers, researchers and the public. The Soil Conservation Service has already indicated the value of having these maps for slope interpretations as part of its soils and vegetation study of the Chilkat Valley.

FIELD ACTIVITIES

Field activities during the spring of 1981 were divided between establishing surveyed control points and then taking aerial photographs of most of the Chilkat and Kelsall River valleys north of the Kicking Horse River in preparation for map making during the summer of 1981.

PRELIMINARY FINDINGS

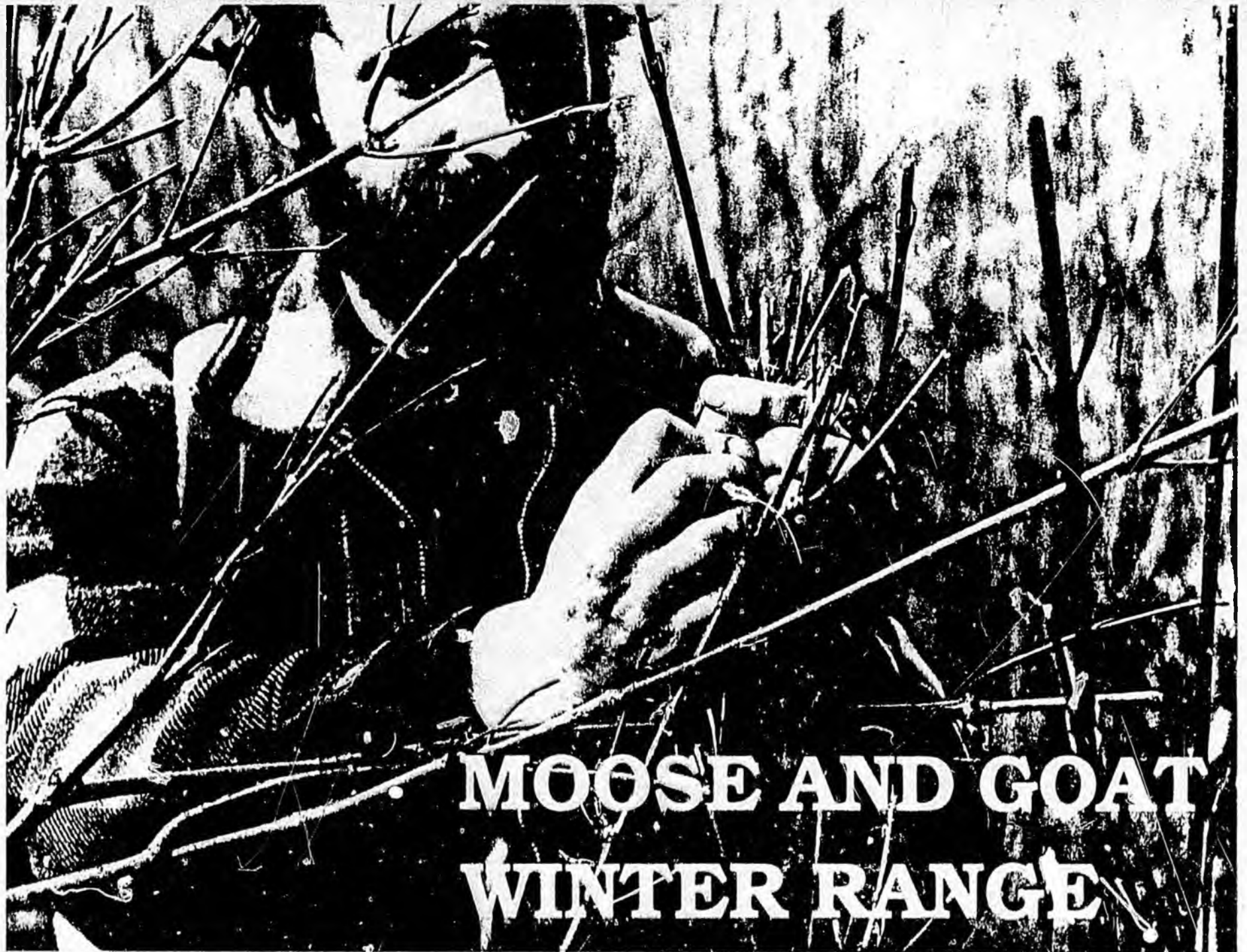
By June 30, 1981, controlled aerial photography and a cadastral control plat used for map production will be finished.

FUTURE STUDIES

The Haines-Klukwan Cooperative Resource Study Advisory Committee has requested funding for Fiscal Year 1982 to have contour maps prepared from the controlled photography obtained during the Fiscal Year 1981 phase of the project.



Survey crews locate areas where survey monuments need to be placed so aerial photographs will have ground contact.



**MOOSE AND GOAT
WINTER RANGE**

MOOSE AND GOAT WINTER RANGE

Principle Investigator:
Alaska Department of
Fish and Game

PURPOSE

Winter is a critical time for wildlife. Without cover that sustains them through the rigors of the winter season, the chance of survival for wildlife in the Chilkat Valley is reduced.

The Department of Fish and Game is concerned that not enough is known about winter habitat for moose and goats in areas to be harvested under the terms of the recent state timber sale in Haines. The purpose of this study is to determine the location and importance of winter habitat for moose and goats. This year's study concentrated on identifying specific winter habitat for goats either in or adjacent to cutting units laid out by the Department of Natural Resources' Five Year Cutting Plan and in defining the distribution and abundance of moose within the general study area.

FIELD ACTIVITIES

Field work was done in several different phases. A ground survey was done in January and early February on a portion of winter habitat for moose located near the Tsirku River fan. Aerial surveys of winter habitat for moose were flown in January, February and April.

Ground surveys of proposed timber harvest units in the Klehini, Little Salmon, Kelsall and upper Chilkat Valleys were undertaken in April and May. Some of the proposed timber cut units for the next five years were surveyed for wildlife use and potential as winter habitat for moose and goats. Any potential conflicts between wildlife use and timber harvesting were analyzed. Surveys were made of goat populations and winter habitat in the Kelsall, Little Salmon and portions of the Chilkat River Valleys through combined use of ground work and helicopter sightings.

PRELIMINARY FINDINGS

Observations of goats and their use of certain habitats during winter in the Kelsall Valley indicate potential conflicts with road building and timber harvesting in that area. Specific boundaries of these wintering areas have not been defined nor have specific habitat requirements been identified.



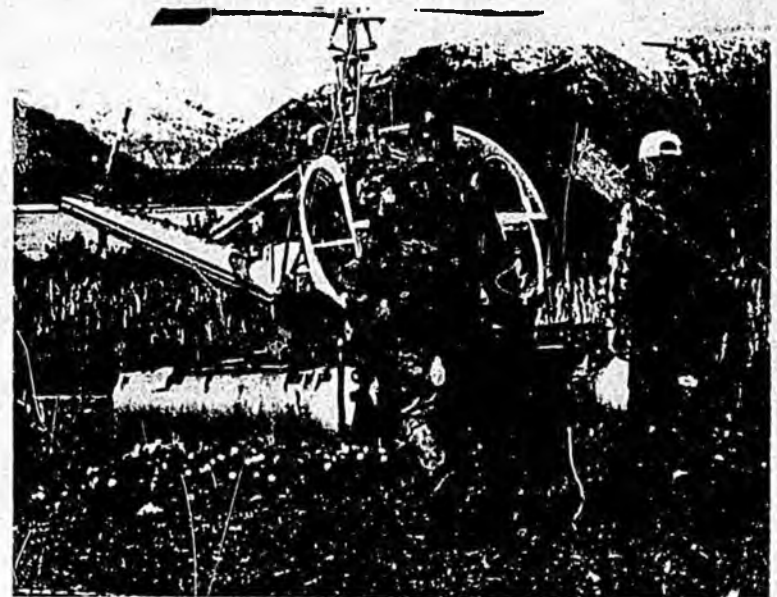
Wayne Eberhardt and another game biologist locate planned timber cutting units on the ground so they can survey moose and goat wintering habitat in those units.

Moose observed during the aerial surveys were located primarily in the river bottom swamp and cottonwood habitats, but also in the upland spruce-hemlock habitat. Six separate areas were identified as important winter habitat for moose and a correlation was made between numbers of moose observed and vegetation types.

FUTURE STUDIES

The Haines Klukwan Cooperative Resource Study Advisory Committee has requested funding to continue investigations of moose and goat habitat use during winter in the Chilkat Valley.

Moose migration between summer and winter habitats will be monitored to better understand the effects of snow depth on wintering moose and to determine habitat use. Further study is essential to analyze specific effects of timber harvesting and road development on important winter habitat for both moose and goats.



Game biologists head for helicopter used in moose and goat aerial surveys.



Game biologists survey moose browse.

HAINES KLUKWAN COOPERATIVE RESOURCE STUDY

FY81 BUDGET (JULY 1, 1980 - June 30, 1981)

Department of Natural Resources

	<u>\$ Budgeted</u>	<u>Contractor</u>
1. Topo Mapping	\$ 56,950	Air Photo Tech (Private)
2. Hydrology	60,000	Environaid (Private)
Hydrology (USGS Match)	15,000	USGS (Federal)
3. Resource Room/ Fisheries Studies	42,500	City of Haines (Local) (State)
4. Soils	50,000	Soil Conservation Service (Federal)
5. Estuary Study	15,200	Karnes (Private)
6. Study Report	5,500	Northern Printing (Private)
7. Travel	3,000	
8. Photography	1,850	Figdor (Private)
Subtotal	<u>\$250,000</u>	

Department of Fish and Game

9. Moose and Goat Habitat	\$ 23,000	Fish and Game (State)
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National Audubon Society

10. Eagle Studies	\$ 50,000	Audubon (Private)
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U.S. Fish and Wildlife Service

1. Eagle Surveys and Radio Telemetry	<u>\$ 35,000</u>	USFWS (Federal)
Total	\$358,000	

HAINES KLUKWAN COOPERATIVE RESOURCE STUDY

FY82 STATE BUDGET (JULY 1, 1981 - June 30, 1982)

	<u>FY82</u>
Haines Cooperative Resource Study Room	\$ 15,000
Fisheries	50,300
a. Salmon Habitat Inventory	\$20,500
b. Chum Salmon Spawning Inventory	11,200
c. Fisheries Study Coordinator	3,400
d. Out-migration Inventory for Chilkat and Chilkoot inlets	15,200
3. Moose and Goat Habitat	63,400
4. Topographic Mapping	43,300
5. Eagle Tracking	30,000
6. Study Report and Photo Support	6,000
7. Travel	4,000
Subtotal A	<u>\$212,000</u>
8. Hydrology*	\$ 70,000
9. Soils*	50,000
10. Timber*	250,000
11. Minerals*	250,000
Subtotal B	<u>\$620,000</u>
Total of A & B	<u>\$832,000</u>

*Included in the Department of Natural Resources
Inventory Capital Budget Request.

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COMMITTEE REPORT

HOUSE

4/16

FURTHER:

Ruler

Date: _____

Mr. Speaker:

The Committee on Resources has had SB 803

"An Act establishing the land clearing account in the agricultural revolving loan fund; and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature] _____

[Signature] _____

[Signature]

CHAIRMAN

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COMMITTEE REPORT

HOUSE

(7)

FURTHER:

3/12/82

Date: April 13, 1982

Mr. Speaker:

The Committee on RESOURCES has had SB 832

"An Act extending the lapse date of the appropriation for the Citizen's Advisory Commission on Federal Management Areas; and providing for an effective date."

under consideration and ~~(a majority of the committee)~~ ~~(the committee)~~ reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
- and recommends _____ new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

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CHAIRMAN

LEGISLATIVE SUMMARY

SB 832 "An Act extending the lapse date of the appropriation for the Citizen's Advisory Commission on Federal Management Areas; and providing for an effective date."

Sec. 1. Extends the lapse date for the appropriation to the Citizen's Advisory Commission on Federal Management Areas until June 30, 1983.

Sec. 2 Effective date is immediately.

SPONSOR: THE RESOURCES COMMITTEE

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THE FOLLOWING APPROPRIATION ITEMS ARE FOR
OPERATING EXPENDITURES FROM THE GENERAL FUND OR OTHER
FUNDS AS SET OUT IN THE FISCAL YEAR 1982 BUDGET SUMMARY
BY FUNDING SOURCE TO THE STATE AGENCIES NAMED AND FOR
THE PURPOSES SET OUT IN THE NEW LEGISLATION FOR THE
FISCAL YEAR BEGINNING JULY 1, 1981 AND ENDING JUNE 30,
1982. THE APPROPRIATION ITEMS CONTAIN FUNDING FOR
LEGISLATION ASSUMED TO HAVE PASSED DURING THE FIRST
SESSION OF THE TWELFTH LEGISLATURE AND ARE TO BE
CONSIDERED PART OF THE AGENCY OPERATING BUDGET. SHOULD
A MEASURE LISTED IN THIS SECTION EITHER FAIL TO PASS,
ITS SUBSTANCE FAIL TO BE INCORPORATED IN SOME OTHER
MEASURE, OR BE VETOED BY THE GOVERNOR, THE APPROPRIATION
FOR THAT MEASURE SHALL LAPSE.

APPROPRIATION APPROPRIATION FUND SOURCES
ITEMS GENERAL FUND OTHER FUNDS

27	HB	17	ESTABLISH OLDER ALASKANS COMMISSION	383,300	383,300		1
28			APPROPRIATED TO DEPARTMENT OF ADMINISTRATION				1
29	HB	31	RELATING TO MANAGEMENT OF STATE LAND	15,000,000	15,000,000		1
30			APPROPRIATED TO DEPARTMENT OF NATURAL RESOURCES				2
31	HB	31	AN ACT RELATING TO DOMESTIC VIOLENCE	257,400	257,400		2
32			APPROPRIATED TO DEPARTMENT OF PUBLIC SAFETY				2
33	HB	12	LIBRARY ASSISTANCE GRANTS	1,080,000	1,080,000		2
34			APPROPRIATED TO DEPARTMENT OF EDUCATION				2
35	HB	94	AN ACT RELATING TO WORKER COMPENSATION	302,800	415,100	(112,300)2	2
36			APPROPRIATED TO DEPARTMENT OF LABOR				2

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NEW LEGISLATION (CONT.)

APPROPRIATION APPROPRIATION FUND SOURCES
ITEMS GENERAL FUND OTHER FUNDS

4	HCR	24	CONTINUE REAA LEGISLATIVE OVERSIGHT COMMITTEE	125,000	125,000		
5			APPROPRIATED TO LEGISLATURE - LEGISLATIVE FINANCE				
6	HCR	29	ALASKA AGRICULTURAL DEVELOPMENT PLAN	200,000	200,000		
7			APPROPRIATED TO DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT				
8	SB	3	AN ACT RELATING TO GUARDIANS & CONSERVATORS	140,800	140,800		
9			APPROPRIATED TO ALASKA COURT SYSTEM				
10	SB	18	SPECIAL EDUCATION PRG/SUMMER '81	2,000,000	2,000,000		1
11			APPROPRIATED TO DEPARTMENT OF EDUCATION				1
12	SB	23	RE/STATE AID TO SCHOOL DISTRICTS	176,600 <i>44</i>	176,600 <i>44</i>		1
13			APPROPRIATED TO DEPARTMENT OF EDUCATION				1
14	SB	23	RELATING TO ENERGY	1,925,200	1,925,200		1
15			APPROPRIATED TO DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT				1
16	SB	24	RE/APPROPRIATIONS FOR ENERGY PROGRAMS	122,900	122,900		1
17			APPROPRIATED TO DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS				1
18	SB	29	RELATING TO DISPOSAL OF HAZARDOUS WASTES	591,000	591,000		1
19			APPROPRIATED TO DEPARTMENT OF ENVIRONMENTAL CONSERVATION				1
20	SB	36	CITIZEN'S ADVISORY COMMISSION ON FEDERAL MANAGEMENT AREAS	365,500	365,500		2
21			APPROPRIATED TO OFFICE OF THE GOVERNOR				2
22	SB	50	RE/RELATING TO UNEMPLOYMENT INSURANCE	70,500	70,500		2
23			APPROPRIATED TO DEPARTMENT OF LABOR				2
24	SB	54	TUITION & FEE PAYMENTS TO GUARD & MILITIA RETIREES	5,000	5,000		2
25			APPROPRIATED TO DEPARTMENT OF MILITARY AFFAIRS				2

Alaska State Legislature

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) 465-3635

Senate

Committee on Resources

March 8, 1982
1:35 p.m.

Beltz Room
Room 211 - Capitol

MEMBERS PRESENT

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

Hearing:

SB 730 An Act establishing the Aleksandr Baranof State Game Refuge.
SB 745 An Act extending the lapse date for the FY 82 appropriation
for land disposal surveys.
SB 759 An Act relating to the size of trapping cabins.
SB 832 An Act extending the lapse date for the FY 82 appropriation
for the Citizen Advisory Commission.

SB 745

Jeff Harnes, Deputy Commissioner, Department of Natural Resources,
explained that this capital appropriation is necessary to continue
survey work (\$11 million) and municipal grants (\$2 million).

Senator Fischer asked that SB 832 be heard before any action was
taken on SB 745.

SB 832

Senator Fischer stated he would like SB 745 and SB 832 combined
since they both amend the same line of the same statute.

Senator Fahrenkamp expressed opposition in consideration of the sponsors.

Senator Mulcahy moved SB 745 and SB 832 with individual recommendations.

Senate Resources Committee

March 8, 1982

Page 2

SB 759

Jeff Haynes stated that the existing statute limits the size of trapping cabins to 192 square feet. DNR feels the increase to 768 square feet that SB 759 would provide is too great. A smaller size would discourage the establishment of a permanent residence on a \$10/year trapping permit.

Senator Fahrenkamp said a Committee Substitute had been prepared that limits the size to 400 square feet.

Senator Eliason disagreed with the size limit, stating that criteria for obtaining a permit limit the cabin's use to trapping.

Senator Gilman moved the adoption of the Committee Substitute for SB 759. He then moved CSSB 759 with individual recommendations.

SB 730

Senator Sturgulewski moved to rescind the Committee's action on SB 730.

Senator Fahrenkamp explained that after action was taken last Friday, the land manager in Kodiak called about a technical error in the bill.

Senator Mulcahy stated that on page 1 line 29 and page 2 line 1, "21" should read "23". He moved the adoption of the Committee Substitute for SB 730. He then moved CSSB 730 with individual recommendations.

The meeting was adjourned at 2:00 p.m.

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COMMITTEE REPORT

HOUSE

FURTHER: Finance

(7)

4/15/82

Date: April 20 1982

Mr. Speaker:

The Committee on Resources has had CSSB 843 (Res)

"An Act relating to surface coal mining and the surface effects of underground coal mining; and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass ~~18-1-82~~ [] do not pass
- [] do pass with attached amendments(s)
- [] replace with CS for _____ [] same title
[] new title
- and recommends _____
- [] AND attaches a "Letter of Intent" [] New Fiscal Note
- [] reports it back without recommendation
- [] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

Date: 4/22/82
From: BETTYE
Phone: _____

MEMORANDUM

From the Office of
Senator Bettye Fahrenkamp

To: ALL HOUSE MEMBERS

MESSAGE:

ATTACHED SUMMARY OF CSSB 843 - COAL RECLAMATION

LEGISLATIVE SUMMARY

SB 843 "An Act relating to surface coal mining and the surface effects of underground coal mining; and providing for an effective date."

The bill proposes to add a new chapter to AS 41.

Sec. 41.45.010 Basic finding that the state is best able to regulate surface coal mining and reclamation under the U. S. Surface Mining Control and Reclamation Act of 1977. The purposes of the bill include: assuring the responsible extraction of coal, the reclamation of coal mining areas, protecting the rights of surface owners, minimizing degradation of land and water and assuring appropriate public participation in the regulatory process.

- .020 Vest jurisdiction over surface coal mining and reclamation operations in the Commissioner of the Department of Natural Resources.
- .030 Enumerates general duties, including adoption of regulations, issuing permits, holding hearings, issuing orders, inspections, prepare reports, receive grants, participate in the abandoned mine land program, coordination and cooperative agreement with other agencies.
- .040 Regulations adopted or permits issued may vary for a particular condition, type of coal, or area of the state.
- .050 Employees administering or a private contractor may not have a direct or indirect financial interest in an underground or surface coal mining operation. Prescribes a designation of a class A misdemeanor if a person knowingly violates this section. (NOTE: \$5,000 fine and a jail sentence of one year).
- .060 Requires coal mine operators to apply for a permit to conduct surface coal mining and reclamation operations beginning 8 months after approval of the state's program.

If the Alaska program is disapproved and the federal program has not been promulgated, existing operations which comply with the federal statute may continue. Permits which lapse during this period will continue in full force until promulgation of a federal program.

- .070 Permits will be issued for five years. The Commissioner can issue a permit for a longer period if the applicant shows that it is necessary in order to obtain financing for equipment or to open the operation.

A permittee is required to commence operations within 3 years after the permit is issued. This can be extended if the permittee show litigation is precluding commencement of operation or threatens substantial economic loss or for

reasons beyond the control, fault, negligence of the permittee. If the coal is to be mined for use in a synthetic fuel facility or specific major electric generating facility, surface mining is considered to have begun at the time construction of the facility is begun.

- .080 Provides that permits carry a right of successive renewal with respect to areas within the boundaries of the original permit, subject to a burden of proof on the opponents of renewal to demonstrate that the operation is not in compliance with regulatory requirements.

Renewals involving new land areas require the same procedures and standards as apply to new permit applications.

Application for permit renewal must be received by the Commissioner at least 120 days before expiration of the permit.

If the application is received at least 120 days before expiration and the permittee has complied with the bonding requirement the operation may continue under the permit after the expiration date until a final administrative decision on the renewal is made.

- .090 Allows the Commissioner to set a fee schedule for a new permit, permit renewal, or transfer permit applications; requires that the fees not exceed the actual or anticipated costs of reviewing the application.
- .100 Requires the public filing of permit applications and copies of all materials filed under this chapter; with the exception of designated confidential information.
- .110 Requires the Commissioner to adopt regulations relating to the contents of permit applications consistent with the requirements of the federal program. These must take into account the unique mining and environmental conditions of Alaska.
- .120 Establishes small operator assistance for certain laboratory work at no cost. This is for operations which will produce under 100,000 tons of coal annually.
- .130 Provides for public notice of pending applications for surface coal mining and reclamation permits.
- .140 Allows a person who may be adversely affected by the proposed operation, as well as federal, state or municipal agencies, to file written comments and objections to the application within 30 days. Such persons must request an informal conference to discuss their comments or objections with the Department.

The Commissioner is required to issue a decision regarding the permit application within 60 days of the informal conference, or as provided in Section .130 below.

- .150 Provides for formal hearings regarding the Commissioner's decision on the permit application upon request of the applicant or any person who may be adversely affected within 30 days after the request. The Commissioner may grant temporary relief pending his final decision when circumstances warrant.
- .160 Requires that before a permit can be issued, the applicant must furnish a performance bond conditioned on faithful performance of the requirements of this statute and the permit. The bond must be sufficient to assure completion of the applicant's reclamation plan by the Department in the event of a forfeiture. In lieu of a bond, the Commissioner may accept cash or negotiable bonds or certificates of deposit or the Department may accept a self-bond under future regulations to assure financial solvency. The amount of the bond may be adjusted for good cause, including changes affecting land areas and costs of reclamation.
- .170 Contains provisions governing release of performance bonds. The applicant must give notice of its request for release of bond, and the Department must conduct an inspection and evaluation of the reclamation work involved. Provides for staged release of the bond, depending on the degree of reclamation work completed and the Commissioner's evaluation. Persons whose legal interests may be adversely affected, and governmental agencies, may file objections to the release of bond and request a hearing, as may an applicant whose request for bond release has been denied.
- .180 Requires the Commissioner to make a decision on a permit application within 120 days after receipt, which may be extended by an additional 60 days upon receipt of additional information required for a decision. This section sets out the basic criteria for approval of an application. A permit may not be issued if the applicant is currently in violation of environmental standards regarding surface coal mining operation which it operates in the United States or if the applicant has had a demonstrated pattern of willful violations of this chapter.
- .190 Deals with revisions and transfers of permits. The Commissioner is required to establish guidelines for determining the extent of revision for all permit application requirements and procedures, including notice of hearing.
- A permit can not be transferred, assigned or sold without written approval of the Commissioner. A successor may continue the operation until the transfer application is granted or denied and meets the requirements of this section.
- .200 Requires exploration activity to be conducted only according to regulations adopted by the Commissioner. The regulations must include provisions for reclamation of excavations, roads, drill holes, and the removal of facilities and equipment.

Under a coal exploration permit no more than 250 tons can be removed without specific written approval of the Commissioner.

- .210 Within 120 days after the effective date of this chapter, the Commissioner is required to propose regulations consistent with the environmental performance standards of the Federal law. The regulations promulgated under this chapter for both surface coal mining and reclamation operations and surface effects of underground mining must include appropriate adjustments to meet the conditions in Alaska.
- .220 Requires the surface effects of underground mining be regulated in a similar fashion to surface coal mining operations. The Commissioner can suspend underground coal mining activities in populated areas if there is an imminent danger to the inhabitants.
- .230 Provides the basic authority for the Department to inspect and monitor operations. The Commissioner may require a permittee to: make monthly reports, install, use and maintain necessary monitoring equipment or methods and other information relating to the operation as the Commissioner considers reasonable and necessary. The Commissioner can inspect the operation. The inspections are to occur on an irregular basis. Inspections are to occur without prior notice, the inspector must notify the permittee's representative, on the site, upon his arrival and invite the representative to accompany him during the inspection. The inspector is required to file a report about the inspection.
- .240 Sets forth the Department's basic enforcement authority. A violation of this chapter or permit which causes imminent danger to public health or safety or which threatens significant, imminent environmental harm, requires the inspector to issue a cessation order for the whole operation or that portion causing harm. The order remains in effect until further Departmental action. If a violation cited does not cause imminent danger, a notice of violation is issued.

Cessation orders and notices of violation are subject to appeals and full due process hearings by persons who may be adversely affected. The Commissioner is authorized to request the Attorney General to institute a civil action for relief. There are provisions governing judicial review of these actions.

- .250 Provides for both civil and criminal penalties for violations of this chapter and permits. Civil penalties are mandatory for cessation orders (may not exceed \$5,000), but discretionary for notices of violation. Willful and knowing violations are class C felonies (NOTE: \$50,000 fine and 5 years jail). Failure to correct a violation during the period of time permitted by the notice or subsequent extension requires a \$750 per day penalty.

- .260 Requires the Commissioner to use competent and scientifically sound data in determining lands unsuitable for all or certain types of surface coal operations. It allows a person with a legal interest which may be adversely affected to petition the Commissioner to have areas designated unsuitable for all or certain types of coal mining. Areas must be designated unsuitable if the Commissioner determines that reclamation in the area in question is not technologically feasible. There are four discretionary criteria for designating land unsuitable. Mining is prohibited in protected areas (subject to existing rights); National Park System, National Wildlife Refuge System, National System of Trails, National Wilderness Preservation System, Wild and Scenic Rivers System, National Recreation Areas, publicly owned parks, historic sites, 100 feet of public roads, 300 feet of occupied dwelling, public building, school, church, community or institutional building, public park or 100 feet of a cemetery.
- .270 Provision regarding abandoned mine lands in order to ensure state participation in the federal Abandoned Mine Reclamation Fund. The Fund is for the reclamation of land adversely affected by past coal mining practices. Contains the administrative authority to establish priorities, designate eligible lands, submit reclamation plans and annual projects to the Department of Interior and administer funds received.
- .280 Defines eligible lands as those which were mined or affected by coal mining, left in an inadequate reclamation status, and for which there is no continuing reclamation responsibility under law.
- .290 Gives the Department power to enter onto property for reclamation purposes. Does not create new rights of action or eliminate existing immunities.
- .300 Authorizes the Commissioner to acquire abandoned mine areas for reclamation purposes and to dispose of such property when: it is necessary for successful reclamation, in the public interest, serve recreational, historic, conservation, open space, and to meet emergency situations. The Commissioner shall pay the fair market value of the property. The Commissioner can sell the property if it is suitable for industrial, commercial, residential or recreational development. The sale has to be consistent with any state and local land use plans.
- .310 Requires the Commissioner to place a lien upon state funded reclaimed property for the increase in fair market value. Exempted are properties owned before May 2, 1977, the owner did not consent to, participate in, or exercise control over the surface operation which necessitated the project. A person affected by this section may petition for a hearing within 60 days after the lien is recorded.
- .320 Authorized the filling of voids and sealing tunnels with money from the Abandoned Mine Land Fund.
- .330 Authorized emergency entry without prior notice onto land to

abate an emergency which constitutes a danger to the public health and safety

- .340 The Commissioner may request the Attorney General to initiate action for an injunction to restrain any interference with the exercise of the right to enter or work described in .270 - .340. Authorizes the State to construct and operate plants for control and treatment of water pollution from mine drainage in compliance with the Federal Water Pollution Control Act.
- .900 Specifies that the requirements of this chapter apply to government agencies, including publicly-owned utilities.
- .910 Exempts from this chapter extraction of coal for non-commercial use of the land owner or lessee, commercial coal operations which affect 2 acres or less and coal extraction as part of government-financed construction.
- .920 Authorizes departures from the environmental performance standards for experimental practices of limited size and which do not down grade the environmental, public health or safety standards of the program. This provision needs approval of the U. S. Department of Interior.
- .930 Provides that this chapter does not affect a person's water rights and that any impairment of water supply must be remedied by the operator.
- .940 Provides authority for the Commissioner to require training, examination and certification of blasters.
- .950 Creates a civil cause of action on behalf of persons who may be adversely affected by a failure to comply with the chapter against both the state agencies and alleged violators. A person commencing action under this section must give 60 days notice and the action can only be filed in the judicial district in which the operation is located.
- .960 Provides that any provision of this chapter which the Secretary of Interior determines to be inconsistent with the federal Act is invalid. Also, requires the Commissioner to review all changes made in the federal Act or regulations, and to make appropriate recommendations as to whether or not the State program should be changed.
- .970 Provides that this chapter is not to be interpreted to modify any existing state agency's powers over coal leases and exploration permits, except as specifically provided by this chapter and implementing regulations. This section also requires that the provisions of this chapter are applicable to lands conveyed out of federal ownership.

- .975 Is the severability clause.
- .980 Makes the Administrative Procedure Act applicable to this chapter unless otherwise provided.
- .985 Cites the short title of the chapter as the "Alaska Surface Coal Mining Control and Reclamation Act."
- .990 Is the definitions section.

Section 2. Requires applications to be submitted under this chapter within 2 months after the date the state program is approved by the Secretary of Interior, and requires the Commissioner to process such an application within 8 months after the Secretary's approval.

Section 3. Reserves the right of the state to contest the constitutional or statutory validity of any of the regulations issued under the federal act.

Section 4. Requires the Commissioner to adopt regulations under the Administrative Procedure Act. The regulations do not take effect until the effective date of Section 1.

Section 5. Provides that Sections 1 and 2 become effective upon approval of the state program by the Secretary of Interior.

Section 6. Provides that Sections 3 and 4 become effective immediately.

ALASKA
STATE LEGISLATURE
MEMORANDUM

JOHN MANLEY
HOUSE RESOURCES COMMITTEE

4/20/82

RE: CSSSSB 796

PER YOUR REQUEST ATTACHED IS INFORMATION REGARDING THE HAINES
EAGLE PRESERVE AND FORESTRY LEGISLATION.



RESA KING
SENATE RESOURCES COMMITTEE

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE:

March 25, 1982

The Honorable Bettye Fahrenkamp
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Fahrenkamp:

As I understand you will soon be scheduling a hearing on Senate Bill 796 "an Act providing for the management of State-owned land in the Haines area, establishing the Alaska Chilkat Bald Eagle Preserve and the Haines State Forest Resource Management Area." I felt it would be helpful to provide the Resources Committee with a brief chronology of events leading to its introduction.

<u>June 1978</u>	Adoption of Haines/Skagway Land Use Plan
<u>August 1978</u>	Negotiated timber sale contract signed with Schnabel Lumber Co. for lands classified for timber harvest
<u>September 1979</u>	SEACC Lawsuit on Haines Timber Sale
<u>July 1980</u>	Governor's "moratorium" letter to Senator Hart (see attached) Haines Klukwan Resource Advisory Committee established. Haines/Klukwan Cooperative Resource Study begins
<u>June 1981</u>	Progress Report on Resource Study (see attached)

The Honorable Bettye Fahrenkamp
Page Two
March 25, 1982

December 1981

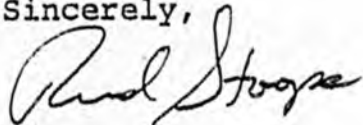
Haines Klukwan Resource Advisory
Committee meets in Haines to discuss
possible legislation to create State
Forest and Eagle Preserve

March 1981

SB 796 introduced with letter of
agreement by City of Haines, Haines
Borough, Schnabel Lumber, SEACC,
Audubon, USFWS, Alaska Miner's
Association.

In summary, almost four years of debate, litigation, research,
and compromise have preceded the introduction of SB 796.
The Department of Natural Resources has a great deal of time
and effort invested in this legislation, and urges your
favorable consideration.

Sincerely,



Reed Stoops
Director
Division of Research
and Development

Attachments



STATE OF ALASKA
OFFICE OF THE GOVERNOR
WASHINGTON, D.C.

July 21, 1980

The Honorable Gary Hart
United States Senate
254 Russell Senate Office Bldg.
Washington, D.C. 20510

Dear Senator Hart:

At your invitation and that of three other Senators, representatives of my administration have recently met with members of the principal organizations and public agencies which have expressed concern for the future welfare of the Chilkat eagle population. In these meetings, we presented an overview of past State actions which have been taken to protect the eagles and their habitat, and outlined commitments we intend to make in this regard.

In 1972, the Alaska State Legislature established a "Critical Habitat Area" of 4,800 acres to preserve part of the lands used by the eagles in their winter congregation. In addition, the State classified protective riparian corridors for both fish and wildlife values, and designated certain lands for further study to determine their importance to both eagles and fisheries.

Last year, in keeping with recommendations of the Haines/Skagway Land Use Plan, the State cooperated with the communities of Haines and Klukwan, and the National Audubon Society in their initiation of studies of the Chilkat bald eagles. Based on first year recommendations of these studies, I am making \$250,000 in legislative appropriations available for a strengthening cooperative bald eagle study. It is important to me that all parties cooperate in accomplishing one comprehensive eagle study rather than duplicating efforts through two or more such studies.

In addition to helping assure adequate support for the study of eagle ecology, some of these monies will also be committed to comprehensive investigations of related resource values, with special emphasis on hydrology, fisheries, soils, and vegetation. It will be particularly important in these study efforts

The Honorable Gary Hart
July 21, 1980 - Page Two

to identify projected money and manpower needs, and management policies and objectives, to assist the State in providing effective protection to the Chilkat bald eagles under what I recommend should be a cooperative management regime.

An advisory committee involving representatives of the local communities of Haines and Klukwan, the National Audubon Society, and appropriate State and Federal resource agencies will be established by the Commissioner of the Alaska Department of Natural Resources. I will rely on this group to offer direction on how State funds can best be spent to obtain information vital to enlightened management and protection of bald eagles, and the habitat that sustains them.

In keeping with my concern for impacts of these studies on the local communities and on possible management options for the eagles, I am also urging that some of these monies be made available for study of the social, economic and cultural concerns of the city of Haines and the village of Klukwan. The role of the advisory committee will be especially important in this regard, and the State will be looking to that group on how to best acquire and use this essential information.

At present, there are no plans for development in areas currently thought to be of greatest importance to the eagles. To alleviate concerns about the future possibility of such actions prior to completion of the studies, I am declaring a moratorium on all major development activities within the essential bald eagle habitats as described on the attached map dated May, 1980. This is to include any planning for road and bridge construction. Customary and traditional uses important to the welfare of local residents, and which in past years have not adversely impacted the eagles, will continue to be permitted in these areas. Such uses will include, but are not necessarily limited to, hunting, fishing, trapping, subsistence, prospecting, general recreation and both motorized and non-motorized access.

I want to emphasize that the State of Alaska fully recognizes the great State, national and international values of the annual gathering of bald eagles along the Chilkat River. We are committed to cooperating with all interested parties in seeking sound scientific information necessary to effectively conserve the birds, and to place their essential habitats under permanent protection.

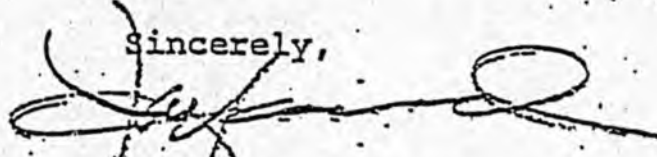
It is my understanding that the moratorium and study outlined above have been discussed with, and are satisfactory to, representatives of Haines and the Alaska Coalition. The study which

The Honorable Gary Hart
July 21, 1980 - Page Three

I have alluded to will be carried out cooperatively with these groups, which will be represented on a policy advisory committee.

If you have any questions or comments regarding the arrangements which I have just described, please let me know.

Sincerely,



Jay S. Hammond
Governor

cc: The Honorable Ted Stevens
The Honorable Mike Gravel
The Honorable John H. Chafee
The Honorable Jennings Randolph
The Honorable John C. Culver
The Honorable Frank Church

February 26, 1982

*Letter of
Consensus*

*3/2/82
12:10/m*

The Honorable Jay S. Hammond
Governor, State of Alaska
Pouch A
Juneau, AK 99811

Dear Governor Hammond:

This is to advise you that after prolonged study and debate, the undersigned parties have reached a consensus regarding a legislative solution to resource conflicts on State land in the Haines area. This preferred solution involves passage of companion legislation, Senate Bill 796 and House Bill 881, namely, "An Act providing for the management of State owned land in the Haines area, establishing the Alaska Chilkat Bald Eagle Preserve and the Haines State Forest Resource Management Area."

Earlier this month, at our request, Senator Ray and Representative Duncan introduced draft bills in both the House and Senate to serve as legislative vehicles. We recommend that the consensus legislation we have agreed to be introduced as "sponsor substitutes" for the introduced legislative vehicles in the very near future.

Since the consensus agreement involves very careful wording of the legislation to achieve a delicately structured compromise, we also strongly urge that the legislation, a copy of which is enclosed, be passed by the Legislature without amendment. Should the bill be amended by the Legislature so as to change its nature, all parties to this agreement reserve the right to pursue alternative courses of action, including but not limited to, opposing passage of the amended legislation. Should passage of unacceptable amended legislation occur, despite our best efforts, then we would request exercise of your veto authority.

All parties to this consensus agree that the reinventory of timber resources in the area is important for the purposes of scientific forest management and expect that a reinventory be made a high priority for funding by your administration. We respectfully request that you direct Commissioner of Natural Resources John Katz to make adequate funding of a current "operational level inventory" in the

February 26, 1982

Haines State Forest Resource Management Area his highest priority in terms of timber inventories and reinventories on state land.

We would also like to request your continued support for the currently uncompleted interdisciplinary resource studies under the purview of the Haines-Klukwan Cooperative Resource Advisory Committee. These cooperative study efforts should provide information useful in developing comprehensive management plans for the proposed Bald Eagle Preserve and State Forest Resource Management Area.

On passage of the proposed consensus legislation by the State Legislature, the National Audubon Society agrees to request that you remove the "moratorium" on development you established in your letter to Senator Gary Hart of Colorado dated July 21, 1980. The Society also agrees to request that Senator Hart and other concerned U. S. Senators and Congressmen support the proposed legislation and your lifting of the moratorium.

In closing, we would like to thank you and your administration, particularly the Department of Natural Resources, for the strong support provided in helping to achieve this unprecedented legislative compromise involving land and resource conflicts in the Haines area. We are convinced that this "Alaskan solution" has the potential for adequately protecting local, state, national and international resource values and other interests in the Chilkat and Chilkoot valleys and could well serve as a model for resolving similar conflicts elsewhere in the State. Furthermore, successful implementation of this legislation once passed should demonstrate to all Alaskans and to the Nation as a whole that protection and management of resource values and other interests can in fact be successfully accomplished.

Your consideration of this request is greatly appreciated.

Sincerely yours,

R E Henderson
Mayor of Haines Borough
Jon D. Halliwell
Mayor of City of Haines

February 26, 1982

John F. Schnabel, President
Schnabel Lumber Company

William C. French
President, Lynn Canal
Conservation Council Inc

David R. Clive
Regional Vice President,
National Audubon Society

Jim Steuber
Executive Director,
Southeast Alaska
Conservation Council

Robert A. Ladd Jr.
for Regional Director, U. S. Fish
& Wildlife Service

Alaska Miners Association
Haines Branch

Meritt Palmer

SWS/ke

cc: Hon. Bill Ray
Hon. Betty Fahrenkamp
Hon. Jim Duncan
Hon. Mike Miller
Hon. Eric Sutcliffe
Hon. Ken Fanning



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 Eliason
Senator Gilman
Senator Mulcahy
Senator Sturgulewski

April 14, 1982
1:35 p.m.

Beltz Room
Room 211 - Capitol

Hearing:

SB 794 Establishing certain areas as units of the Alaska marine park system.
SB 795 Relating to outdoor recreation and historic projects.
SSSB 796 Providing for the management of state owned land in the Haines area, establishing the Alaska Chilkat Bald Eagle Preserve and the Haines State Forest Resource Management Area.

SSSB 796

Resa King, Administrative Assistant, described the two meetings that had been held with Klukwan, Tlingit/Haida Central Council, Audubon Society, City of Haines, and the Department of Natural Resources since the April 7th hearing on SSSB 796, and stated that memos outlining those meetings were in the Committee members' packets. The meetings were to, 1) satisfy the concerns of Klukwan, and 2) answer questions raised by the legal division.

Jeff Haynes, Deputy Commissioner, Department of Natural Resources, expressed support for the bill, but indicated that technical amendments may need to be made before final passage.

Senator Mulcahy moved CSSSSB 796 with individual recommendations.

SB 794

Phil Holdsworth, Juneau, expressed concern that the areas listed in Section 2 of the bill include many which are the only potential sites for log transfer facilities and industrial docks, especially in Southeast.

Jeff Haynes, DNR, explained that the areas listed in Section 2 are study areas, and will not necessarily be included in the marine park system. Decisions on which lands to include will involve a visible

Senate Resources Committee

April 14, 1982

Page 2

public process, and no lands will be included without legislative approval. Haynes stated that areas other than those listed in Section 2 can be studied also.

Senator Gilman expressed concern over language in the bill that would close the park lands to multiple use. He moved an amendment deleting page 1, lines 22-29 (CS) and asked unanimous consent.

Senator Fischer moved CSSB 794, as amended, with individual recommendations.

SB 795

Senator Fischer moved an amendment deleting page 3, lines 14-17 (CS #2) and asked unanimous consent. He then moved CSSB 795 as amended with individual recommendations.

The meeting was adjourned at 2:05 p.m.

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COMMITTEE REPORT

HOUSE

FURTHER: Judiciary & Finance

(7)

4/20/82

Date: April 22, 1982

Mr. Speaker:

The Committee on Resources has had CSSB 875 (Res)

"An Act relating to the transfer of the ownership and management of University of Alaska trust land from the Department of Natural Resources to the Board of Regents of the University of Alaska; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for CSSB 875 (Resources) same title
 new title
- and recommends DO PASS
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Rich Howard

Alvin...

...

MEMBERS HAVING
OTHER RECOMMENDATIONS:

...

CHAIRMAN

Proposed amendment to CSSB 875

Page 1, line 6: Delete title block, and replace with:

For an Act entitled: "An Act relating to land; and providing for an effective date."

Page 2, line 18: Delete section 6, and insert the following:

* Section 6. AS 38 is amended by adding a new chapter to read:

CHAPTER 09. HOMESTEAD ENTRY.

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

(1) under AS 38.05.057; or

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

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

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

(d) A person who has applied for or received state land under this chapter is not eligible for a loan under AS 03.10 for the habitable dwelling or the clearing of the land required under AS 38.09.040.

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

(1) qualified under AS 38.05.057 to participate in the disposal of land by lottery; or

(2) qualified under AS 38.05.077 to make an entry under the

remote parcel disposal procedures.

Sec. 38.09.030. APPLICATION FOR HOMESTEAD ENTRY. (a) A person who has staked the exterior boundaries of a homestead entry under AS 38.05.077 and a person who has been selected to purchase land designated for homestead entry by lottery shall apply for the homestead entry on a form prepared by the department.

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

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

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

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

(2) erects a habitable dwelling;

(3) clears and prepares for cultivation not less than

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

(B) one-eighth of the land entered if the land is not limited to agricultural use;

(4) brushes the boundaries of the homestead entry and maintains the brushed boundaries so that they are easily visible from the ground;

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

(b) The director shall require an applicant for homestead entry

to submit proof necessary to establish compliance with the requirements of (a) of this section. An applicant is not required to submit proof under (a)(4) or (5) of this section if the land comprising the homestead entry has been surveyed.

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

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

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

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

* Sec. 7. AS 38.04.027(g)(3) is amended to read:

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

* Sec. 8. AS 38.05.057(a) is amended to read:

(a) The commissioner may dispose of land, including land limited to use for agricultural purposes, by lottery. The purchase price of land sold by lottery shall be the fair market value of the land as determined by the commissioner. The commissioner may sell land by lottery for less than the fair market value of the land if he determines that scarcity of land for private use in the area of the land to be sold has resulted in unrealistic land values. Before the commissioner determines the purchase price for land which is located in a municipality and

which is to be sold under this section, he shall consult with the assessor of the municipality. The lottery shall be conducted in public by the commissioner or his representative. An applicant may not be selected to purchase land unless he is present on the date and at the place that the lottery is conducted unless medical reasons, attendance at school, or military service [OUTSIDE THE STATE] prevent attendance. [AN APPLICANT MAY BE REPRESENTED BY AN AGENT ON THE DAY OF THE LOTTERY IF THE LAND OFFERED FOR SALE IS COMMERCIAL, INDUSTRIAL, OR AGRICULTURAL LAND.] On the day of the lottery a purchaser selected by lot shall deposit an amount equal to five percent of the purchase price, or if the purchaser elects to use land discounts granted under AS 38.05.058, five percent of the purchase price after deduction of the discount. If the land is designated for homestead entry, the applicant selected by lottery for homestead entry must file an application under AS 38.09.030(a).

* Sec. 9. AS 38.05.077(a) is amended to read:

(a) The commissioner shall designate remote parcel selection areas and shall dispose of remote parcels in accordance with AS 38.04.020. The commissioner may set the number of remote parcels that may be selected in each remote parcel selection area. A remote parcel may be purchased under AS 38.05.078 or an applicant may receive a patent to a remote parcel under AS 38.09. A remote parcel purchased under AS 38.05.078 may not exceed 40 acres. A remote parcel acquired under AS 38.09 may not exceed 160 acres.

* Sec. 10. AS 38.05.077(b) is amended to read:

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

- (1) the maximum size of a remote parcel that may be selected in the parcel selection area;
- (2) (repealed)
- (3) the minimum distance between remote parcels in the parcel selection area;
- (4) parcel dimensions, configuration, orientation and other parcel design requirements;
- (5) a description of land within the area that may not be included in a parcel;
- (6) a requirement that landmarks, monuments or other points be used as points of reference for the measurement of distances within an area; and
- (7) specification for the type of stakes to use to mark the corners of a parcel.

* Sec. 11. AS 38.05.077(d) is amended to read:

(d) Not later than 15 days after staking the exterior boundaries of a remote parcel, the person who staked the parcel shall file a sketch plat with the department which shows the location of the remote parcel. At the time of filing the sketch plat, the person who staked the parcel shall apply to lease the land or apply for homestead entry under AS 38.09. An application [TO LEASE THE LAND] shall be on a standard form prepared by the department. The annual rental payment for the first year of the lease shall be submitted to the department with the application. After the application to lease a remote parcel is approved, the commissioner shall offer to lease the land to the person who staked the remote parcel. A lease granted under this section shall contain the following terms:

- (1) a remote parcel may be leased for five years;
- (2) a remote parcel lease may be renewed at the option of the

lessee for a second five-year period under the same terms as provided for the first five-year period of the remote parcel lease;

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

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

* Sec. 12. AS 38.05.077(i)(3) is amended to read:

(3) certify that he has not previously leased a remote parcel from the state nor made application for a homestead entry on state land within eight years immediately preceding the date of staking a remote parcel.

* Sec. 13. AS 03.10.030 is amended by adding a new subsection to read:

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

* Sec. 14. 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 the leasing, exploration, and development of oil and gas resources underlying state land, the commissioner shall 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.

* Sec. 15. AS 38.05.180(aa) added by sec. 14 of this Act applies only to uninterpreted data acquired from geophysical surveys which were commenced on unleased state lands on or after January 1, 1982.

* Sec. 16. Sections 6 - 13 of this Act take effect July 1, 1982.

* Sec. 17. Sections 1 - 5 and sections 14 and 15 take effect immediately in accordance with AS 01.10.070(c).

Proposed amendment No. 2 to CSSB 875

Page 6, line 23:

delete "shall" and replace with "may"

Page 7, line 3:

add new sentences to say:

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.



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: Representative Fanning
Representative Sutcliffe
Co-Chairmen, House Resources Committee

FROM: Senator Fahrenkamp
Chairman, Senate Resources Committee

RE: SB 875

DATE: April 21, 1982

As requested, please find attached background information on the following bill:

CSSB 875 Transfer of ownership and management of University of Alaska trust land from the Department of Natural Resources to the Board of Regents of the University of Alaska.

LEGISLATION SUMMARY

CS SB 875

"An Act relating to the transfer of the ownership and management of University of Alaska trust land from the Department of Natural Resources to the Board of Regents of the University of Alaska; and providing for an effective date."

- Sec. 1: The purpose of this Act is to settle certain litigation and to transfer legal title and management of University grant land from the Department of Natural Resources to the University of Alaska Board of Regents.
- Sec. 2: Nothing in this act precludes or prejudices negotiations between the Municipality of Anchorage and the University of Alaska to settle their court case, or affects the pursuit or outcome of that litigation, or diminishes or affects the rights or interests of the University or the Municipality in that pending litigation.
- Sec. 3: Directs the Commissioner of Natural Resources to convey all state interests in the described University-grant lands to the University of Alaska Board of Regents, pursuant to the Settlement ("Settlement Agreement Between the Department of Natural Resources, The Department of Revenue, And The Department of Administration and The University of Alaska and The Board of Regents, As Trustees for the University of Alaska"). Ratifies the Settlement, subject to necessary appropriations and legislation to implement it.
- Sec. 4: Amends existing law regarding the duties of the Board of Regents to include the care, control and management of the transferred University-grant lands.
- Sec. 5: Amends existing law regarding the duties of the Board of Regents to direct them to adopt regulations for trust management, and to provide adequate public notices of dispositions of University-grant lands, or interest therein.
- Sec. 6: Immediate effective date.

PRIME SPONSOR: Resources

SENATE RESOURCES COMMITTEE

LETTER OF INTENT

CSSB 875(Res)

It is the intention of the Resources Committee in passing out this bill that the University and the Municipality of Anchorage negotiate to settle their claims presented in litigation (SAN 79 2801 Civil), Third Judicial District. The Resources Committee intends that the two parties shall report to the legislature by the tenth day of the 1983 session on the results of their discussions.

CSSB 875(Res)



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

MEMBERS PRESENT

Senator Fahrenkamp
Senator Gilman
Senator Mulcahy
Senator Sturgulewski

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

April 5, 1982
1:35 p.m.

Beltz Room
Capitol - Room 211

Hearing:

- HB 409 Relating to hunting.
- SB 875 Transfer of ownership and management of University of Alaska trust land from the Department of Natural Resources to the Board of Regents of the University of Alaska.
- SB 876 Making special appropriations and appropriation transfers to the Department of Law for implementation of a settlement agreement.

Confirmation of Governor's Appointments

HB 409

Vern Hurlbert, District 18 Representative, explained that HB 409 requires a guide for nonresident aliens to hunt big game, and permits for both nonresidents and nonresident aliens. The intent is to control the large flood of unregulated hunters from both overseas and the Lower 48.

Greg Bos, Division of Game, Alaska Department of Fish and Game, favors the bill if it is amended to delete Section 2. He stated there may be Constitutional questions in requiring a permit of nonresident citizens, and expressed concern that Section 2 could be construed to mean that the Department of Fish and Game would have to establish a permit system for every species of big game, which would be a tremendous burden and create a fiscal impact. In addition, the Board of Game would have to determine that Alaskans were not being denied an opportunity to take big game, which would be a difficult task.

Senator Gilman moved the adoption of an amendment to delete Section 2, and asked unanimous consent. He then moved the adoption of an amendment to insert the word "alien" after the word "nonresident" on line 18, and asked unanimous consent. Gilman moved the adoption of SCSCSSSHB 409, and asked unanimous consent. He then moved the bill with individual recommendations.

SB 875

John Katz, Commissioner, Department of Natural Resources, expressed support for SB 875. The trial judge ruled that the trust relationship between the State and the University had been violated. This bill reflects an out of

court settlement of the dispute. The agreement consists of three components: conveyance of title, management, and control of the University grant lands; a \$500,000 appropriation to do appraisal work necessary to effectuate the agreement; and a process for evaluating the liability that may be owed by the State. Katz noted that the Municipality of Anchorage believes it is adversely affected by the agreement outlined in SB 875. Katz suggested that, to avoid taking sides, the Legislature mandate a negotiation process that would lead to a definitive resolve at a certain time, and require a report to the legislature early next session.

Merry Tuten, Director, University of Alaska Lands Office, stated that the Court made clear that the University is entitled to receive compensation for the taking of its lands, and that SB 875 solves the problems between the University and the State. The settlement agreement is a mechanism for the University to reestablish itself as a land grant college, and will provide the University an opportunity to use its lands to produce income. Tuten stated the University's opinion that the Municipality of Anchorage is not adversely affected by the bill, and assured the Committee that the University has every intent of reconciling their differences with the Municipality.

Alan Tesche, Deputy Municipal Attorney, Municipality of Anchorage, explained that the Municipality has selected 821 acres of University Trust Land, but that no final conveyances have taken place because of the ongoing litigation. He stated that SB 875 prejudices the Municipality's rights by giving the University tremendous leverage and provides no motivation for the University to proceed with land transfers. Tesche proposed an amendment that would prohibit the conveyance of land or cash payment to the University until the University/Municipality issue is fully resolved.

Senator Sturgulewski offered an amendment stating that nothing in SB 875 precludes or prejudices negotiations between the Municipality and the University. She also offered a letter of intent urging the University and the Municipality to settle their claims and report to the legislature by the tenth day of the 1983 session.

Senator Sturgulewski moved the adoption of her amendment and the accompanying letter of intent, and asked unanimous consent.

Senator Mulcahy moved the adoption of CSSB 875. He then moved the bill with individual recommendations.

SB 876

Senator Mulcahy moved SB 876 with individual recommendations.

Confirmation of Governor's Appointments

Without objection, Senator Fahrenkamp signed approval of all appointments.

The meeting was adjourned at 3:10 p.m.

PROPOSED BUDGET

U of A/DNR SETTLEMENT AGREEMENT - SB 875 and SB 876

TOTAL FUNDS

PERSONAL SERVICES	\$ 172,465
TRAVEL	\$ 20,840
CONTRACTUAL SERVICES	\$ 295,400
COMMODITIES	\$ 6,095
EQUIPMENT	\$ 5,200
	<hr/>
	\$ 500,000

ALLOCATION OF FUNDS

UNIVERSITY OF ALASKA

**Appraisal contracts	\$ 270,000
Operating budget	\$ 120,000

DEPARTMENT OF NATURAL RESOURCES

Operating budget	\$ 110,000
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TOTAL	<hr/>
	\$ 500,000

**University and DNR will jointly hire and instruct appraisers. Contracts will be administered by the University.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 6, 1982

SUBJECT: University trust land
(CSSB 875 (Resources))

TO: Senator Bettye Fahrenkamp
Chairman, Senate Resources Committee

FROM: Richard A. Bradley
Legislative Counsel *B*

The committee has not wanted this office to exercise its usual drafting and review function on the enclosed bill. Accordingly, the bill is enclosed essentially as requested. What changes have been made are required by the fact that new material is added and because this is a committee substitute.

In new Sec. 2, I have changed the material only to make the verbs agree with their subject.

It seems difficult to see how it is possible that this legislation will have the effect Sec. 2 is designed to allay; we do not consider that Sec. 2 is within the subject of the bill.

Sec. 3 (former Sec. 2) is amended to recognize that this is a committee substitute and that the Agreement was introduced at the introduction of the bill.

The lead-in to Secs. 4 and 5 (former Secs. 3 and 4) is amended to eliminate the more gross style violations. The material after "section 3" is added to recognize that a reference to "this Act" in the Alaska Statutes is meaningless; a referent is added.

And finally we note that Secs. 4 and 5 have nothing to do with the subject of the bill: the "transfer of the ownership and management" of trust land.

RAB:ljb

Enclosure

March 31, 1982

STATE OF ALASKA/UNIVERSITY OF ALASKA LANDS ISSUE

SB 875 and SB 876

ORIGIN AND PURPOSE OF UNIVERSITY GRANT LANDS

The U.S. Congress reserved 108,000 acres of federal land in Alaska to be held in trust for the exclusive use and benefit of the University of Alaska, a land grant college. The intent of the grant was to endow the University with a land base from which to produce income to support the University in part. The State and University entered into an agreement in 1960 which provided for state management of these lands. Income from the use of the lands is deposited into the University of Alaska's Permanent Fund and managed by the Department of Revenue. The University is able to spend only the interest earnings from the fund.

NEGOTIATION ISSUES BETWEEN THE STATE AND UNIVERSITY

University grant lands were managed by the State as though they were state lands and were transferred to municipalities, leased at less than fair market value, and withdrawn from revenue producing potential by placement in parks. In 1981 the Alaska Supreme Court reaffirmed the State's trustee responsibilities and required the State to compensate the University for certain Chugach State Park land takings. The University and State Departments of Natural Resources, Revenue, and Administration negotiated an out of court settlement which comprehensively addressed compensation due for numerous other takings. The settlement was approved by all parties on March 12, 1982.

SUMMARY OF SETTLEMENT AGREEMENT

All parties to the settlement agreement believe the University should own and manage University grant lands and that the University is entitled to compensation as a result of State management. The agreement transfers title, management, and control of existing University grant lands to the University of Alaska Board of Regents as trustee and outlines a process for determining the compensation due the University. The University is entitled to receive compensation for uncollected revenues; rights of way, easements, gravel sales, park withdrawals, leases and other actions at less than fair market value; and liquidated damages for other losses of revenue. When all the transactions are appraised the University may elect to receive a cash deposit to the University's Permanent Fund or equal value in state land or some combination of both.

LEGISLATIVE ACTION

All parties to the settlement agreement believe the legislature should be informed and involved in the settlement.

SB 875: transfers title, management and control of existing University grant lands to the University of Alaska Board of Regents; ratifies the settlement agreement; and requires the University to adopt reasonable rules providing for prudent trust management and ~~provide~~ adequate public notice.

SB 876 appropriates \$500,000 to the Department of Law to be used by the State and University to research and determine the total dollar amount of compensation due the University.

JB:dm



UNIVERSITY OF ALASKA
FAIRBANKS, ALASKA 99701

BOARD OF REGENTS
RESOLUTION

WHEREAS, The United States Congress reserved land in certain sections 33 located within the Tanana Valley for the University of Alaska by the Act of 1915 (38 Stat. 1214, as amended), and permitted the Territory of Alaska to select 100,000 acres of vacant, non-mineral, unreserved land from the federal public domain for the exclusive use and benefit of the University of Alaska by the Act of 1929 (45 Stat. 1091, as amended) (hereinafter collectively referred to as "University-grant lands"); and

WHEREAS, Congress transferred the University-grant lands to the State of Alaska by Section 6(k) of the Alaska Statehood Act and the State statutorily accepted the benefits and provisions of the federal land grant Acts of 1915 and 1929 by enacting, respectively, AS 14.40.380 and 14.40.390; and

WHEREAS, the University commenced litigation against the State of Alaska on April 23, 1979 (Case No. 3AN-79-2801 Civ., Third Judicial District), seeking compensation for disposals and transactions alleged to be in breach of trust obligations imposed by federal law; and

WHEREAS, representatives of the Alaska Department of Natural Resources and the University of Alaska, after lengthy negotiations, have developed a proposed settlement agreement which would resolve or compromise certain claims and defenses in the pending litigation, to the extent provided by the Agreement; and

WHEREAS, the Board of Regents of the University of Alaska held a special meeting on February 13, 1982, in Fairbanks, Alaska, for the purpose of voting on a motion to approve the proposed settlement agreement; and

WHEREAS, the February 13, 1982, special meeting of the Board of Regents was attended by a quorum consisting of Regents Edward B. Rasmuson (President), Jeffrey J. Cook (Vice President), Donald B. Abel, Jr. (Secretary), Herbert C. Lang (Treasurer), Hugh B. Fate, Jr., Margaret J. Hall, Sara Hannan, and John T. Shively; and

WHEREAS, Regent Cook moved, seconded by Regent Lang, that the Board of Regents adopt the following motion:

"The Board of Regents approves the attached settlement agreement dated February 13, 1982. Any subsequent language changes will be reviewed by the Board at the scheduled March 12, 1982, meeting. The Board directs the President to cooperate with the efforts of the Commissioner for Natural Resources to gain legislative endorsement of the Agreement. Inasmuch as the Governor has not yet had an opportunity to review the agreement, no public release of the document will be made until he has had such opportunity. This motion is effective February 13, 1982."

WHEREAS, upon due deliberation and with the advice of counsel, the Board of Regents unanimously passed the aforesaid motion: and

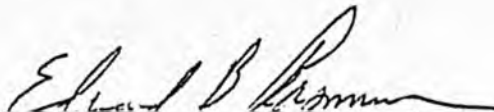
WHEREAS, paragraph twenty-two (22) of the Agreement requires the Board of Regents to pass a resolution signed by all members of the Board approving and adopting the proposed settlement agreement and specifically and irrevocably assuming responsibility as trustees to the University regarding the management and disposition of all lands which are contemplated to be transferred in fee to the University pursuant to the Agreement;

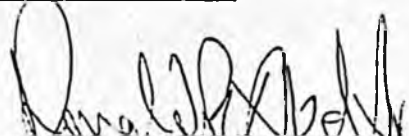
NOW, THEREFORE, BE IT RESOLVED that the Board of Regents approves and adopts the Agreement dated February 13, 1982 and entitled "Settlement Agreement between the Department of Natural Resources, the Department of Revenue, and the Department of Administration, and the University of Alaska, and the Board of Regents as trustees for the University of Alaska," as amended, and

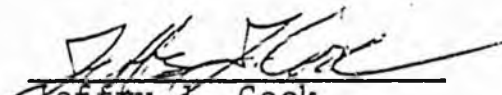
BE IT FURTHER RESOLVED, that the Board of Regents collectively, and each member of the Board of Regents in his or her official capacity individually, specifically and irrevocably assumes responsibility as trustee to the University of Alaska for the management and disposition of all lands which are transferred in fee to the University pursuant to the Agreement, and for the proceeds derived from such lands; and

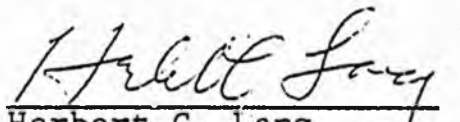
BE IT FURTHER RESOLVED that, this assumption of trusteeship responsibility shall be binding individually upon the successors in the office of regent of the undersigned regents, and collectively upon the Board of Regents, as it may be composed in the future.

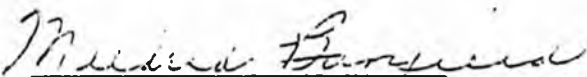
DATED this 12th day of March, 1982.

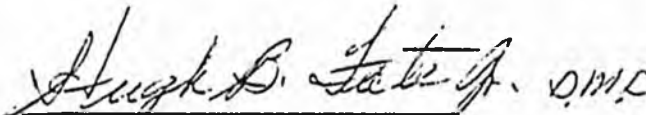

Edward B. Rasmuson
President

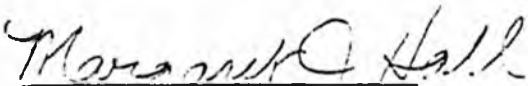

Donald B. Abel, Jr.
Secretary

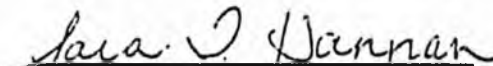

Jeffrey S. Cook
Vice President



Herbert C. Lang
Treasurer



Mildred Banfield

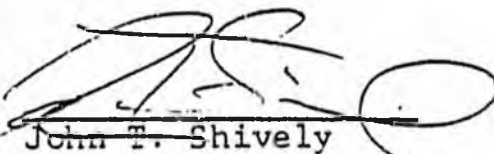

Hugh B. Fate, Jr.


Margaret J. Hall


Sara Hannan


Sam Kito, Jr.


Thomas J. Miklautsch


John T. Shively

SETTLEMENT AGREEMENT BETWEEN THE
DEPARTMENT OF NATURAL RESOURCES, THE
DEPARTMENT OF REVENUE, AND THE
DEPARTMENT OF ADMINISTRATION AND
THE UNIVERSITY OF ALASKA AND THE BOARD
OF REGENTS, AS TRUSTEES FOR THE
UNIVERSITY OF ALASKA

This Agreement entered into this ____ day of _____, 1982,
between the Department of Natural Resources (hereinafter referred to
as "Department"), the Department of Revenue, and the Department of
Administration, and the University of Alaska (hereinafter referred to
as "University"), acting on its own behalf and through its Board of
Regents, sets forth the understanding of the parties as follows:

WHEREAS, the University commenced litigation against the
Department, the Department of Revenue, and the Department of
Administration on April 23, 1979, Case No. 3AN-79-2801 Civ., Third
Judicial District, seeking compensation for disposals and transactions
alleged to be in breach of trust obligations imposed by federal law;
and

WHEREAS, the Act of 1915 (38 Stat. 1214, as amended) reserved
land in certain Sections 33 located within the Tanana Valley for the
University and the Act of 1929 (45 Stat. 1091, as amended) permitted
the Territory of Alaska to select 100,000 acres of vacant non-mineral
unreserved land from the federal public domain for the exclusive use
and benefit of the University (hereinafter collectively referred to as
"University-grant lands"); and

WHEREAS, Congress transferred the University-grant lands to
the State by Section 6(k) of the Alaska Statehood Act and the State
statutorily accepted the benefits and provisions of the Act of 1915
and the Act of 1929 by enacting respectively AS 14.40.380 and 14.40.390;
and

WHEREAS, the decisions of the Alaska Supreme Court have
interpreted the Acts of 1915 and 1929 and the acceptance by the State
as having created a trust for the benefit of the University, and any
income produced from the lands is reserved for the exclusive use and

sole benefit of the University (State of Alaska v. University of Alaska, 624 P.2d 807 (Alaska 1981); Wessells v. State of Alaska, 362 P.2d 1042 (Alaska 1977)); and

WHEREAS, the Department of Revenue and the Department of Administration have the duty to account and reserve for the exclusive use and benefit of the University the proceeds produced from University-grant lands; and

WHEREAS, the parties to this agreement believe that it is in the best interest of the State to convey certain University-grant lands and certain state lands which are not University-grant lands in fee to the University; and

WHEREAS, the parties believe that it is desirable to compromise the pending litigation to the extent provided by this Agreement and to complete all actions required or contemplated under it, upon execution of the Agreement and where necessary by enactment of legislation; and

WHEREAS, the parties to this Agreement believe that it is in the best interests of the parties that the University receive title to and management of certain University-grant lands, to be administered, controlled and managed through the Board of Regents, as trustee for the University; and

WHEREAS, the parties acknowledge that it is their intent by this Agreement and such legislation to accomplish the following:

1. Differentiate between state public domain lands and University-grant lands by providing separate and distinct land management to insure the future management of University-grant lands in accordance with recognized trust principles;
2. Resolve conflicts resulting from past management of all lands granted to the State for the benefit of the University by the United States pursuant to the Acts of 1915 and 1929;
3. Fulfill the purpose for which the University-grant lands were originally granted;
4. Convey title in fee to certain University-grant lands and certain other state lands to the University upon authorization by the legislature and transfer money to the University of Alaska Permanent Fund (hereinafter referred to as "fund") upon appropriation by the Legislature;

5. Establish methods of calculation of the dollar amount due, with interest, not collected and allocated to the fund, by the Department, the Department of Revenue or the Department of Administration with regard to the management and disposal of University-grant land, and the dollar amount due, with interest, to the fund for University-grant lands and resources therefrom which have been disposed of at less than then-current fair market value by the State; and

WHEREAS, upon enactment of legislation the Commissioners of the Departments of Natural Resources, Revenue, and Administration, will have the authority to implement this Agreement, and the Board of Regents is empowered to act on behalf of the University pursuant to Article VII, Section 3 of the Alaska Constitution and AS 14.40.170, 14.40.250, 14.40.280, 14.40.350, 14.40.360, and 14.40.400;

NOW THEREFORE, for and in consideration of the terms; covenants and conditions contained herein, the parties agree as follows:

1. Applicable Time Periods. Because of the difficulty in providing an accurate accounting and analysis of long past disposals and transactions, and considering the possible application of the doctrine of lache and statutes of limitation, the parties acknowledge that the calculation of compensation due the University shall be limited to the period from January 1, 1960 forward for certain disposals and transactions as specified in paragraphs 2 and 3 and from January 1, 1968 forward for certain other disposals and transactions as specified in paragraphs 2 and 3.

2. Determination of Dollar Amount for Prior Disposals and Transactions at Less Than Fair Market Value. The dollar amount due for prior disposals and transactions shall be calculated as follows:

a) To determine the dollar amount due for rights-of-way, permits, easements, materials, and fees conveyed other than at appraised value, and legislative and administrative withdrawals and reservations made or executed on or after January 1, 1968, the parties shall mutually select and instruct an independent fee appraiser to determine the fair market value of the land and resources involved in each transaction identified in Appendices A, B and D on the date the disposal or transaction was made or executed. The value determined by the appraiser shall be

binding upon the parties, and shall be brought forward with interest from the date of transaction to the date the grand total in Appendix M is determined at nine percent (9%) per year, compounded annually. The total amount due for each transaction shall be entered in Appendix M. No compensation is due for such disposals and transactions made or executed before January 1, 1968.

b) To determine the dollar amount owed to the University for unduly encumbered lands which the University shall convey to the State by quitclaim deed under this Agreement, the parties shall mutually select and instruct an independent fee appraiser to determine the current fair market value of the lands identified in Appendix E. These lands may be removed by the University from Appendix E within 120 days after the date of this Agreement. Additional University-grant lands not listed in any Appendix and which are found to be subject to past disposals may be added to the applicable Appendix by agreement of the University and the Department, not later than February 1, 1983.

c) To determine the dollar amount owed for incomplete land exchanges and leases, excluding mineral leases and oil and gas leases, made or executed after January 1, 1960, on University-grant lands, the parties shall mutually select and instruct an independent fee appraiser to determine the current fair market value of the land which is identified in Appendices C and F. The value determined by the appraiser shall be binding upon the parties. The current fair market value of the leased lands shall be used in conjunction with the provisions set forth in Appendix G to determine the value of each lease. The value of each lease shall be set forth in Appendix H. The total value of all leases shall be entered in Appendix M. No compensation is due for mining locations, mineral leases or oil and gas leases except as provided in paragraphs 3 and 4.

Land exchanges presently incompleated which are completed within one year of the signing of this Agreement shall not be included in the total dollar amount due as identified in Appendix M.

3. Determination of Compensation for All Uncollected or Unallocated Revenues. The Department, the Department of Revenue, and

Department of Administration shall provide the University access to all data, files, accounting and all other information, in whatever form, concerning disposals and transactions on University-grant lands made or executed after January 1, 1960, or January 1, 1968, as appropriate under paragraph 1. All revenues, including revenue from oil and gas leases executed after January 1, 1960, if any, which could have been collected according to the terms of the instrument making the disposal or governing the transaction and which should have been collected for or allocated to the fund but were not, shall be entered into Appendix I and added to the total dollar amount and entered in Appendix M. The amount of uncollected or unallocated revenues shall bear interest at nine per cent (9%) per year, compounded annually from the date of the initial billing period in which each amount was not collected or allocated.

4. Liquidated Damages. In recognition of the difficulty of precisely determining the dollar amount owed the University with regard to the State's management, reservation and disposal of University-grant lands and interests therein at less than their then-current fair market value, including without limitation mineral locations, claims and prospecting, leasing activity including mineral and oil and gas, and preference rights not otherwise addressed in this Agreement, the parties agree that the University should receive, upon proper appropriation by the Legislature, liquidated damages. Liquidated damages shall also include all claims for trespass, non-aggressive and non-productive management, all demands for indemnity against claims made by third parties, and any claim against the state or agent thereof for punitive damages. The parties agree that the University shall have the right without interference from the Department to seek liquidated damages through a legislative appropriation in an amount not more than five million dollars (\$5,000,000.00). The parties acknowledge that the liquidated damages should not constitute a penalty but reflect a reasoned compromise of damages sustained.

5. Supplement to Appendices. Except as otherwise specifically provided herein, the parties shall have one hundred fifty (150) days from the signing of this Agreement to supplement, correct and modify the Appendices to insure their accuracy.

6. Conveyance by Quitclaim Deed. The Department shall transfer to the Board of Regents, as trustee for the University, all University-grant lands identified in Appendix N and all state lands identified for transfer to the University pursuant to paragraph 12 by quitclaim deed. The University shall convey to the State all lands identified in Appendix E by quitclaim deed.

7. Termination of Interests Which the State Granted To Itself. The Department shall terminate within ninety (90) days after the effective date of this Agreement those interests in University-grant lands identified in Appendix K which it has granted to itself or other state agencies, departments, or entities and which are, by the terms of the transfer document, terminable at will by the Department. The interests to be terminated under this paragraph may include, but are not limited to, special land use permits (SLUPs), miscellaneous land use permits (MLUPs), free use permits (FUPs), personal use permits (FUPs), temporary use permits (TUPs), land use permits (LUPs), Interagency Land Management Assignments (ILMAs), and Interagency Land Management Transfers (ILMTs).

8. Acknowledgement and Disposition of Third Party Lease Interests. All lease interests granted to third parties listed in Appendix L are acknowledged by the University as binding contracts with the State of Alaska through the Department. The Department shall administer these leases according to the applicable state statutes until the University requests that administrative responsibilities for the leases be transferred to the Board of Regents or the lease term expires, whichever occurs first. In the event of the lessee's default the State shall succeed to the lessee's term of years and may transfer the lease hold interest in the lands to the University or use the lands or re-lease them until the expiration of the original lease term.

The State shall purchase any leased lands identified in Appendix F which the University elects not to retain by February 1, 1983, at their current fair market value as determined by appraisal. The University shall receive the proper amount of rental value from the date of the execution of the lease until February 1, 1983, according to the lease valuation provisions set forth in Appendix G.

9. Other Third Party Interests. The University acknowledges all valid existing third party interests of which it has knowledge or which are a matter of public record in addition to those referred to in paragraph 8 but excluding selections made by municipalities pursuant to AS '9.18.201-213 or any predecessor statute thereto. The University shall not contest the validity of any mining claim on University grant lands or state lands/^{conveyed}to the University pursuant to this Agreement except for failure to record a location certificate or perform annual labor as required by law.

The University shall not impose any royalty or other charge in excess of that currently charged, or to be charged in the future, by the state on state lands, on the right to extract locatable minerals from any mining claims for which a location certificate had been recorded and any required annual labor had been performed at the date this Agreement is signed.

10. Method of Compensation to the University.

a) Cash Settlement. The University may elect to receive a full or partial cash settlement for the total dollar amount owed in the form of a deposit into the fund, dependent only upon appropriations made for such purpose by the Legislature. The University shall have free access to any amount appropriated as monetary compensation for a period of two years from the date of deposit, during which time such money may be used only to purchase real property if statutory authority to purchase real property is enacted. After two years, the balance of the fund not used to purchase real property shall be available for all lawful purposes for which the fund may be used. The parties shall seek, during the 1983 legislative session, an appropriation for the dollar amount the University elects to receive as a cash settlement.

b) Land Settlement. The University may elect no later than October 30, 1983, to receive full or partial settlement of the total dollar amount due through the conveyance of state lands of equal fair market value identified in the pools established pursuant to paragraph 12. Nothing in this agreement requires the value of lands in the pools established pursuant to paragraph 12 to equal or exceed the total dollar amount due. The University shall obtain the surface and subsurface estate of such lands encumbered by the restrictions imposed by Section 6(i) of the Alaska Statehood Act.

11. Interest. The total dollar amount due the University under this Agreement shall bear interest at the rate of 10.5% from the time the grand total in Appendix M is determined until the University has received full compensation as provided in paragraph 10 of this Agreement.

12. Pool of Lands. If the University elects to receive all or part of the total dollar amount due in land pursuant to paragraph 10 it shall be entitled to receive lands from three (3) pools established by the Commissioner of the Department as follows:

a) The first pool shall contain all land owned by the State upon which the University has located improvements and which are identified in Appendix O. The parties shall have thirty (30) days after the signing of this Agreement to correct Appendix O to insure its accuracy. The parties shall mutually select and instruct, by August 1, 1982, an independent fee appraiser to determine the current fair market value of the lands identified in the first pool. The appraiser shall determine the value by February 1, 1983, and such value shall be binding upon the parties. The University shall be required to accept the lands identified in the first pool and shall offset their appraised value against the total dollar amount due.

b) The second pool shall contain the lands identified in Appendix O which the University may select. The parties shall have thirty (30) days after the signing of this Agreement to supplement, correct and modify Appendix O. The parties shall mutually select and instruct, by August 1, 1982, an independent fee appraiser to determine the current fair market value of the lands which the University selects from the second pool. The appraiser shall determine the value by February 1, 1983, and such value shall be binding upon the parties. The University shall identify, by May 30, 1983, any lands which it selects from the second pool. The University reserves the right to independently determine if any of the lands contained in the second pool are a financially prudent or commercially reasonable acquisition for the trust established by the Act of 1915 and the Act of 1929. The Department does not represent that any of the lands in the second pool are suitable for acquisition for the trust. The University shall offset the appraised value of the lands it selects from the second pool against the total dollar amount due.

c) The University shall accept the lands identified in the first pool and shall make its selections from the second pool by May 30, 1983. Lands not selected by the University by May 30, 1983, shall cease to be reserved for selection by the University.

d) By June 30, 1983, the Department will review all lands for which the State receives tentative approval between March 1, 1982, and March 31, 1983. The Department may include any such lands which it, in its sole discretion, chooses in a third pool. The Department may also include in the third pool any of the lands previously within the second pool and not selected by the University. The Department may choose not to include any land in the third pool. The parties shall mutually select and instruct, by July 15, 1983, an independent fee appraiser to determine the current fair market value of the lands, if any, in the third pool. The value shall be determined by September 30, 1983, and shall be binding upon the parties. The University shall identify, by October 30, 1983, those lands which it selects from the third pool. The University reserves the right to independently determine if any of the lands contained in the third pool are a financially prudent or commercially reasonable acquisition for the trust established by the Act of 1915 and the Act of 1929. The Department does not represent that any of the lands in the third pool are suitable for acquisition for the trust. The University shall offset the appraised value of any lands it may select from the third pool against the total dollar amount due. Lands not selected by the University by October 30, 1983, shall cease to be reserved for selection by the University.

e) The Department shall not make any conveyances of land to the University under this Agreement unless statutory authority to make such conveyances is first enacted. The Department shall not be obligated to pay for the appraisals required pursuant to this Agreement.

13. Mutual Assistance. The parties agree to cooperate in the following ways in order to effectuate the purposes of this Agreement, and to accomplish the goals set forth in the statement of intent:

a) The parties agree to use their best efforts in a spirit of cooperation to seek introduction in the 1982 session of the Alaska Legislature suitable legislation seeking approval of this

Agreement and authorizing the conveyance of University grant lands as contemplated by this Agreement and appropriating those amounts required for the costs of obtaining appraisals and the expenses necessary to implement this Agreement. The parties agree to work diligently for final passage and enactment of such legislation. A proposed draft of legislation which the parties presently believe will fulfill these objectives is attached to this Agreement as Appendix P.

b) The University plans to seek introduction of suitable legislation in the 1983 Legislative session to authorize conveyance of lands selected by the University from the pools created pursuant to paragraph 12 and/or an appropriation to fund any dollar amount due. After examining the Grand Total as finally determined and set forth in Appendix M, the other parties to this Agreement will decide whether they can support such legislation. If the State determines it can not support the Grand Total as finally determined and set forth in Appendix M, then the University shall also not be bound by the Grand Total, except that the parties agree to use the procedures described in this Agreement. The parties to this Agreement will also seek introduction of suitable legislation in the 1983 legislative session to make statutory references to University-grant lands consistent with this Agreement. The University shall seek appropriate legislation clarifying the duties and responsibilities of the Board of Regents as trustee of University-grant lands and state lands transferred to the University pursuant to this Agreement. If pursuant to Paragraph 10 a cash settlement is elected, the parties shall seek to introduce legislation during the 1983 session appropriating the money required. The University shall seek legislation during the 1983 session permitting the University to invest any money appropriated in real property.

c) In the event that the University successfully petitions the United States Congress for additional federal lands to compensate the University with in-lieu lands for lands reserved under the Acts of 1915 and 1929 but which were not conveyed to the State pursuant to Section 6(k) of the Alaska Statehood Act, the Department shall submit, on behalf of the University, all necessary selection applications, forms and related documentation required by applicable law to perfect the selection and patent for said in-lieu lands to the State and convey those lands to the Board of Regents pursuant to this Agreement.

d) The Department shall assist the University for two years after the University receives title to University-grant lands and other state lands as a result of this Agreement by providing available resource and planning information.

14. Future Management of University-Grant Lands. The Board of Regents, as trustee for the University of Alaska, shall have the responsibility and duty to control, administer, and manage all lands which are transferred to the University pursuant to this Agreement, for the exclusive use and benefit of the University and for its financial enhancement and security. The Board of Regents shall manage such lands for educational purposes and to produce the maximum amount of income for the University. The Board of Regents shall not have responsibility for, or control over, the fish and game on, or the appropriation of water from, University-grant lands, both of which shall be subject to applicable state laws and regulations. The University shall provide legal access to all navigable and public waters on or adjacent to the lands which are the subject of this Agreement. The University recognizes that lands underlying navigable waters are owned in fee by the State, and are not subject to the provisions of this Agreement. The management of such lands shall be coordinated by the State with the Board of Regents' management of adjacent lands which have been conveyed by this Agreement. Nothing in this Agreement shall prevent the University from applying for a permit to appropriate water pursuant to the Alaska Water Use Act, A.S. 46.15.

15. Interim Management. After signing of this Agreement creation of any third party interests in the University grant land or lands reserved for selection by the University pursuant to paragraph 12 shall require approval by the University with the exception of lease conversions pursuant to Section 12, ch 138, SLA 1977 as amended. University-grant lands which are the subject of municipal selections will not be conveyed to the applicant until the University has approved replacement lands as contemplated by AS 29.18.206(d).

16. Resumption of Litigation. In the event that the University does not receive the total dollar amount owed in cash or land as provided in this Agreement by October 30, 1983, the parties shall be deemed not to have waived any right they may have otherwise had to

maintain or resume the pending litigation in Case No. 3AN-79-2801 Civ., Third Judicial District, State of Alaska. In the event the Court requires that this action be dismissed in the interim, such dismissal shall be stipulated by the parties to be without prejudice, and the parties shall further stipulate that it may be re-filed by any of them at a future date.

17. No Waiver of Claims or Defenses. The parties agree that by their voluntary participation in the negotiation, execution and implementation of this Agreement, they shall not have thereby waived any claim, defense, counterclaim, set-off or legal or equitable remedy which each may pursue against the other in the event that full compensation due the University, in money or land, is not transferred to it pursuant to the obligations contained in this Agreement and litigation is thereafter resumed pursuant to paragraph 16. Nothing in this Agreement or any Appendix hereto shall be admissible in pending or future litigation or presented to a court for any purpose except enforcing this Agreement. This prohibition does not extend to proof of actions taken by the Legislature on legislation required by or related to the subject of this Agreement.

18. Extinguishment of All Claims. The parties agree that upon discharge of the obligations of the State under this Agreement, all claims which are the subject of Case No. 3AN-79-2801 Civ., Third Judicial District, State of Alaska, and all other claims which the University has or had against the State or any agent which are based upon a breach of trust obligations under the Acts of 1915 or 1929, shall be merged in the settlement and finally extinguished, excluding only those claims against the State and the Municipality of Anchorage or any other entity claiming University-grant lands under AS 29.18.201-213, or any predecessor statute thereto.

19. No Waiver of Breach or Defense. No failure by either party to insist upon the strict performance by the other of any term or condition of this Agreement, or to exercise any right or remedy upon a breach thereof, shall constitute a waiver of any such breach or of such term or condition. No waiver of any breach shall affect or alter this Agreement, but each and every term and condition of this Agreement shall continue in full force and effect with respect to any other then-existing or subsequent breach.