

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 86/2

1953 SRES HB 31 - HB 47

1953

Sec. 40.15.010. Approval and recording of subdivisions. Before the lots or tracts of any subdivision or dedication may be sold or offered for sale, the subdivision or dedication shall be submitted for approval to the authority having jurisdiction, as prescribed in this chapter. The regular approval of the authority shall be shown on it or attached to it and the subdivision or dedication shall be filed for record in the office of the recorder. The recorder shall not accept a subdivision or dedication for filing unless it shows this approval. If no platting authority exists as provided in §§ 70—130 of this chapter, lands may be sold without approval. (§ 1 (ch 1) ch 115 SLA 1953; am § 1 ch 95 SLA 1955; am § 67 ch 69 SLA 1970)

Cross reference. — For sections dealing with inspection of public records and their use as evidence, see AS 09.25.110 and AS 09.25.120.

Effect of amendment. — The 1970 amendment deleted "platting board or" preceding "platting authority" in the last sentence.

Legislative committee report. — For report on ch. 69, SLA 1970 (HB 564), see 1970 House Journal Supplement No. 2, p. 7.

Approved plat must be filed for recording. — This section and AS 40.15.020 are sufficient authority to require the recorder to file for recording a plat when properly approved. *Tullinen v.*

Gielarowski, 2 *Alas. L.J.* No. 11, p. 169 (Dec., 1954).

Am. Jur., ALR and C.J.S. references. — 8 *Am. Jur.*, Boundaries, §§ 6 to 9; 16 *Am. Jur.*, Dedication, §§ 22 to 24.

Defective or incomplete statutory dedication as common-law dedication where accepted by public, 63 *ALR* 670.

Power of municipal corporation to exchange its real property as affected by restrictive dedication, 69 *ALR2d* 231.

23 *C.J.S.* Dedication §§ 22 to 24, 26 to 29; 62 *C.J.S.* Municipal Corporations §§ 83, 84

21 | * Sec. 21. AS 40.15.010 is amended by adding a new subsection to read:
22 | (b) Notwithstanding (a) of this section, AS 29.33.190, AS 38.04.-
23 | 045(b), AS 40.15.070 and 40.15.200, a subdivision of state land classi-
24 | fied for disposal under AS 38.05 and AS 38.08 need not show the approval
25 | of the platting board or other subdivision authority having jurisdiction
26 | in order to file the plat for record in the office of the recorder.
27 | However, state subdivision plats must be submitted to the platting
28 | authority for review in compliance with AS 29.33.160(c) and recorded
29 | before the sale of a lot or tract in the subdivision.
1 | A subdivision of state land shall comply with all municipal require-
2 | ments in existence on the date of the announcement of a state sub-
3 | division except for those that require the construction of access roads
4 | or capital improvements for the state subdivision.

Sec. 40.15.190. Definitions. In this chapter

(1) "street" includes streets, avenues, boulevards, roads, lanes, alleys, and other ways;

(2) "subdivision" means the division of a tract or parcel of land into two or more lots, sites, or other divisions for the purpose, whether immediate or future, of sale or building development, and includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or areas subdivided. (§ 7 (ch 11) of 115 SLA 1953; am § 2 ch 95 SLA 1955)

Quoted in *Tollinen v. Gielarowski*, 2
Alas. L.J. No. 11, p. 169 (Dec., 1964).

5 * Sec. 22. AS 40.15.190(2) is amended to read:

6 (2) "subdivision"

7 (A. means the division of a tract or parcel of land
8 into two or more lots, sites, or other divisions for the purpose,
9 whether immediate or future, of sale or building development, and
10 includes resubdivision and, when appropriate to the context,
11 relates to the process of subdividing or to the land or areas
12 subdivided;

13 (B) does not include cadastral plats, cadastral control
14 plats, open-to-entry plats, or remote parcel plats created by or
15 on behalf of the state regardless of whether these plats include
16 easements or other public dedications.

Sec. 41.17.020. Division of forest, land, and water management established. (a) The governor shall establish, within the Department of Natural Resources, a division of forest, land, and water management to carry out this chapter and other appropriate duties designated by the governor. The division shall be headed by a director who shall be the state forester, appointed to the partially exempt service in accordance with law by the commissioner, from a list of two or more candidates submitted by the board. The commissioner may reject all candidates, in which case the board shall submit a new list. The state forester shall be a natural resources land manager with generally accepted educational credentials, familiar and experienced with the renewable and nonrenewable resources and values of forest land and the products, benefits, and services obtained from them.

(b) The commissioner shall administer this chapter and is authorized and encouraged to delegate responsibilities for carrying out this chapter to the state forester.

(c) After planning and classification procedures under AS 38.05 have been completed, the governor may propose to the legislature, state forests, to consist of forest land determined by him to be desirable for retention in state ownership as multiple-use land.

(d) The commissioner may designate and operate experimental and research forests on state land consistent with the limitations of AS 38.05.300. Laboratories and other facilities may be employed in conjunction with those forests.

(e) The commissioner may establish and maintain forest vegetation nurseries and greenhouses for planting stock to be made available, with or without charge, to organizations, institutions, government agencies, individuals, and businesses for reforestation, afforestation, and related purposes.

(f) The commissioner is authorized to undertake cooperative forestry programs, extension services and education programs, and to otherwise offer a full range of professional management services to the interested public. When he considers it beneficial, the commissioner may participate in federal assistance programs by accepting assistance in whatever form offered.

(g) The commissioner may develop proposed regulations under this chapter as part of the state program for control of nonpoint source pollution under the Federal Water Pollution Control Act, as amended, and shall seek to enter into a cooperative agreement with the commissioner of environmental conservation for that purpose. However, the Department of Environmental Conservation is the lead agency for water quality and control of nonpoint source pollution under that act, and the regulations and cooperative agreement are therefore subject to the advance approval of the commissioner of environmental conservation.

(h) In the administration of this chapter, the commissioner shall consult with and draw upon the expertise of interested organizations, enterprises, individuals, government agencies, educational institutions, and landowners. The commissioner may enter into cooperative agreements and contracts with them to carry out this chapter.

(i) The commissioner shall locate department personnel with forestry expertise throughout the state to facilitate public access to professional management services and other forest resources programs.

(j) Notwithstanding any other provision of this chapter, the commissioner may not employ the authority vested by this chapter so as to duplicate or preempt the statutory authority of other state agencies to adopt regulations or undertake other administrative actions governing resources, values, or activities on forest land except for (1) regulations under the Coastal Management Act; and (2) if authorized by the commissioner of environmental conservation, regulations relating to control of nonpoint source pollution.

(k) The commissioner may take other actions necessary and proper for the administration of this chapter, including the adoption of regulations under the Administrative Procedure Act (AS 44.62) and under AS 41.17.040(f). (§ 1 ch 108 SLA 1978)

17 * Sec. 23. AS 41.17.020(a) is amended to read:

18 (a) The governor may [SHALL] establish, within the Department of
19 Natural Resources, a division of forestry [FOREST, LAND, AND WATER
20 MANAGEMENT] to carry out this chapter and other appropriate duties
21 designated by the governor. The division shall be headed by a director
22 who shall be the state forester, appointed to the partially exempt
23 service in accordance with law by the commissioner, from a list of two
24 or more candidates submitted by the board. The commissioner may reject
25 all candidstes, in which case the board shall submit a new list. The
26 state forester shall be a natural resources land manager with generally
27 accepted educational credentials, familiar and experienced with the
28 renewable and nonrenewable resources and values of forest land and the
29 products, benefits, and services obtained from them.

11 * Sec. 38. A person who selected a remote parcel or acquired a right to
12 select a remote parcel before July 1, 1981, is entitled to convert his
13 remote parcel lease agreement to a new lease agreement which contains terms
14 and conditions consistent with AS 38.05.077(a) and (d), 38.05.078(a) and (c)
15 and the repeal of AS 38.05.078(b) and (d)(1) enacted in secs. 18, 20, 22,
16 23, and 35 of this Act. The director of the division of lands, Department
17 of Natural Resources, shall prepare and distribute new lease forms to
18 persons described in this section

1 * Sec. 24. A person who selected a remote parcel or acquired a right to
2 select a remote parcel before July 1, 1981, may convert his remote parcel
3 lease agreement to a new lease agreement which contains terms and conditions
4 consistent with AS 38.05.077(d) and 38.05.078(a) and (c) as amended in secs.
5 15, 17, and 18 of this Act. The commissioner of natural resources shall
6 prepare and distribute new lease forms to persons described in this section.

7 | * Sec. 25. Land disposa's conducted by the commissioner of natural
8 | resources for fiscal year 1982 shall be in accordance with appropriations to
9 | the Department of Natural Resources for that purpose.

Sec. 38.05.047. Classification and sale of state land in municipalities. (a) Notwithstanding the provisions of AS 38.04, before September 1, 1980, the commissioner shall classify all state land in a municipality which he determines is best suited for

(1) designation by the legislature as a state park, a recreation area, a game refuge or sanctuary, or a fish and game critical habitat area;

(2) designation by the governor as a state monument or historic site under the authority granted by AS 41.35.030;

(3) designation by the commissioner of natural resources and the commissioner of transportation and public facilities as wilderness trails and campsites under the authority granted by AS 41.20.080 and as roadside rests and recreational beaches under the authority granted in AS 41.20.050;

(4) designation by the commissioner as trails and footpaths which may be granted to a municipality or managed in cooperation with a municipality as a part of the program established in AS 41.20.355 — 41.20.375; and

(5) management by the state after September 1, 1980, for the following purposes:

(A) sale of remote parcels to individuals under AS 38.05.077;

(B) use by individuals as remote cabin sites under AS 38.05.079;

(C) disposal for agricultural use;

(D) disposal for commercial use;

(E) harvest of timber in commercial quantities;

(F) use by individuals for livestock grazing under a permit program;

(G) establishment of greenbelts along public roads and highways;

(H) disposal for industrial use;

(I) extraction of materials;

(J) extraction of minerals, including oil and gas;

(K) retention in state ownership for public recreation use;

(L) protection of watershed land;

(M) protection of wildlife habitat;

(N) easements for public utility facilities and pipelines for the transportation of oil and gas; and

(O) construction of airstrips and transportation facilities.

(b) Notwithstanding the provisions of AS 38.04, state land in a municipality which has not been classified for one or more of the purposes specified in (a)(1) — (5) of this section before September 1, 1980, or which has not been nominated for selection or selected by a municipality to satisfy a general grant land entitlement under AS 29.18.201 — 29.18.203 before September 1, 1980, is available for disposal under (d) of this section.

(c) Before September 1, 1979, the commissioner shall identify state land in a municipality which may be suitable for classification for the purposes set out in (a)(1) — (5) of this section. State land in a municipality which is not identified for a purpose listed in (a)(1) — (5) of this section or which has not been nominated for selection or selected by a municipality to satisfy a general grant land entitlement under AS 29.18.201 — 29.18.203 before September 1, 1979, is available for sale to individuals as provided in (f) of this section. After September 1, 1979, the commissioner shall divide all state land in a municipality that is not identified for a purpose set out in (a)(1) — (5) of this section into survey districts and shall make the land available for disposal to individuals as required by (f) of this section.

(d) All state land in a municipality which is selected by the state under section 6(a) or (b) of the Alaska Statehood Act (P.L. 85-508) and tentatively approved for patent to the state after July 1, 1979, shall be classified by the commissioner in accordance with (a) of this section not later than two years after the land is tentatively approved for patent to the state. State land in a municipality which is not classified before the time required by this section is available for disposal under (f) of this section.

(e) If the land is suitable for residential use, the department shall survey and subdivide the land in a survey district established under (c) of this section into parcels which may not exceed five acres. The commissioner shall give priority to surveying those survey districts which contain land that may be developed immediately for residential use at the least cost to the state and potential purchasers. The commissioner shall issue a written finding which describes land in a survey district which he determines is not suitable for residential use. The written finding shall include the reasons for the commissioner's determination and shall be kept on file in the office of the commissioner and in the district office of the department located nearest to the municipality in which the land is located.

(f) After a subdivision plat developed under (e) of this section is recorded, the commissioner shall offer

(1) 80 per cent of the parcels in a survey district for sale under the procedures for a lottery sale specified in AS 38.05.057 and 38.05.065(b) (lotteries);

(2) 10 per cent of the parcels in a survey district for homesites under AS 38.08; and

(3) an additional 10 per cent of the parcels in a survey district for homesites under AS 38.08, except that notwithstanding AS 38.08.040(b), parcels offered under this paragraph may be the subject of a lottery sale under AS 38.05.057 if more than one eligible person applies for the same homesite. (§ 13 ch 85 SLA 1979)

Sec. 38.05.065. Terms of contract of sale. (a) The contract of sale for land sold at public auction shall require the remainder of the purchase price to be paid in monthly, quarterly or annual installments over a period of 10 years, with interest at the prevailing rate for real estate mortgage loans made by the federal land bank for the farm credit district for Alaska at the time the contract is signed. Installment payments plus interest shall be set on the level-payment basis.

(b) The contract of sale for land sold under the procedures specified in AS 38.05.057 (lottery disposals) shall require the remainder of the purchase price to be paid in monthly, quarterly, or annual installments over a period of not more than 20 years. Installment payments plus interest shall be set on the level-payment basis. The interest rate to be charged on installment payments is the prevailing rate for real estate mortgage loans made by the federal land bank for the farm credit district for Alaska at the time the contract is signed.

(c) The director shall, for contracts under (a) or (b) of this section, set for each sale the period for the payment of installments and the total purchase price plus interest. The director, with the consent of the commissioner, may also include in contracts under this section conditions, limitations and terms which he considers necessary and proper to protect the interest of the state. Violations of any provision of this chapter or the terms of the contract of sale subject the purchaser to appropriate administrative and legal action, including but not limited to specific performance, foreclosure, ejectment, or other legal remedies in accordance with applicable state law. (§ 3 art IV ch 169 SLA 1959; am § 5 ch 176 SLA 1978; am §§ 26, 27 ch 85 SLA 1979)

Effect of amendments. — The 1978 amendment rewrote this section.

The 1979 amendment substituted the language beginning "prevailing rate for real estate mortgage loans" for "rate of not less than five per cent a year" at the end of the first sentence of subsection (a), and in subsection (b), substituted "under the procedures specified in AS 38.05.057 (lottery disposals)" for "by lottery" in the

first sentence and substituted "for real estate mortgage loans made by the federal land bank for the farm credit district for Alaska" for "on similar land transactions" and deleted "as determined by the director, but in no case may it be below five per cent a year or above the current usury rate as set by AS 45.45.101(b) and (d)" in the third sentence.

Sec. 38.05.077. Classification and disposal of remote parcels.

(a) The commissioner shall, under the procedures required by AS 38.05.300 and 38.05.305, classify state land which is suitable for disposal as remote parcels. The commissioner shall designate remote parcel selection areas consisting of land classified under this section. The commissioner shall set the number of remote parcels that may be selected in each remote parcel selection area. A remote parcel may not exceed 40 acres. The commissioner shall determine for each remote parcel selection area, the amount of land in each remote parcel that may be used for residential purposes. Land which may be used for residential purposes in a remote parcel may not be less than two acres and may not exceed five acres.

(b) The commissioner 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) the maximum amount of land in a remote parcel that may be used for residential purposes;

(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.

(c) A person may apply under the procedures set out in AS 38.05.057 to lease a remote parcel in a parcel selection area designated by the commissioner under (a) of this section. Each person who is entitled to select a remote parcel may enter the area for which he applied to stake the boundaries of a remote parcel.

(d) Not later than 15 days after selection and staking the exterior boundaries of a remote parcel, the person who selected the parcel shall file a sketch plat with the department which shows the location of the remote parcel and the location of the land in the parcel that he intends to use for residential purposes. At the time of filing the sketch plat, the person who selected the parcel shall apply to lease the land. 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 selected 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; and
- (3) a rental payment shall be paid annually and shall be \$150 a year for five acres or less plus \$50 for each acre by which the remote parcel exceeds five acres.

(e) A remote parcel lease may not be assigned, conveyed or otherwise transferred, but rights under the lease may devolve by testate or intestate succession. An attempt to assign, convey or to otherwise transfer the lease is void and terminates the lease.

(f) After revocation and termination of a remote parcel lease, improvements or personal property remaining on the land shall be managed in the same manner as provided in AS 38.05.090 for removal or reversion of improvements upon termination of leases of state land. (§ 1 ch 157 SLA 1968; am § 1 ch 18 SLA 1973; am § 31 ch 85 SLA 1979)

Effect of amendment.

The 1979 amendment rewrote this section.

Editor's note. — As to designation of land for disposal under the open-to-entry

program and assessment of supply and demand under such program, see §§ 1 and 2, ch. 161, SLA 1978, in the 1979 Temporary and Special Acts and Resolves.

Sec. 38.05.078. Purchase of land in a remote parcel. (a) A lessee of a remote parcel may purchase the land used for residential purposes in a remote parcel if, before the expiration of the lease or a renewal of the lease, he surveys the residential land and erects a habitable dwelling on the land.

(b) A lessee of a remote parcel may purchase land in a remote parcel which is not used for residential purposes if, before the expiration of the lease or a renewal of the lease, he complies with (a) of this section, surveys the land, and constructs permanent improvements on the land. The commissioner shall adopt regulations under the Administrative Procedure Act (AS 44.62) which specify the type of permanent improvements that must be constructed by a lessee of a remote parcel before he may purchase the land. The improvements specified in regulations adopted by the commissioner shall be those which are compatible with the remote character of the land and may include, but are not limited to, airstrips and buildings.

(c) A lessee of a remote parcel may purchase land in a remote parcel under the terms specified in AS 38.05.065(b). The purchase price of land sold under this section shall be its fair market value as determined by the commissioner. The valuation date for determining the fair market value of land sold under this section is the date that the plat of survey is approved by the commissioner.

(d) In addition to the terms specified in AS 38.05.065(b), a contract of sale for land in a remote parcel shall contain the following conditions:

(1) the land may not be sold, leased, or otherwise conveyed before 10 years after the date that the contract of sale is signed by the purchaser, but title to the land may devolve by testate or intestate succession; and

(2) the land may not be subdivided before 10 years after the date that the contract of sale is signed.

(e) If a purchaser of land described in (a) and (b) of this section fails to comply with the conditions in the contract of sale required by (d) of this section, the contract of sale is void and the purchaser forfeits all rights in and title to the land. The commissioner shall request the attorney general to bring an action to eject the purchaser from the land and to declare the right of reentry of the state.

(f) In this section, "habitable dwelling" means a single-family dwelling, together with fixtures and facilities, including sanitary facilities required or customary in the vicinity of the land, and does not include a mobile home unless it is placed on a permanent foundation. (§ 32 ch 85 SLA 1979)

CS HB 31 (Fin) am.
Sec. 26
p. 17
AS 38.05.047
AS 38.05.065 (a)
AS 38 05.077 (b) (2)
AS 38.05.078 (b)

10 || * Sec. 26. AS 38.05.047, 38.05.065(a), 38.05.077(b)(2), and 38.05.078(b)
11 || are repealed.

19 || * Sec. 39. This Act takes effect July 1, 1981.

12 || * Sec. 27. This Act takes effect July 1, 1981.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

POUCH M
JUNEAU, ALASKA 99811
PHONE:

June 11, 1981

The Honorable Ion Bennett
Chairman, Senate Finance Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Mr. Chairman:

This is to confirm the substance of discussions between us over the last several days regarding trapping cabins and and possible change in the law.

Specifically, in order to facilitate use of trapping cabins by members of the trapping industry, the Department would have no objection to an amendment to the lands bill (HB 31) increasing the period of trapping cabin permits from five to ten years. We have attached an amendment to AS 08.05.080 which would accomplish this result.

Moreover, were this change made to the law, I can commit the Department to amending its regulations so that trapping cabin permits would be issued for a ten year period instead of the present practice of issuing them annually.

We would continue to apply measures in our regulations to insure that permits were issued to persons who were genuinely engaged in trapping and used the cabins regularly. However, the above mentioned change in the law and regulations would definitely provide greater certainty and longevity to users of trapping cabins.

Sincerely,


Jeff Haynes
Deputy Commissioner

Amend in Rules

LAW OFFICES
OF

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MICHELLE V. MINOR
A. STEPHEN ANDERSON

*no - not to
be included in Land Bill*

June 5, 1981

Mr. Rodger W. Pegues
Assistant Attorney General
Department of Law
Juneau, Alaska

Re: Farm Use Land Assessment under AS 29.53.035

Dear Mr. Pegues:

I represent Mosesian Farms of Anchorage, Alaska, a hydroponic tomato farm. A question regarding the applicability of the farm-use assessment of AS 29.53.035 to Mosesian Farms' property has arisen and has been presented to Assistant State Assessor Michael Worley for clarification. In an informal opinion, dated March 27, 1981, a copy of which is attached hereto, the Attorney General's Office, acting through you, declared that "greenhouses" do not qualify for special tax treatment under AS 29.53.035. The purpose of this letter is to request clarification of the applicability of this statute to hydroponic farming and nursery operations such as that of Mosesian Farms.

Mosesian Farms consists of two complexes of greenhouses located on a four-acre tract in which tomatoes, cucumbers, and a few other vegetables and horticultural products are grown from seed on a commercial scale and harvested for sale and distribution to wholesalers and retailers of produce and nursery stock. All vegetables produced are grown in concrete beds constructed on the ground and contain gravel to support the plants and their root structures and through which water is circulated to carry the necessary nutrients to the plants. The tomato vines are supported by wires, as is customary among tomato growers, and grow to normal lengths of approximately twenty feet. Approximately ninety percent of Mosesian Farms' income is derived from the production of tomatoes, cucumbers and other consumables; the other ten percent is derived from the sale of flowers and other horticultural products grown on the premises. These facts may be verified through records on file at the State Assessor's Office.

The climate of Alaska, of course, prohibits warm-weather crops such as tomatoes and cucumbers from being grown in the Alaskan soil outside of the stringently controlled environment of a greenhouse. In similarly austere climates, such as that of Holland, hydroponic enclosed farming, i.e., in greenhouses, is common; however, the method is relatively new in this country.

AS 29.53.035 creates not a tax exemption but a tax incentive; it provides for assessment of property taxes on "farm use" lands on the basis of the property's "farm use value", not on its "full or true" value, i.e., market value for highest and best use. Subsection (c) defines "farm use" as "the use of land for raising and harvesting crops or for the feeding, breeding and management of livestock or for dairy-ing or another agricultural use for profit or any combination thereof." In addition, subsection (c) requires the applicant for the special assessment to be actively engaged in farming the land and to derive at least ten percent of his yearly gross income from the farm use of the land.

I have thoroughly researched the legislative history of AS 29.53.035, including all amendments, and have found nothing that sheds any light on the question of whether commercial-scale greenhouse operations fall within the legislative purpose of the statute. We must therefore look to the language of the statute itself and interpret it in accordance with customary rules of statutory interpretation.

First, the emphasis of the statute clearly is on the character of the use of the land. If the land for which the benefit of the statute is sought is used "for raising and harvesting crops" or for "another agricultural use for profit", it would appear to fall within the statute.

The terms "crop" and "agricultural use" have not been defined by the Alaska Supreme Court in the context of any tax statute. The term "crop" or "crops" is defined by Webster as: "that which is gathered; the corn or fruits of the earth collected; harvest; the word includes every species of fruit or product gathered for man or beast." Accord Cottle v. Spitzer, 4 P. 435 (Cal. 1884). Webster defines a "farm" as: "Any tract of land whether consisting of one or more parcels devoted to agricultural purposes generally under the management of a tenant or the owner; any parcel or group of parcels of land cultivated as a unit." Accord Boehm v. Burleigh County, 130 N.W.2d 170 (N.D. 1964). "Agricultural lands" are such property having "as its primary use production of plants or livestock useful to man." State v. City of Madison, 198 N.W.2d 615, 619-20 (Wis. 1972).


Mosesian Farms uses its property to produce tomato and cucumber crops, as defined above, and other plants and plant products. Such use is clearly "agricultural" in nature.

Your office issued on September 4, 1980 an informal opinion to the Commissioner of Community and Regional Affairs interpreting AS 29.53.035. A copy is attached. The second paragraph of that opinion states: "Because the statute deals in terms of alternative, the scale of land used in raising and harvesting crops should logically approximate that used in dairying or in feeding, breeding, and managing livestock." I would disagree. Farm use land, as defined in the statute, included both land used for raising crops and land used for dairying; there is no definition of the scale except for the income the agricultural activity provides to the owner. The area required for raising and harvesting tomatoes on a commercial scale is not great, whether that land is located in California and the crop is grown in the open air or whether that land is located in Alaska where the crop must necessarily be sheltered. It is the raising and harvesting that qualifies the owner to tax benefits, as the statute very specifically focuses on "farm use land". I would agree with your statement in that same paragraph that "a greenhouse used in conjunction with other farming activities would not disqualify the land on which it was located from being included within the overall farm or dairy." The act of "farming" occurs under cover of Mosesian Farms' greenhouses as the tomato and cucumber crops are grown from seed, cultivated and harvested on the property, all within a single growing season.

Similarly, nurseries would qualify under this statute. Attached is a letter dated January 16, 1973 from the Cooperative Extension Service of the University of Alaska addressing this question. In 1973, the Anchorage Borough conceded that horticultural activities qualified as "farm use" under the statute (at that time codified as AS 29.10.398); a copy of the judgment is enclosed. Alaska Greenhouses, Inc. v. Greater Anchorage Area Borough, Anchorage Superior Court, Third Judicial District, Civil Action No. 72-1628.

The Municipality of Anchorage, in applying this statute, granted Mosesian Farms' application for special assessment from the beginning of its operations in 1973 through 1980. I believe its characterization of Mosesian Farms' use of its property as "farm use" was correct. I would appreciate a letter of opinion from your office addressing this issue.

Very truly yours,



Michelle V. Minor
Attorney for Mosesian Farms

cc Lt. Gov. Terry Miller
Mosesian Farms

MEMORANDUM

State of Alaska

TO: Hon. Lee McAnerney, Commissioner
Dept of Community & Regional Affairs

DATE: March 27, 1981

ATTN: Michael W. Worley
Assistant State Assessor

FILE NO: J-66-801-80

TELEPHONE NO: 465-3600

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Greenhouses as farms

By:

Rodger W. Pegues
Assistant Attorney General

Sorry, but if you think greenhouses should be included under AS 29.53.035, you will need to prepare and introduce legislation to include them. The existing law does not, except those which are part and parcel of other farming activities, e.g., a nursery. The existing law encompasses "land," not greenhouses.

RWP/pjg

TO: Hon. Lee McAnerney
Commissioner
Department of Community
and Regional Affairs

DATE: September 4, 1980

FILE NO: J-66-801-80

Attn: Palmer McCarter

TELEPHONE NO: 465-3600

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Farm-use-land
assessment.

By: Rodger W. Pegues
Assistant Attorney General

This responds to your request for advice on this subject.

With respect to proof of eligibility, you may adopt a regulation to require persons to submit a copy of their federal income tax return for any year in which they claim benefits under AS 29.53.035. This is a reasonable requirement. If you do so, you also must, in the same regulations, provide that the returns are confidential, that the information they contain shall not be released except by court order or in aid of a criminal investigation, and that their intentional, unauthorized disclosure by agency employees is grounds for dismissal. See AS 43.05.230 for a good example which you can adapt to your needs.

With respect to the kinds of farms which qualify, while one could read AS 29.53.035(c) to include a greenhouse or vacant-lot garden patches, it would appear to mean something else. First, the use of the term "farm unit" in AS 29.53.035(a) and, in AS 29.53.035(c), the terms "raising and harvesting crops . . . feeding, breeding and management of livestock . . . dairying or another agricultural use for profit" in juxtaposition and as alternatives implies a level of agricultural activity in excess of a greenhouse or a garden patch. In other words, it is not customary to use dairying or livestock feeding, breeding, and management on the one hand as an alternative to raising a garden patch or operating a greenhouse on the other. Because the statute deals in terms of alternatives, the scale of land used in raising and harvesting crops should logically approximate that used in dairying or in feeding, breeding, and managing livestock. Second, the purposes of the statute -- it may reasonably be inferred -- are, principally, to preserve agricultural land and, secondarily, to preserve green space. The operation of a greenhouse contributes to neither. Third, a greenhouse is not, strictly speaking, agricultural land. The land under a greenhouse will generally be paved either by a basement or by a concrete slab. The arable land in

most greenhouses is in containers in which plants are cultivated. We do not, therefore, perceive a greenhouse as falling within the terms of the statute. Of course, a greenhouse used in conjunction with other farming activities would not disqualify the land on which it was located from being included within the overall farm or dairy. But by itself a greenhouse (or a garden patch) would not qualify.

With respect to incompatible uses, the possibilities are infinite, and a general guideline of universal application is impossible. You will have to handle the situations as they arise. If you have one at hand, send it along. You can reduce your uncertainties by adopting regulations to make the statutory provisions more particular. As a general rule, a sale or other disposal of land in and of itself does not trigger the penalties. It is incompatible use which does so. Accordingly, subdivision alone does not trigger the penalties. Subdivision and sale for non-agricultural purposes does. If you want to create a presumption of incompatibility on the basis of subdivision and sale, adopt a regulation based on expert advice, that subdivision and sale into parcels of less than, say, 40 acres constitutes incompatible (non-agricultural) use per se.

With respect to structures, it depends on the situation. If the structures are used for farm-use purposes, the lands they are on are being so used. If not, then they and the lands devoted to their use rather than to agricultural use are taxable at another rate.

With respect to interest, compound interest makes sense, i.e., if you do not compound the interest you do not fully recover. However, it could well be held that, because the statute does not prescribe compound interest, it is not chargeable. Nevertheless, your contemporaneous construction should be upheld.

With respect to who pays the penalty, there is an ambiguity. The statute says "the owner" is liable and shall pay. Obviously, in almost all cases, there will have been a sale of the lands to a new owner or owners. We will need to know what your practice has been here. Where there is an ambiguity such as this, contemporaneous, longstanding agency application carries great weight.

With respect to the means used for repaying the state, the statute is again ambiguous. On the one hand it prescribes payment of "an amount equal to the additional tax at the current mill levy" plus interest. On the other hand, it requires payment "to the state to the extent of its reimbursement for revenue loss" because of the farm-use

assessment. If the current mill levy is less than that previously charged, the two may not be the same. However, it is an amount equal to the additional tax and the amount which the state paid in lieu of that tax which must be repaid. Accordingly, while open to debate, your interpretation and application of the statute is probably correct.

With respect to enforcement, you need a statutory lien against the property to arise upon the first approval of an application. Otherwise, your collection problems will be endless. If you have a lien, you need merely record it, and the lien will have to be taken care of when the property is sold or the new owner will be liable and his land can be sold to collect. You need a statutory amendment.

RWP:d1m

COOPERATIVE EXTENSION SERVICE

UNIVERSITY OF ALASKA
FAIRBANKS ALASKA 99701

Matanuska - Susitna District Box 736
Palmer, Alaska 99645

January 16, 1973

Mr. Mann Leiser
Alaska Greenhouses
1301 Muldoon Road
Anchorage, Alaska 99504

Dear Mann:

It is logical that the law writers in rewriting the act on assessing farm lands drop the word "horticultural" as it is a part of agriculture. The act does mention "raising and harvesting crops" which would include horticulture as well as agronomy. Our vegetable growers, potato growers, and greenhouse growers (all horticulturists), in the Matanuska Valley qualify if they meet the 25% income provision of the law. All of them are engaged in the "raising and harvesting of crops." The same is true for others engaged in the "raising and harvesting of crops" such as a hay producer or grain producer, who are agronomists. Agronomy is not mentioned in the law either.

In looking for a comprehensive definition I went no further than our encyclopedia, Collier's Encyclopedin, copyright 1966; book #12 on page 291 gives the following:

"HORTICULTURE, a division of agriculture. The word is derived from the Latin hortus, "a garden" and colere, "to care for." Horticulture includes fruit growing (pomology), vegetable growing (olericulture), and floriculture, which embraces both flowers grown by amateurs and those grown commercially by florists."

Simply put horticulture is as much a part of agriculture as animal husbandry or agronomy.

This past year our best agricultural land was assessed at \$350 per acre. Uncleared land on the same farm and of the same quality was assessed at \$150 per acre. The lowest quality cleared land would be assessed at \$200 per acre. On comparative land values for farming I would hold the same as I did in my February 25, 1972 letter. When production capabilities of land are taken into consideration it would be impossible to establish a higher value on land for farming in the Anchorage area than what we have in the valley. I am sure that it would be still impossible to establish any recent history of land sales for farming in your area. Therefore, since lands in question are only 40 miles or so apart the logical approach would be to use land values (for farming) the same as we have in the Matanuska Valley.

Page 2, Mann Leiser
January 16, 1973

I feel that this taxation issue that you face with the Anchorage Borough is extremely vital to the future well being of the whole area and I hope that it can soon be properly resolved to comply with the State law. The quality of our environment is presently a big issue. Your acres provide open space, a place of rare beauty in addition to promoting beautification to the entire Anchorage area. It is the very thing we are to preserve and promote in order to maintain a desirable environment in an urban setting. It would seem that this should be readily apparent to Borough officials.

Please feel free to call on me at any time that you feel I might be of assistance in this matter.

Sincerely yours,



Peter M. Probasco
Program Leader -- Agriculture
and Farm Management

PMP:lf

cc: Ben Westrade

for others engaged in the "raising and harvesting of crops, the same is true such as a

THIRD JUDICIAL DISTRICT

ALASKA GREENHOUSES, INC.,

Plaintiff,

vs

GREATER ANCHORAGE AREA
BOROUGH,

Defendant.

No. 72-1628

JUDGMENT UPON CONFESSION

This action came before the Court, the Honorable Lewis presiding, on February 13, 1973, for confession by the defendant. The Court being fully advised in and finds that the plaintiff, Alaska Greenhouses, Inc. is eligible under Alaska Statute 29.10.308, that the property described in the complaint, is engaged in agricultural or horticultural activities, and therefore under the "farm use" tax statute, and in 1971 and in more than one-fourth of its gross income from farm use.

It is therefore:

ORDERED, ADJUDGED AND DECREED that plaintiff recover from the defendant \$2,236.36 with interest thereon at eight (8%) per annum from February 13, 1973, plus costs of attorney's fees of \$1,100.00.

Done at Anchorage, Alaska this 15 day of 1973.

The first sentence of AS 29.53.035(c) is amended as follows:

"In this section 'farm use ' means the use of land for raising and harvesting crops or for the feeding, breeding and management of livestock or for dairying or another agricultural use for profit, including commercial greenhouse operations and nurseries, or any combination thereof."

The purpose of this amendment is to clarify the statute as originally enacted and shall be effective retrospectively on August 1, 1972 in accordance with AS 01.10.070(a) and AS 01.10.100(a).

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SCS for HSC for HB 31 (Finance) am
 Title An Act relating to the management, disposal and use of state/mun. lar
 Requested by Senator Fabrenkamp Date 5/22/81

II. FISCAL DETAIL

Agency Affected Department of Natural Resources
 Program Category Affected NRMEC
 BRU, Program, or Subprogram(s) Affected Land Disposal/Fee Title
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		591.2				
200 TRAVEL		33.5				
300 CONTRACTUAL		428.5				
400 COMMODITIES		11.0				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
CAPITAL		2000.0				
TOTAL		3063.7				

FUNDING (Thousands of Dollars)

GENERAL FUND		3063.7				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		14				
PART TIME						
TEMPORARY						

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

1. Classification of all land within two years.
2. Assessment of statewide/local demand.
3. Lotteries in locality; personal attendance.
4. Advance appraisals on remote parcels.
5. Conversion of existing leases; appraisals; additional staking.
6. Field inspections.
7. Supervision of grant program to municipalities.
8. Director of Division of Forestry.
9. Initial pool of grant funds for municipalities (capital).
10. Supervision of local disposals, brochures, qualifications.

Positions: DR&D: Information Officer, LMO II
 FLWM: appraiser, Div. Director, (5) LMO II, LMO I
 DA&M: Acct. Tech. II, Acct. Tech I, CT III Agr.: LMO II

IV. DATE 5/22/81 PREPARED BY *[Signature]*
 AGENCY DNR
 PHONE 465-2400

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Jens
3759

ALASKA STATE LEGISLATURE - HOUSE OF REPRESENTATIVES

IN SESSION:

POUCH V
JUNEAU, ALASKA 99811
TELEPHONE: (907) 465-4948

SUITE 1, 1020 "I" STREET
ANCHORAGE, ALASKA 99501
TELEPHONE: (907) 277-6219

REP. M. F. "MIKE" BEIRNE
DISTRICT 7, ANCHORAGE

MEMBER OF:
FIFTH STATE LEGISLATURE
NINTH STATE LEGISLATURE
TENTH STATE LEGISLATURE
ELEVENTH STATE LEGISLATURE

COMMITTEES:
HEALTH
EDUCATION AND
SOCIAL SERVICES
COMMITTEE FOR REVIEW
OF REGULATIONS

May 7, 1981

TO: Senator Bettye Fahrenkamp
FROM: Representative Mike Beirne *MB*
REGARDING: Suggested Amendments to Lands Bill

Attached are copies of the amendments I am trying to incorporate into House Bill 31. Should I be unsuccessful in my efforts, I would appreciate your consideration when the bill reaches your committee or when you bring up Senate Bill 531. Thank you.

WHILE IN SESSION
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4925

REPRESENTATIVE
BRIAN ROGERS
Alaska State Legislature

NO. 4E
BOX K - COLLEGE
FAIRBANKS, ALASKA 99708
(907) 455-2037

12 May 1981

Michael T. Ward
SR 22116
Fairbanks, Ak 99701

Dear Mr. Ward,

Copies To
Senate
Resources

Thank you for your most recent letter regarding the question of right-of-way on state disposals.

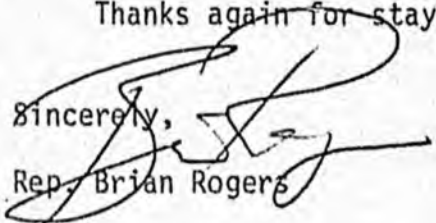
Your arguments seem reasonable and I can't see any real reason why we couldn't work out a way that would insure against unreasonable requests of right-of-way for state land disposals. You are also right however, in thinking the bill may already be out of my hands - it is as it passed over to the Senate last week and is now in the Senate Resources Committee, Chaired by Senator Bettye Fahrenkamp. I will see that that Committee receives copies of the correspondence that has passed between us on this matter.

I have spoken with Fahrenkamp's office and they said they remember your testimony regarding this issue during the hearings in Fairbanks last week. They will be hearing Senate Bill 531 - the Senate version of a rewrite of the current state land disposal program - tomorrow. While they have not yet addressed the issue of right-of-way requirements, they still may and I suggest that you contact them directly.

I am sure you realize, however, that there is considerable opposition to your suggestion as most people seem to believe that the difference in rivers and drainage systems is so great statewide that a blanket right-of-way policy would not be efficient nor workable.

Thanks again for staying in touch.

Sincerely,


Rep. Brian Rogers

BR/vb

May 6, 1981

- 3835
SB531

Representative Brian Rogers
Pouch V
Juneau, Alaska 99811

Representative Rogers;

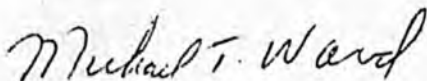
Thank you for your response concerning my appeal to Comm LeResche pertaining to the setback requirements of the Kantishna Disposal. I've heard nothing from the DNR as of yet although in all fairness the certified letter I sent them on 04.16.81 was not delivered until 04.27.81, per the the just arrived return receipt!!!

You stated that the legislature in the form of HB 131 did discuss the right of way question and decided that optimum means of handling it was to allow the various departments with jurisdiction over the land to decide on a case by case basis the required right of way. You also inferred that the legislature feels that a blanket law addressing this issue would not be workable. I concur that inflexible standards are seldom in anyone's interest but that is not what I have suggested with the standard 50' right of way and public hearings if greater right of way is contemplated. A legislative mandate such as this would not destroy the ability of our various departments to maximise the utilization of natural resources it would simply put the burden of proof on to them if they choose to deviate from the norm. To hopefully add some credence to my suggestion let's view the redress process as it now exists. My only avenues are to petition the very department that substained this arbitrary demand by Fish and Game and to correspond with my elected representatives who I respectively submit fail to see the implications of not providing the various departments with right of way guidelines. LeResche will probably either "circular file" my appeal or thank me for my input along with a polite rejection - Bureaucracies like people seldom give up power unless forced to do so. Legal resource is not applicable in this issue. I doubt if DNR has violated any law in this matter, just public trust and the intent of the disposal mandate they are supposed to operate under, neither which could be proved in a court of law even if I had the financial means to pursue it. Realistically, a citizen or groups' only effective means in cases such as the Kantishna Disposal is through legislative action. If right of way guidelines as I have suggested carry the force of law the worst possible consequence would be to force the various bureaucracies to be more responsive to the public in general, a reform that I note that both ends of the political spectrum agree upon. As a matter of interest I was told by an employee of the Fairbanks Division of Lands (name furnished upon request) that Fish and Game had originally desired a 600' setback on the Kantishna but had 'tempered' their demands to 300' ^{when they} met resistance from the Fairbanks office. The point is - if legislative reform does occur to the land disposal this session and the right of way issue is not specifically addressed in the new law, the legislature will have in effect given the DNR and Fish and Game what they will interpret as an "Open Season" on any reasonable setback regulations in future disposals.

In light of the above points, would you be willing to sponsor an amendment to HB 131 to include some type of right of way guideline? Perhaps you could use your influence with another member of the house if the bill is out of your jurisdiction by now. If the bill has left the house by the time you receive this letter, could you discuss this problem with another interior legislator such as Sen. Farenkamp whom I believe chairs the Resource Committee and would be in an excellent position to make some necessary changes. I would expect little opposition considering DNR's track record on the Kantishna and other disposals particularly if it was explained that the standard right of way was not an attempt to usurp the legitimate functions of DNR and Fish and Game but only to curb some of the more "flagrant abuses" of their power.

In conclusion, Rep. Brown commented on the Tuesday night radio conference a few weeks ago that unless a Constitutional Amendment such as the one that failed last election providing the legislative override of bureaucratic regulations became law that there was no sense in electing a legislature that we were and are in fact governed by full time bureaucrats. If reasonable legislative right of way guidelines were adopted, legislative override in this area would be an unnecessary future action.

Sincerely,



Michael T. Ward
SR 22116
Fairbanks, Alaska 99701

P.S. Thank you for your sponsorship of HB 173. I am sure you are aware that bureaucratic ineptitude was largely responsible for this energy concept facing such tough sledding and not an Auditor "rip off" as Ferguson claimed.

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

*5/19/81
incorporated in CS*

5/13/81

to: Senate Resources Committee
from: Ginny Chitwood *GC*
re: SB 351 *531*

Alaska Municipal League endorses the changes to the statutes relating to the disposal and use of state and municipal land that are contained in SB 351.

There are only two places in the bill where I would recommend some minor, technical changes:

Page 5, line 29. after "necessary" add "to comply with local zoning ordinances or". This amendment, which was adopted on the floor of the House to HB 31, would allow the commissioner of natural resources to consider zoning in addition to other factors when determining whether individual parcels should be larger than 5 acres.

Page 7, lines 19 & 20. change "first class city or to a first or second class borough" to "first class city, a borough or a unified municipality"; line 21 - change "city and borough" to "municipality"; line 25 - change "first class city or a first or second class borough" to "first class city, borough, or unified municipality"; and line 27 - change "city & borough" to "municipality". These changes make third class borough and unified municipalities eligible for the matching grant program.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF FOREST, LAND AND WATER MANAGEMENT

JAY S. HAMMOND, GOVERNOR

323 E. 4TH AVENUE
ANCHORAGE, ALASKA 99501
PHONE: (907) 279-5577 Ext: 224

September 1, 1981

Re: Draft HB 31 Regulations, 2300

*Received 9/22
Resumes 4:30pm.*

Senator Bettye Fahrenkamp
4016 Evergreen
Fairbanks, Alaska 99701

Dear Senator Fahrenkamp:

Attached are drafts of regulations to implement HB 31 (Ch 113, SLA 1981).

Hearings are scheduled to be held as follows:

- Juneau Assembly Chambers, September 29, 1981, 7:00 PM.
- Fairbanks North Star Borough Assembly Chambers, September 30, 1981, 7:00 PM.
- Anchorage Recreation Center (Downtown, Room 114), October 1, 1981, 7:00 PM.

Please contact my office if you have comments, suggestions or questions.

Sincerely,

FRANK G. MIELKE, Chief, Land Management

Frank G. Mielke

Enclosure

STATE OF ALASKA
THE LEGISLATURE

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


LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

April 28, 1981

SUBJECT: Land disposal
(Work Order No. 12-1022)

TO: Senator Bettye Fahrenkamp

FROM: Richard A. Bradley 
Legislative Counsel

The bill is prepared as requested.

Note that the draft sec. 38.05.345(e) contained a definition for itself "and AS 38.05.035(a)(14)". Because the definition may never be observed by a person reviewing only AS 38.05.-035(a)(14), we have moved the substantive provisions to the latter section in a slightly different format. Please review the section to make certain that we have achieved your request.

In sec. 38.05.050, the section requires that sales, etc. be held in the municipality that is closest to the land in which a magistrate court holds regular sessions. Because it seems that the goal of the revision is to move the sale site closer to the actual location of the land by using a court that is more likely to be broadly dispersed, it seems that the logic is to permit the sale to be held in any municipality in which a court of the state holds regular sessions.

RAB:ljb

Enclosure

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

May 22, 1981

SUBJECT: Land
(SCS CSHB 31 (Resources))

TO: Senator Bettye Fahrenkamp
Chairman, Senate Resources Committee

FROM: Richard A. Bradley
Legislative Counsel *B*

The revisor commented on two technical problems with SCS CSHB 31 (Resources) which I believe should be noted and perhaps dealt with in a future revision of HB 31.

First, it seems that the use of the concepts of "selection" vis-a-vis "staking" of the remote parcels under AS 38.05.077 and 38.05.078 are unnecessarily awkward. While I can understand that the areas are described as "remote parcel selection areas" and that the way that a person selects them is by "staking" them, it may be that the two sections might benefit from a review and a simplification of the language.

The other problem relates to subsec. (d) in AS 38.05.345 which does not seem to be fairly signaled by the title of the section: the idea of "hearings" is encompassed within "notice". Either the title of the section should be clarified or, perhaps, subsec. (d) should be removed from the section to a section of its own.

In a further committee substitute for the bill, we will seek to address these questions, with your approval. We did not address them now because it might have held the bill up beyond your requested deadline.

RAB:ljb

Enclosure

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

July 6, 1981

SUBJECT: A technical problem with HB 31
TO: Representative Terry Gardiner
FROM: Richard A. Bradley
Legislative Counsel

A technical problem has been noted with regard to the final form of HB 31 which should be called to your attention as the requestor of HB 31.

In Sec. 2 of the bill, AS 29.33.150(b) is amended. In Sec. 3 of the bill, new subsections are added expanding on the basic amendment stated in (b).

The problem is that the provisions stated in (b) apply to home rule municipalities because of AS 29.13.100(39), which is existing law.

The newer subsections added in HB 31 appear not to apply to home rule municipalities because of the omission of an amendment in HB 31 to AS 29.13.100(39).

I assume that the result was not intended and that a future land bill should address the question.

RAB:ljb

~~cc~~ Senator Bettye Fahrenkamp

cc: Mark Whittow: 1/21/82
For Comment

Jenkins

MEMORANDUM

State of Alaska

TO:
Jim Palmer
Senate Resources

DATE: June 12, 1981

FILE NO:

TELEPHONE NO:

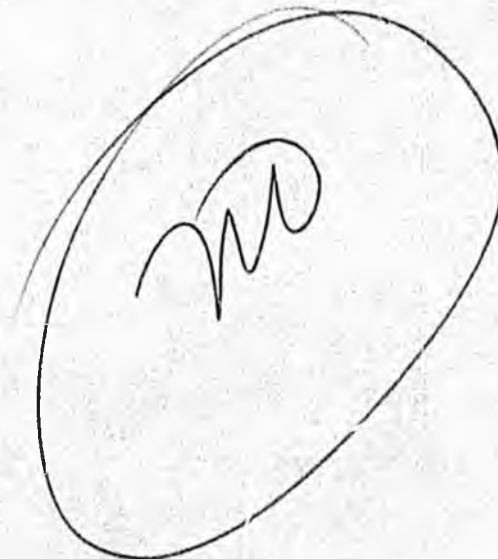
FROM: David Rogers *DR*
Special Assistant
to the Commissioner
Department of Natural Resources

SUBJECT: SCS for CS for HB 31
Land Disposal Bill

In order to expressly require municipalities to pass the benefit of State financial assistance through to purchasers of municipal land, you might insert the following language at the end of AS 38.04.021(a), page 6, line 21 of the Senate Resource Committee Substitute for CSHB 31:

A municipality which receives a grant appropriated by the Legislature under this section must offer the municipal land benefited by the financial assistance for sale on terms which, at a minimum, reduce the fair market value of each lot in the municipal subdivision by its proportional share of the direct cost of land disposal covered by financial assistance.

lottery only



MEMORANDUM

State of Alaska

TO: Jim Palmer, Legislative Assistant
Senate Resources Committee

DATE: June 9, 1981

FILE NO: J-77-103-81

TELEPHONE NO: 465-3600 x 48

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Senate CS for CS for
House Bill 31 (Land
Disposal Bill)

By: *Lauri J. Adams*
Lauri J. Adams
Assistant Attorney General

As we discussed over the telephone previously, I have reviewed the Senate Resources Committee Substitute for CSHB 31, in response to your request for this department's comments on the bill. I have suggested a few specific drafting changes which are intended to clarify certain provisions of the bill. A copy of the bill marked up with my proposed drafting changes is attached to this memorandum for your use.

In addition to these drafting suggestions I briefly wanted to bring to your attention a few substantive issues regarding certain sections of the bill:

1. Sec. 3, adding AS 38.04.020(h) (page 5, line 22). The phrase "necessary to comply with zoning ordinances," appears to imply that the Department of Natural Resources is required by law to comply with municipal zoning ordinances in designing subdivisions on state land. Conformance with local zoning presently is not required expressly by statute, although it may be that in practice the department ordinarily follows the limitations of local zoning laws. In the absence of a specific statutory requirement, however, case law supports the view that the state is not generally bound by local zoning ordinances. The inclusion of this clause in AS 38.04.020(h) therefore may effectively change the law in this state to require compliance with municipal zoning ordinances in all instances where it was not previously mandated. If this substantive result is intended it would make sense to require compliance explicitly so that there is no question regarding the legislative intent. If not, this section of the bill should be clarified in this regard.

2. Sec. 7, amending AS 38.05.035(a)(14)(A) and (B) (page 9 lines 5-8). In regard to the proposed exclusion of contracts for negotiated sales and leases for shore fishery sites from the written findings requirement in the

above-referenced statute, it is significant that both of these types of conveyances do constitute interests in state land under the statutory definition in AS 38.05.365(a)(16), and probably would constitute such interests under the state constitution as well. Although a written finding on disposals of such interests is not required, according to a majority of the Supreme Court in Moore v. State, 553 P.2d 8, 36 (Alaska 1976), the court did point out in that case that it would review the director's decisions to dispose of interests in state land to ensure that they are not arbitrary or capricious. To that end the court required that the director, at a minimum, establish an administrative record which reflects the basis for his decisions. Written findings are not an essential part of the administrative record; however, the exclusion of negotiated sales and shore fishery site leases from the written findings requirement will not relieve the director of the need to make a sufficient record in support of his administrative decision in order to withstand judicial review.

3. Secs. 13 & 14, amending AS 38.05.055 and 38.05.057(a) (page 11, lines 17-21, page 12, lines 20-26). The requirement that, in order to qualify for state land, persons applying through the statutory lottery or auction procedures must be present in the location where the lottery is held is possibly vulnerable to a challenge under the equal protection clause of the Alaska constitution. The argument would be that this requirement creates an impermissible preference in favor of local residents in the land disposal program. In reviewing such an equal protection challenge, the court would balance the strength of the state's legitimate purposes in enacting the statute against the closeness of fit of the means used to achieve the intended objective. Although the issue raised is a serious one in this case, it is difficult without substantial further research and a well developed factual record for us to predict the outcome in the state Supreme Court. However, it is probably that specific expressions of legislative intent regarding these provisions could be significant factors in determining the outcome of such a case.

4. Sec. 19, adding AS 38.05.077(g)(2) (page 14, lines 28-29). The requirement of one-year of continuous residency in the state in order to be eligible for participation in the state land disposal program is probably open to challenge under the state Supreme Court's line of durational residency decisions. Title 38 of the Alaska statutes contains several other durational residency provisions in connection

with the land disposal program, however, and the one-year requirement in this section of the bill does not change existing legal requirements on this point. This issue is not a new one to the legislature but it remains difficult for us to predict how the court actually would decide the issue since it has never been directly presented in litigation.

5. Sec. 22, adding AS 38.05.078(h) (page 15, lines 22-27). The procedure for selection of remote parcel lands outside of a designated remote parcel staking area which is contemplated by this section may not disregard the public notice requirements in AS 38.05.345 which apply to all disposals of interests in state land. Therefore, although this provision of the bill is probably valid when it is read together with the separate statutory public notice requirements, it should be noted that before the state may dispose of the land selected outside the staking area, additional public notice and written findings must be made for this separate action disposing of state lands.

6. Sec. 30, repealing and reenacting AS 38.05.345 (page 18, lines 26-29, pg. 19, lines 1-7, and page 20, line 4). Under AS 38.05.345(b), public notice may be provided by any one of five described methods, in the Department of Natural Resources' discretion. It is possible that some of the individual methods described (such as posting in the vicinity of the action) may not by themselves satisfy the constitutional public notice requirement for disposals of interests in state lands in a given particular case. However, the commissioner presumably would retain the discretion for each individual disposal to utilize more than one of the methods of giving public notice which are described in this section. Therefore, the provision on its face is probably valid but it may remain vulnerable in its application to specific disposals of interests in state land on a case by case basis.

On page 20, in proposed AS 38.05.345(e)(2), negotiated sales of timber and materials are excluded from the definition of "interest in state land or resources." It is likely a court would find that negotiated sales are in fact disposals of interests in state land within the meaning of the state constitution. Thus, the exclusion in the bill probably will not affect the constitutional requirement that public notice be provided before a negotiated sale, although the actual public notice required under the constitution may vary from the statutory provisions.

7. Sec. 33, repealing AS 38.05.065(a) (page 20, line 25). The repeal of AS 38.05.065(a) appears to leave a

Jim Palmer

June 9, 1981
Page 4

gap in the specification of contract terms for auction land sales. I have attached to this memorandum a proposed "repeal and reenactment" of AS 38.05.065 which should take care of this problem, if it is intended that lottery and auction land sale contracts be treated identically.

If you have any further questions or would like me to do any additional redrafting, please don't hesitate to contact me at your convenience.

LJA/jb

Enclosures

cc: Jeff Haynes, Deputy Commissioner, DNR

David Rogers, DNR

4/24/81 KLS

APR 21 1981

Tanana Chiefs Conference, Inc.

Doyon Building
201 First Avenue
Fairbanks, Alaska 99701
Phone (907) 452-8251

*Jim - has letter
re 3) we had not considered*

April 16, 1981

The Honorable Bettye Fahrenkamp
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

I have taken the liberty of drafting some proposed amendments to your work draft state lands bill. These changes are aimed at making the land disposal system more equitable for rural citizens. On behalf of those people, we certainly urge you to consider them strongly.

Thank you.

Sincerely,

TANANA CHIEFS CONFERENCE, INC.

Lisa Jaeger
State Lands Committee Chairperson

LJ/2169n
enc.

PROPOSED AMENDMENTS TO THE WORK DRAFT

STATE LANDS BILL BY FAHRENKAMP

- 1) Sec. 13. AS 38.05.050 is repealed and reenacted to read:
Sec. 38.05.050. DETERMINATIONS BEFORE DISPOSAL OF LAND FOR PRIVATE OWNERSHIP. The commissioner, upon recommendation of the director, shall determine the land to be disposed of for private use. The director shall determine the time and place of disposal. An auction sale, a lottery sale, or a disposal of land for homesites under AS 38.08 must be held in the municipality that is closest to the land to be sold or disposed of and in which regular sessions of the [SUPERIOR] magistrate court are held.

- 2) Sec. 4. LAND DISPOSAL BANK
add:
(k) A person or an agency of the state may nominate land retained in state ownership for inclusion in the land disposal bank or may nominate land in the land disposal bank for retention in state ownership. The commissioner shall hold public hearings semiannually to take nominations under this subsection. A transfer of land from retention in state ownership to the land disposal bank or from the land disposal bank to retention in state ownership shall be accomplished through a classification order under AS 38.05.300 and notice under AS 38.05.345. The commissioner shall make a written determination within six months after receipt of a nomination if he determines that land nominated will not be classified or reclassified as requested.

- 3) Sec. 4. AS 38.04.020
(f) The request of the commissioner under (e) of this section shall be based on an assessment by the commissioner of the current needs and anticipated uses of state land in the different regions of the state and developed in consultation with [MUNICIPALITIES] adjacent communities. The assessment must be

completed each year in writing. It must identify areas where land values are artificially inflated and include a survey of the supply of land in private ownership currently on the market, plans for the disposal of municipal land, and the amount of federal land available for disposal through sales, leases, or permits for specific activities. The assessment of needs and anticipated uses for state land shall be based on an analysis of demand for land offered for a variety of purposes under terms equivalent to those available under comparable state land disposal programs. The assessment must include findings regarding the amount of state land which is necessary to meet the statewide demand for three fiscal years immediately after the year in which the assessment is made. The assessment must also include the general location of land to be disposed of and recommendations for the methods of disposal and terms under which the land will be offered to the public.

- 4) Sec. 26. AS 38.05.038 CLASSIFICATION AND USE OF GRAZING LEASE LAND.


Leave out (a)

*Tanana Chiefs
Conference*

Proposed Senate Bill 531

Since the imposition of the 100,000-acre quota in 1979 the communities of the Tanana Chiefs region have faced many concerns and conflicts with the state land disposal program. The root of the most critical problems centers on the 100,000-acre quota. In the interior's rural communities, concerns focus around the following:

- 1) Adding to the population densities without seriously analyzing the impact on existing natural resources, community services and facilities, and on the job markets.
- 2) Classifying state lands under any of the multiple use classifications for public retention has been practically impossible because the Department of Natural Resources is afraid to "tie up" any possible disposal lands to fill their quota.
- 3) Other problems relate to local input and control on lands adjacent to the communities. House Bill 66 gives local residents very little edge on getting parcels in their area over any one else in the state. SB ⁵³¹~~351~~ does address this and potentially remedies this situation.
- 4) Although the Division of Lands has made efforts to listen to citizen concerns about where to and where not to dispose of lands in rural communities, people are very discouraged over the Division's not following through with public sentiment.



The Tanana Chiefs Conference supports Senate Bill 531 with one main qualification. Section 4(f) requires the commissioner to assess the needs and anticipated uses of state land in the different regions of the state in consultation with municipalities. We prefer that the term "municipalities" be replaced by "adjacent communities." If left as is, communities such as Tok, Lake Minchumina, Arctic Village, Manley Hot Springs, Minto, Stevens Village, Rampart, Takotna, McKinley Park and many others would not have statutory guarantee of participation in the planning process. About this, we feel very strongly.

The current state lands program is a time bomb created by the legislature. The problems our communities have faced so far are small as compared to the potential of ones created by tentative disposal proposals for FY '83 and FY '84. We certainly urge the Senate to act swiftly in passing more workable state lands legislation.

TANANA CHIEFS CONFERENCE, INC.
STATE LAND DISPOSALS
RESOLUTION NO. 81-2

WHEREAS, we live in rural Alaska and for centuries have taken much of our living from the land; and

WHEREAS, much of this land has been conveyed to the State of Alaska; and

WHEREAS, the State is mandated to dispose of 100,000 acres per year; and

WHEREAS, many of the disposals are being done without adequate planning, public input, and consideration of protecting traditional uses of the land;

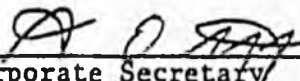
NOW THEREFORE BE IT RESOLVED that the State legislature remove the 100,000-acre quota;

BE IT FURTHER RESOLVED that the State identify areas of traditional use that should be classified for public ownership;

AND BE IT FURTHER RESOLVED that the Tanana Chiefs Conference Board of Directors recommends that no disposals be processed in rural Alaska until the subsistence and socioeconomic impacts be studied, documented, and if necessary mitigated as is currently required by State law and regulation, but which is not being adequately addressed.

CERTIFICATION

I hereby certify that this resolution was duly passed by the Tanana Chiefs Conference, Inc., Board of Directors on March 19, 1981, at Fairbanks, Alaska.



Corporate Secretary
Tanana Chiefs Conference, Inc.
Mitch Demientieff

Fairbanks Subregion

RESOLUTIONS1
d3



Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chairman • Pouch V • Juneau, Alaska 99811 • (907) 465-4954

Official Business

M E M O R A N D U M

TO: Senator Fahrenkamp, Chairman
Resources Committee

FROM: Senator Fischer *VF*

DATE: April 28, 1981

RE: Land Disposal

I was extremely impressed by George Gee's April 21 letter to Lieutenant Governor Terry Miller on this subject. It reinforced my conviction that we need to take a real indepth look at the entire land disposal and management program of the state.

Assuming that we take care of eliminating the 100,000 acre requirement and possibly a few other immediate problems, the basic issues of land policy will still be with us. The interim between sessions might be a good time to pay some attention to this matter.

Earlier this month, I had a long talk with John Katz about land disposal as well as other issues. The subject is one of his top priorities. He will have a pretty clean slate, since not only will he come in as the new DNR Commissioner, but he will also be able to appoint a new Lands Director. John indicated a real interest in taking a good solid look at the whole land disposal program.

If you and the committee decide to pursue land disposal as an interim project, I would certainly be glad to work on it,

Senator Fahrenkamp
April 28, 1981
page 2

both because of my many years of work in this area and my proximity to DNR in Anchorage.

I might also suggest that George Gee be considered for work on any interim project. George worked with me on several projects while I was still with the University (Delta Land Management Program for DNR and Yukon Crossing Study for BLM), and I have an extremely high regard for his professional abilities and practical insights.

Thanks for considering this matter.

/sq

Alaska State Legislature

BETTYE FAHRENKAMP, CHAIRMAN
VIC FISCHER, VICE-CHAIRMAN
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Senate

Committee on Resources

May 13, 1981
1:30 p.m.

Beltz Room
201-Capitol

MEMBERS PRESENT

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

HEARING:

SB 531

An Act relating to the disposal and use of state and municipal land; and providing for an effective date

CSHB 31 (Fin) am

An Act relating to the management of state land; and providing for an effective date

Geoffrey Haynes (Deputy Commissioner of Natural Resources) testified that the Administration's objective is a continuous annual large-scale disposal program. Considering the amount of acreage offered in the last three years, this is no longer an issue.

Deputy Commissioner Haynes stated that the first major issue of the land disposal program is the 100,000 acre annual quota. Two restrictions on the quota cause problems. First, 25,000 of those acres must be sold as small lots, mostly subdivisions. Since the state received the "tail-end" of the land selections, much of the land has little or no access. Municipalities are concerned with the service charges for relatively remote subdivisions. Second, the lack of access to much of Alaska requires a more flexible system. The Governor's bill would formulate the quota annually, as part of the appropriations process. DNR anticipates selling more than 100,000 acres per year for the next few years. There will be more remote parcels sold, and subdivisions will be sold on their merits, not as a quota requirement.

Mr. Haynes stated that the second major issue is municipal land disposal. DNR's objective is to have a state and municipal land disposal program to meet the needs of purchasers in all land categories. DNR wants to encourage the disposal of municipal residential land.

Mr. Haynes stated that the third issue is the terms of sale of remote parcels. The present requirements for sale are too restrictive. There are four restrictions. First, DNR offers remote parcels biannually by lottery. The department would prefer designating lands continuously open to staking. Second, the required 'habitable dwelling' improvement is too demanding. DNR suggests a substitute 'due diligence' requirement, that the holder keep the boundary lines brushed. Third, remote parcel holders cannot be sure of the eventual purchase price of the land they improve under lease. The appraisal does not occur until they enter into a contract of sale. DNR recommends that the appraisal take place on the date of entry. Fourth, the rental rates are too high; DNR recommends a flat \$10 per acre per year rate.

Mr. Haynes stated that the land disposal law was actually "working pretty well". There have been many complaints, but many people have been very pleased to get state land. This session is the time to correct the unworkable provisions.

Dave Rogers (Special Assistant to the Commissioner, DNR) presented a sectional review of SB 531 and CSHB 31 (Fin) am, through Section 24 of SB 531.

Stan Thompson (Mayor, Kenai Peninsula Borough) stated that the Borough had been concerned with the 20 percent state-municipality land disposal selections. This is not in SB 531. The Borough has no major objections to the Senate bill.

Mayor Thompson addressed criticism that the boroughs were delaying land disposals. The Kenai Borough land selections have been continuously interrupted by federal and state actions. The state has issued patents to the Kenai Borough on only 38,445 acres of the 155,780 acres selected to date.

Sam Best (Administrative Officer, Kenai Peninsula Borough) testified that the municipal entitlement provisions of CSHB 31 (Fin) am were unacceptable. The Borough has no major objections to SB 531.

Mr. Best presented comments and recommendations relating to specific language in SB 531.

The Committee adjourned at 3:18 p.m.

Alaska State Legislature

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Senate

Committee on Resources

May 20, 1981
1:30 p.m.

Beltz Room
211-Capitol

MEMBERS PRESENT

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

HEARING:

SCS CS HB 31 (Res) An Act relating to the management of state land;
and providing for an effective date

"MARK-UP"

Roland Shanks (Alaska Environmental Lobby) spoke in favor of SCS CS HB 31 (Res). The Environmental Lobby has been seeking positive reform of the land disposal program. The major areas of concern are redesigning the quota system, more local input into the disposal process and a classification system that will offer protection to public use areas. SCS CS HB 31 (Res) addresses these points.

Mr. Shanks commented on specific language in the Senate Committee Substitute.

Lee Sharp (Attorney for the City and Borough of Juneau) suggested specific language to amend provisions in SCS CS HB 31 (Res) regarding land retained in state ownership, the requirements for municipal grant applications and easements.

Representative Beirne suggested three amendments to SCS CS HB 31 (Res) regarding the Director conducting public auctions, selling land at fair market value and disposal of large-acre parcels by the Director.

The staff was requested to make a presentation on the changes made to SB 531 and CS HB 31 (Fin) am to arrive at SCS CS HB 31 (Res).

The Committee recessed at 3:00 p.m.

The Committee reconvened at 5:00 p.m.

The staff continued with the presentation.

The Committee proceeded through SCS CS HB 31 (Res) page by page.

The motion was made for the staff to have the changes made to the bill and the Committee to move SCS CS HB 31 (Res) with individual recommendations.

The Committee adjourned at 7:00 p.m.

Alaska State Legislature

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Senate

Committee on Resources

TO: Jir Palmer
FROM: Resa King
DATE: May 21, 1981
RE: Amendments to SCS CSHB 31 (Res)

The following are the amendments I noted from last night's Committee meeting:

Page 3, line 1, after the word "bank" insert Lee Sharp's language.

Page 4, line 20 after the word "amount" insert "and general location"

Page 10, line 4 after the word "size" insert "for that zone"

Page 10, line 16 after "(b)" insert "(7)"

Page 10, line 18 after the word "parcel" insert "conveyed under (b)(7) of this section"

Page 10, line 28 after the word "under" insert "AS 38.04.020 (g)(2)(C)"

Page 12, line 14 after the word "reason" insert "attendance at school"

Page 12, delete lines 22 through 29.

Page 15, lines 3 and 4 delete "Rental payments made under the lease shall be applied to the purchase price."

Page 15, line 8, delete the word "select" and insert "stake" in its place.

Page 15, line 10, delete the word "select" and insert "stake" in its place.

Page 15, line 15, delete the word "select" and insert "stake" in its place

Page 15, line 27, after "38.05.105" insert "and 38.05.315."

Page 15, line 28 Sec. 24 staff to work out language with DNR. Something to the effect except for leases negotiated under 070 or first acquired at public auction.

Page 16 Sec. 25 delete the entire section through page 17, line 27. Staff and DNR work out language to the effect some sort of process for vacating and modifying an easement by the Department of Natural Resources.

Page 19, line 2 insert "University"

Page 22, line 1 delete "AS 38.04.040; AS 38.05.030(a),"

Page 22, line 2 delete "38.05.095(b),"

Alaska State Legislature

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Senate

Committee on Resources

January 11, 1982
10:50 a.m.

Beltz Room
211 - Capitol

MEMBERS PRESENT

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

The Committee was briefed on plans for the year.

A list of bills currently in committee was distributed. Announcement was made of a joint House and Senate Resources Committee Hearing to be held at 3:00 p.m., 1/13/82. on the Delta II Agriculture project.

The Committee adjourned at 11:05 a.m.

A M E N D M E N T

To: _____ HB 31

Page ____, after line ____, insert the following new material:

* Sec. ____ Section 12, ch. 138, SLA 1977, as amended by sec. 21, ch. 182, SLA 1978, is amended to read:

Sec. 12. CONVERSION OF LEASES. The provisions of secs. 9 - 11 of this Act are applicable to state leases which are in existence on or before the effective date of this Act if a lessee under a lease elects, in writing, to be bound by this Act. When a lessee elects to be bound by the provisions of this Act, the state shall enter into an amended lease with the lessee for a term equal to the remaining period of the original lease which is being converted, and that amended lease shall be consistent with the provisions of this Act but shall not otherwise alter the terms of the original lease. However, for purposes of determining the annual rent by the state, the fair market value of the property which is used to establish the fixed base annual rent for the initial period or the lease may not exceed the fair market value as it was last appraised on or before ~~July 1, 1974~~ ¹⁹⁷⁰ [JANUARY 1, 1975], brought forward to the date of the first day of the quarter following the date of a request for conversion at the rate of 10 percent a year. or, if the lease was entered into after ~~July 1, 1974~~ ¹⁹⁷⁰ [JANUARY 1, 1975], the fair market value used to establish the annual rent for the initial period of the new lease is the fair market value of the last appraisal brought forward to the date of conversion at the rate of 10 percent per year.

* Sec. ____ . Section ____ of this Act takes effect immediately in accordance with AS 01.10.070(c) and is retroactive to July 18, 1978.

150 (b)
AS 29.33 ~~160~~(c) is repealed and re-enacted to read:

(b) The regulations adopted under (a) of this section apply to subdivision plats of undeveloped state land for disposal under AS 38.05 or AS 38.08 filed with the platting board. The platting board may not disapprove the subdivision plat on the basis of regulations requiring capital improvements on or to state land included in the subdivision plat. The platting board must ~~approve~~ ^{approve and sign} the subdivision plat within ~~30~~ ⁶⁰ days after receipt from the commissioner of natural resources unless it specifically finds that the plat does not comply with subdivision regulations other than those requiring capital improvements, and so notifies the commissioner within the ~~30~~ ⁶⁰ day period. All determinations of noncompliance must be contained in the initial notification, and the commissioner shall thereafter have the opportunity to make corrections or otherwise respond to the determination, after which the platting board shall make its final determination within ³⁰ days after response by the commissioner. A municipality may not amend subdivision regulations after the date on which it is notified by the commissioner of natural resources of the potential sale of state land in subdivision form under AS 38.05 or AS 38.08 unless said amendments are expressly made inapplicable to said state land. As used in this section, "capital improvements" includes but is not limited to access roads and other physical improvements, together with design and engineering thereof. The provisions of this subsection apply to all disposals of land under AS 38.05 and AS 38.08, notwithstanding any other provision of law.

A M E N D M E N T

In the SENATE

By ~~Edwards~~

TO: SCS CSHB 31(Res)

Page 20, after line 11:

Insert the following new bill sections:

* Sec. 32. AS 38.95.080(a) is amended to read:

(a) The director of the division of lands shall issue a non-transferable permit for the construction of a trapping cabin on a trapping cabin site of not less than five acres on state land on which trapping is permitted, regardless of the classification of the land, to a person who meets the following qualifications:

(1) the person must have an established trapline with proof of regular use;

(2) the person must have a trapline of sufficient length to justify the need for cabin construction.

* Sec. 33. AS 38.95.080(c) is amended to read:

(c) The director shall establish, by regulation, conditions attaching to the permit issued under (a) and (b) of this section. These conditions shall include [, BUT NOT BE LIMITED TO,] the following:

(1) permits shall be issued for a period of not more than five years, with succeeding five-year renewal options, if continued use and occupancy is established, and the qualifications of (a) of this section continue to be met;

(2) a cabin and ancillary structures may [SHALL] be constructed and maintained within the trapping cabin site [ACCORDING TO REASONABLE SPECIFICATIONS ESTABLISHED BY THE DIRECTOR; HOWEVER, IN NO CASE MAY A LINF CABIN EXCEED 192 SQUARE FEET];

(3) a permit shall specify the number of cabins allowed to be constructed and indicate their specific geographical location; the director may establish a maximum number of cabins per person or otherwise limit their number because of the probability of adverse consequences;

(4) adequate provision must be made at each cabin for waste and garbage disposal, as determined by the director;

(5) the payment of a trapping cabin permit fee of \$10.

Page 20, line 12:

Change "Sec. 32" to "Sec. 34"

Page 20, line 25:

Change "Sec. 33" to "Sec. 35"

Page 20, following line 26:

Insert a new bill section to read:

* Sec. 36. 11 AAC 94.250 is repealed.

Page 20, line 27:

Change "Sec. 34" to "Sec. 37"

Page 21, line 3:

Delete "33" and insert "35"

Page 21, line 9:

Change "Sec. 35" to "Sec. 38"

MEMORANDUM

State of Alaska

TO: Theodore G. Smith, Director
FL&WM

DATE: June 17, 1981

FILE NO: 2300

TELEPHONE NO: 279-5577

FROM: Joe Joyner, LMO II
Land Disposal Unit *Jed.*

SUBJECT: Number of Homesites issued under
original entry statutes

Homesite #1 - Spring 1978

128 permits issued - Due to expire June 30, 1981.

Est 15 permits issued

Homesite #2 - Spring 1979

48 permits issued - Due to expire July, 1982.

AMENDMENT PROPOSED TO LAND DISPOSAL LEGISLATION BY DEPARTMENT OF NATURAL RESOURCES

*Section _____ Section 26, Ch.182, SLA 1978 is amended as follows:

Sec. 26. A right of repurchase created by former AS 34.10.220 and existing on the effective date of this section may be exercised only if it is exercised under that statute before July 19, 1983.

The Department of Natural Resources shall publish notice of the expiration of [ALL] such repurchase rights in the manner provided by AS 38.05.345 before [JANUARY 1, 1979 AND AGAIN BEFORE JANUARY 1, 1980 AND BEFORE JANUARY 1, 1981] January 1, 1982 and before January 1, 1983 for repurchase rights on properties that were foreclosed upon and deeded to the Territory or State of Alaska under the former AS 34.10.010-.240 or its predecessor territorial acts.

*Section _____ Section _____ of this Act is retroactive to July 19, 1979.



AMENDMENT

As a new section as follows:

38.05.065(b) is amended to read:

The contract of sale for land sold under the procedures specified in 38.05.057 (lottery disposals), 38.05.055 (auction disposals) and 38.05.078 (remote parcel disposals) shall require the remainder of the purchase price to be paid in monthly, quarterly, or annual installments over a period of not more than 20 years. Installment payments plus interest shall be set on a level payment basis. The interest rate to be charged on installment payments is the prevailing rate for real estate mortgage loans made by the federal land bank for the farm credit district for Alaska at the time the contract is signed.

A M E N D M E N T

JUN 24 1961

Offered in the SENATE

By the Resources Committee

TO: SCS CSHB 31(Res)

((Note: Verify section # if new secs. added before this point.)))

Page 13, following line 2, insert new material to read:

* Sec. 15. AS 38.05.065(a) is amended to read:

(a) The contract of sale for land sold at public auction under AS 38.05.055 shall require the remainder of the purchase price to be paid in monthly, quarterly or annual installments over a period of 20 [10] years, with interest at the prevailing rate for real estate mortgage loans made by the federal land bank for the farm credit district for Alaska at the time the contract is signed. Installment payments plus interest shall be set on the level-payment basis.

* Sec. 16. AS 38.05.065(b) is amended to read:

(b) The contract of sale for land sold under [THE PROCEDURES SPECIFIED IN] AS 38.05.057 [(LOTTERY DISPOSALS)] and under AS 38.05.070 shall require the remainder of the purchase price to be paid in monthly, quarterly, or annual installments over a period of not more than 20 years. Installment payments plus interest shall be set on the level-payment basis. The interest rate to be charged on installment payments is the prevailing rate for real estate mortgage loans made by the federal land bank for the farm credit district for Alaska at the time the contract is signed. legal remedies in accordance with applicable state law.

Remember

IN THE LEGISLATURE OF THE STATE OF ALASKA

A BILL

For an Act entitled: "An Act relating to land discounts for the purchase of state land; and providing for an effective date."

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

* Section 1. AS 38.05 is amended by adding a new section to read:

Sec. 38.05.059. ADDITIONAL LAND DISCOUNT. (a) The commissioner shall allow to a purchaser who is eligible under (b) of this section a discount on the purchase price of state land which is classified for a use other than commercial or industrial. The discount is five percent of the purchase price of the land for each year of residence of the purchaser in the state in excess of 10 years of residence. A discount under this section may not exceed 25 percent of the purchase price of the land or \$12,500, whichever is less.

(b) To be eligible for a discount under this section a purchaser must

(1) be a veteran as defined in AS 38.05.053(f)

(2) have received a land discount under AS 38.05.058 on the price of state land purchased before July 1, 1979.

(c) Notwithstanding AS 38.05.053(d), a purchaser may claim the discount allowed by this section even if he received a land discount under AS 38.05.058 before July, 1979. The discount allowed by this section may be added to any other discount or credit allowed by law to reduce the purchase price of state land if the total reduction of the purchase price does not exceed \$37,500 or 75 percent of the purchase price of the land whichever is less. [A purchaser may receive the land discount allowed by this section one time only during his lifetime] *out*

* Sec. 2. This Act takes effect immediately in accordance with

AS 01.10.070(c).

HB

47

COMMITTEE REPORT
SENATE

3/19/82

FURTHER: Judiciary

Date: 4/22/82

Mr. President:

The Committee on R. SOURCES has had CSHB 47(Jud) and prohibition against waste of the meat of big game animals and wild fowl

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]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]
CHAIRMAN

LEGISLATION SUMMARY

CSHB 47 (Jud) am: "An Act relating to the prohibition against waste of the meat of big game animals and wild fowl."

Sec. 1: Repeals existing law regarding waste of wild food animals, reenacting it as law regarding wanton waste of big game animals and wildfowl.

Establishes the intentional, knowing, reckless, or criminally negligent failure to salvage the edible meat of a big game animal or wildfowl as a class A misdemeanor.

Requires convicted violators of sec. 1 who have failed to salvage the hindquarters as far as the stifle joint of a big game animal to be sentenced to a minimum of 160 hours of imprisonment, and a minimum fine of \$2,500.

Prohibits the suspension of a sentence under the minimum sentence and fine provision of sec. 1, or probation, unless the minimum sentence has been served and the fine paid.

Prohibits the imposition of a sentence under the minimum sentence provision of sec. 1.

Sec. 2: Amends existing law regarding the destruction of wild food animals, adding new language, requiring that a person convicted under sec. 1 surrender to the Department of Fish and Game all salvaged portions of the animal or fowl, forfeit his hunting license, and is ineligible to hold a hunting license for the year the conviction is entered and the following year, or for five years from the date of conviction if he failed to salvage the hindquarters of a big game animal.

Provides that it is a defense to criminal charges under sec. 1, if the failure to salvage the edible meat was due to circumstances beyond the violators control, including: theft of the animal or fowl; unanticipated weather or other acts of God; unavoidable loss in the field to another wild animal.

Sec. 3: Amends existing law regarding destruction of wild food animals, adding new definitions for "big game animal", "criminal negligence", "edible meat", "intentionally", "knowingly", "recklessly" and "wildfowl".

Sec. 4: Amends existing law regarding excepted animals under this chapter, changing the exempted animals from those exempted by the Board of Game by regulation to, specifically, walrus, if exempted by the Board.



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 Sturgulewski

April 23, 1982
1:40 p.m.

Beltz Room
Capitol - Room 211

Hearing:

- SB 835 An Act establishing a National Petroleum Reserve, Alaska, trust fund account and providing for uses of the money placed in the account: and providing for an effective date.
- SB 872 Relating to sanitation, sanitary practices, and quality assurance in the seafood processing industry.
- CSHB 47 An Act relating to the prohibition against waste of the meat of big game animals and wild fowl.

SB 872

Dr. Fred Honsinger, Director, Seafood and Animal Industry Division, Department of Environmental Conservation, suggested that page 3, line 7 of the Committee Substitute be changed from "in conjunction" to "after consultation".

Senator Gilman moved the amendment to page 3, line 7. He then moved the Committee Substitute and asked unanimous consent. Gilman moved the Letter of Intent and asked unanimous consent.

SB 835

Tom Koester, Attorney General's Office, stated that SB 835 raises some legal questions. It violates the constitutional prohibitions of a dedicated fund, and the enactment of local or special legislation. In addition, it makes an appropriation in an enactment bill, and the wording "minimum of 50%" takes the power of appropriation away from the legislature. Koester concluded by stating that he would provide the Committee with written testimony outlining the legal questions raised by the bill. (See attached.)

Tom Smythe, Consultant, North Slope Borough, provided background on the National Petroleum Reserve, Alaska. He supports SB 835, stating that the funds are needed to continue a program of service in the field and alleviate impacts on the community.

Robert J. DuPere, Consultant, North Slope Borough, explained that the constraint is on the operating budget. Funds are needed for sanitary and solid waste facilities: Search and Rescue: mitigation of environmental impacts: airstrips, roads, and other lines of communication. DuPere then suggested overcoming the constitutional problems outlined by Tom Koester through wording changes that would allow the legislature to make yearly appropriations to impacted communities.

Senator Gilman expressed concern over how impacts will be measured, and how eligibility for funds will be ascertained.

Senator Fischer raised questions about how the 50% that doesn't go to the North Slope Borough will be spent. Also, he suggested that appropriations to the North Slope Borough be subject to legislative review periodically, or that a Letter of Intent be sent with the bill.

Senator Fahrenkamp directed Koester, DuPere, and the Resources Committee Staff to work together after the meeting to find an agreeable solution to the issues raised.

HB 47

Senator Sturgulewski moved CSHB 47 (Jud)(am) with individual recommendations.

The meeting was adjourned at 3:05 p.m.

SENATE RESOURCES COMMITTEE
LEGISLATION CHECKLIST

CSHB 47 (Jud) am
BILL NUMBER _____

IDENTIFICATION:

BILL NAME: "An Act relating to the prohibition against the waste of the meat of big game animals and wild fowl."

SPONSOR(S): Judiciary (Original Sponsors: Grussendorf, Bettisworth, Fanning, et al) RELATED BILLS PENDING:
DATE INTRODUCED: (H) 2/4/81
(S) 3/19/81

REFERRALS

*Referred to
Judiciary*

INITIAL RESEARCH:

INITIAL BILL SUMMARY COMPLETED

SUMMARY BY LEGAL DIVISION:
DEPT. OF LAW SUMMARY:

SPONSOR CONTACTED FOR BACKUP MATERIALS:

FISCAL NOTE:

AGENCY RESPONSE:

OTHER INTERESTED SENATORS OR REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS AND/OR GROUPS:

3/31 - U. Humbert letter in support

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELECONFERENCE

BACKGROUND MATERIAL DISTRIBUTED

PSA/PRESS RELEASE

LIST OF WITNESSES:

SUGGESTED AMENDMENTS/CS DRAFTED:

Div. of Game, ADFG - Mary Jablonski 4/10 4/21



Alaska State Legislature

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

March 31, 1982

To: Senator Bettye Fahrenkamp
Chairperson, Senate Resource Committee

From: Representative *V. F. H.* Vernon Hurlbert

Re: CS HB 47
" An Act relating to the prohibition against waste of the meat
of big game animals and wild fowl"

I would like to express my support for CSHB 47 which will be coming before the Senate Resource Committee for your consideration.

This bill, in Committee Substitute form, differs in several ways from the original HB 47. It more sharply defines the wanton waste of the meat of animals and wild fowl, and it provides for a minimum penalty for the wanton waste of such meat, something that was not previously addressed in HB 47. By stiffening HB 47, I would hope that more hunters would be deterred from the wanton waste of game and fowl meat.

As a bush Legislator, and a resident of rural Alaska, I have become increasingly alarmed at the amount of game being taken in Alaska by hunters, not for the meat, but by trophy-hunters, who take the horns, head, claws, teeth, hide, tusks, and antlers of an animal or fowl, and leave the meat to rot.

The sensitive eco-system of ALaska requires the careful management of our game and fowl resources to provide not only food for Alaskan residents today, but for our children, the future Alaskans of Tomorrow.

The wanton waste taking place with the killing of our game, the stripping of those marketable, in demand parts, and the senseless disregard for the edible meat, left to decompose and rot, is not careful management. It is a disgusting misuse of one of our very precious resources. We must approve and enforce stiff penalties for offenders to successfully deal with this problem.

In this vital issue, I urge your support, and therefore request your concurrence of the passing of CSHB 47.



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: Senate Resources Committee
FROM: Senate Resources Committee Staff
RE: Committee Meeting, 4/23/82
DATE: April 21, 1982

Please find attached background information for Friday's hearing on the following bills:

- CSHB 47 An Act relating to the prohibition against waste of the meat of big game animals and wild fowl.
- HB 888 An Act relating to the sale of royalty oil by the State of Alaska to the Tesoro Alaska Petroleum Company; and providing for an effective date.
- HB 889 An Act relating to the sale of royalty oil by the State of Alaska to Doyon, Ltd, and providing for an effective date.

The hearing will be held at 1:30 p.m. in the Beltz Room.

SP11 2998 16.54 JPO5 0120 16.54 04/26/82.

ATTN: LT. SEIBEL/FWP/JUNO

4/26/82

FOR REPRESENTATIVE SUTCLIFFE RE: HB 686
SB 47

THE WORDING ON THE CURRENT VERSION OF SB 47 PROHIBITS THE DIVISION FROM VIEWING FISH TICKETS WITHOUT A COURT ORDER, ALTHOUGH THE PURPOSE OF THE BILL IS TO GIVE US ACCESS.

IT IS VIRTUALLY IMPOSSIBLE TO LOOK AT THE TOP HALF OF THE FISH TICKET AND NOT ALSO TAKE IN THE BOTTOM HALF, WHICH ACCORDING TO CSSB 47 IS NOT AVAILABLE TO US.

HAVING ACCESS TO THE COMPLETE FISH TICKET IS ABSOLUTELY ESSENTIAL IF THE DIVISION IS TO ENFORCE LIMITED ENTRY. ACCESS TO FISH TICKETS WOULD: (1) ALLOW US TO IDENTIFY FISHERMEN WHO WERE NOT PERMIT HOLDERS, (2) ALLOW US TO DETERMINE WHO WAS PURCHASING FISH FROM NON-PERMIT HOLDERS, (3) INCREASE THE APPREHENSION OF ILLEGAL FISHERMEN SUBSTANTIALLY.

THIS YEARS LEGISLATIVE AUDIT ON CFEC STATES: "WE BELIEVE THAT THE MOST EFFICIENT MEANS OF ENFORCING A LIMITED FISHERY WOULD BE TO ALLOW F&WP ACCESS TO FISH TICKETS AND FISH TICKET INFORMATION." HB 666 WILL GIVE US THIS TIMELY ACCESS AND WE SUPPORT THIS VERSION OF THE BILL.

COLONEL STICKLES/FWP-DIRECTOR/ANCHORAGE

PLEASE ACKNOWLEDGE RECEIPT OF THIS MESSAGE A.S.A.P...RUTH/SP11

JPO5 0083 16.58 JPO5 0122 16.59 04/26/82

SP11 ANCHORAGE

1/16/81 Anchorage Times

State intensifies probe of moose harassment

by Bill Blessington
Times Outdoor Editor

State law enforcement officers have stepped up their probe into the death of a moose which witnesses say was harassed to death by U.S. Park Service employees in Katmai National Monument Sept. 24.

According to Capt. Wayne Fleek, Anchorage area commander of the Fish and Wildlife Protection Division, the investigation has been turned over to a special investigations unit.

Ordinarily, such incidents are investigated by a single officer in the field. Fleek said the officer who began the investigation now will be aided by a three-man team in Anchorage.

Fleek said the special unit plans to interview most of the 30 Park Service officials who watched the moose drown and helped haul its carcass out of Brooks Lake. Some of the interviews, said Fleek, will be obtained from witnesses who are Outside now.

The incident occurred at a meeting of Park Service managers, including the state director, deputy director and superintendents of all of the new national parks and monuments in Alaska.

Possible state charges which could be filed as a result of the incident are use of a motorized vehicle to harass an animal, the wanton waste of a big game animal's meat and failure to report the incident.

According to a witness who volunteered an account of the incident to The Anchorage Times but requested anonymity, the moose became weakened and drowned when cut off from the shoreline and chased into deeper water by the officials in a Park Service motorboat.

No charges have been filed by the state against Belous, special assistant to the Alaska area director of the Park Service, and Roy Sandborn, the Park Service's chief ranger in the state. Belous has denied any wrongdoing, saying that he and Sandborn were only attempting to find out why the moose had been acting strangely.

The animal had walked out of the lake into the middle of a Park Service camp being used as a site for the September conference.

According to those present who spoke with The Times, the moose appeared to be in some kind of distress or just tired from a swim across the lake. The animal then returned to the lake and walked away through shallows.

Belous says he and Sandborn thought something was wrong with the animal or that foul play was involved. He said they got in a powerboat to take a closer look and get some photographs.

Witnesses who spoke to the state investigators and those who spoke this week with The Times differed in their accounts of what happened next. Some told the state investigators that the two men repeatedly circled the moose between 25 and 50

feet away. Others have said the boat only went in a half circle around the animal. All agree, however, that the boat came between the moose and the shoreline and the animal's next move was to head for deeper water.

Witnesses, including Belous who was following the moose in the motorboat, say the animal was having a hard time keeping its head out of the water. It eventually turned around from the deeper part of the lake and headed toward shore.

On the way, the animal "thrashed around and went under several times and eventually became inactive," said Belous.

The animal was left on the lake shore by Park Service employees and apparently devoured by bears.

Legislator says moose was under state's jurisdiction

State Rep. Ken Fanning, a Fairbanks Libertarian, is spearheading an informal legislative request that no stone be left unturned in the state's investigation into the Katmai National Monument moose death.

Fanning, the failure of National Park Service officials to report the death of the moose in Brooks Lake was an act in open defiance of the newly enacted Alaska lands law. The D2 law gives the state jurisdiction over resident wildlife on federal land.

Fanning said Thursday he will mail a letter signed by most or all House members to the Department of Public Safety asking for full copies of the investigation reports as soon as they become available.

He said Sen. Bettye Fahrenkamp, D-Fairbanks, will prepare a similar letter signed by Senate members. Fahrenkamp could not be reached for comment.

"It appears to me that there were three potential violations of state law," said Fanning.

If the Park Service is taking the position that all it has to do is report the death of animals like the Katmai moose internally, "it is taking the position that state law does not apply on federal lands," said Fanning.

"That's nothing like what they

told us during the D2 hearings," added the freshman legislator and former Alaska lands lobbyist.

The letters from the House and Senate members, he said, are not an official action. "But it's a pretty strong indication that we don't want any monkey business."

Fanning is the author of a bill to provide mandatory sentences of five days in jail and a \$2,500 fine for wanton waste of moose or caribou meat.

Like any other investigation

Moose probe will take 3 weeks

News-Miner staff report

ANCHORAGE—A state investigation into an incident of alleged moose harassment and wanton waste by two National Park Service officials last fall will take another three weeks, and its results won't be available right away unless no charges are filed.

Col. Robert J. Stickle, director of the Division of Fish and Wildlife Protection, told the Daily News-Miner Thursday that he is explaining details about the investigation to legislators who asked last week for a complete probe of the incident.

Eighteen State House members, including all six Fairbanks representatives, asked Stickle to make a "complete and in-depth investigation" of the incident and provide copies of the investigation report, "as soon as it becomes legally available."

Stickle stressed that the investigation is not being handled any differently than it would be if it involved any other private citizens in Alaska.

"I'd like to emphasize that this is

being treated just like any other investigation," Stickle said. "It is being conducted in a fair manner. Just because it involves Park Service people doesn't mean anything. Nothing extra is being done."

Stickle said he has drafted a letter explaining this to the legislators, and cautioning them that details they may have read in newspaper accounts include "many accusations that have not been proven."

Three investigators are working on the case, Stickle said. It is proceeding slowly, he added, because about 40 people have to be interviewed and many of them are out of state for the winter. He estimated that 20 to 25 interviews have been completed.

"We didn't find out about this until about three months after it occurred," Stickle added.

The incident took place in mid-September at Brooks Lake in the Katmai National Monument, near the Park Service headquarters there. The reports of the incident said a moose came upon a camp of Park Service

officials there, then went into the lake. Two of the officials, Bob Belous and Roy Sandborn, are said to have circled the moose in motorboat to take photographs, and the moose died in the water. The moose was then towed to shore, witnesses say, where it was left.

The Park Service officials deny they harassed the moose or caused its death. Belous told the Daily News-Miner last week that they were curious about the animal's condition because of a poaching incident in the monument a few weeks before.

He said the Park Service has traditionally left the carcass of any dead animal for natural disposal. He said the incident was not reported to state officials because the Katmai park superintendent made a full investigation and found no violation of law.

The legislators, however, are concerned about keeping the state's fish and game management prerogatives in Alaska's 24 million acres of new national parks established under the Alaska Lands Act.

Lawmakers ask probe into moose death

JUNEAU—Eighteen House lawmakers have requested an investigation of the alleged harassment of a moose by National Park Service personnel in Katmai National Park last fall.

The legislators—including Democrats, Republicans and Libertarians—wrote Col. Robert Stickle, director of the Division of Fish and Wildlife Protection, requesting an official investigation and to be given copies of the report.

In their letter, the lawmakers note that handling of the incident may be a good test of whether the state will continue to have wildlife management authority on federal lands in the state.

The incident in question occurred in September, when two park service officials are alleged to have harassed a moose which eventually died, with its meat left unrecovered.

According to reports, the moose went into a lake and was followed by two park service employees in a motorboat who were trying to take photographs. After the boat circled the moose a number of times, the animal died.

In their letter requesting an investigation, the lawmakers said, "It appears that this situation may offer a good opportunity to determine at this point in time whether or not state law regarding fish and game regulations will be strictly enforced in national parks."



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 16, 1981

TO: Representative Ken Fanning
FROM: Christine Johnson
Research Staff *Johnson*
SUBJECT: Research Request No. 81-20
Game Violations (Additional Information)

Attached please find the additional information you requested on wanton waste of caribou, sheep, deer and goats.

Please let us know if we can provide any further material.

CJ/bf
Attachments