

ALASKA LEGISLATIVE COMMITTEE FILES 1903-1904 00 / 2

2744 HRES HB 121 - HB 148

274

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121

Susitna Hydroelectric Project

LICENSING PROCESS

The Federal Energy Regulatory Commission is charged with the responsibility of fostering the comprehensive development of the Nation's waterways consistent with public safety. The Susitna River is a public resource; therefore, the Commission must ensure that any hydroelectric development on the Susitna River is in the best interest of the public.

When the Susitna Hydroelectric Project license application is filed by the Alaska Power Authority (APA), the application is first reviewed by staff to ensure that it contains all the information necessary for the Commission to assess the project. When the application is deemed acceptable for processing by the Director, Office of Electric Power Regulation, the Commission initiates a public and agency comment period. Public notice in the Federal Register and in Alaskan newspapers will invite the public to comment on and participate in the licensing process. Federal, State, and local agencies are provided copies of the application and are asked to provide comments in their respective areas of expertise.

Concurrent with the public comment period, Commission staff experts initiate a three-pronged evaluation of the Susitna Project. Electrical engineers and economists will evaluate the adequacy of electrical load forecasts for Alaska and the need for Susitna Project power. Geologists and civil engineers will evaluate the integrity of project structures. A team of environmental scientists will prepare an environmental impact statement assessing the project's potential impacts on the Alaskan ecosystem. Upon completion of these analyses, the staff positions on need for power, project integrity, and environmental impacts may be subjected to the scrutiny of hearings before an administrative law judge. At these hearings, intervenors in the Susitna proceeding have the opportunity to support staff's analysis or present opposing positions. At the conclusion of the hearing, the administrative law judge prepares an opinion on the issues.

After the administrative law judge has rendered an initial decision, the five Commissioners will make the final decision on whether or not to issue the license for the Susitna Project and what conditions to attach to the license, if issued. If a hearing has been held, the Office of Opinions and Review, with guidance from the Commissioners, will prepare the license document. The Commissioners will review the entire record for the Susitna Project. In order for the APA to receive a license for the Susitna Project, the record must convince a majority of the Commissioners that the project is needed, that the structures will be safe, and that the environmental impacts of construction and operation will be adequately mitigated.

Alaska State Legislature



Speaker of the House of Representatives


Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

MEMORANDUM

April 6, 1983

To: Rep. John Ringstad
Co-Chairman House Resources

From: Rep. Joe Hayes 
Speaker

RE: HB 120,121,122

I am expecting information relating to the Susitna legislation to be available on Friday. At this time, I would ask that only testimony be taken on this legislation and that these bills not be moved from the committee. It is my understanding this legislation will be before the committee again at that time. I am also delaying further testimony from my office on these bills until Friday when I hope to present you and the committee with a recommended course of action.

I believe further information will also be available on other pending hydro legislation such as the appropriation for Susitna, and would request that the bill remain in committee until at least such time as the information is available. I believe this will be by the end of the week.

Thanks.

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STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 122 Date on Bill: 1/26/83
 Title: "An Act relating to bonds issued by the Alaska Power Authority;
 Sponsor: Hayes
 Requestor: House State Affairs

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	0	0	0	

b. Revenues:

Revenue				
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2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

There is a potential obligation of the State for \$5,400,000,000 to cover bonds issued by the Alaska Power Authority for acquisition and construction of the Susitna Hydroelectric Project.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Robert Mohn *RA Mohn* Phone: 276-0001
 Division: Alaska Power Authority Date: March 3, 83
 Approved by Commissioner: Richard A. Lyon *R* Date: _____
 Department: Commerce & Economic Development

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

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130



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Natural Resources	Sponsor: (Principal) Rules Committee by request	Bill Number SB 102
Department Position This bill was authored by the Department in response to requests by the Legislature and the public for a homestead program. If the State is to have a homestead program, we favor this approach.		
Division Director Tom Hawkins	Date 2-19-83	Commissioner's Signature <i>Thomas D. Arnold, Jr.</i> Date 2-21-83

GOVERNOR'S OFFICE USE

Comments:

Position Noted By _____ Date _____

SUMMARY

1. a) Related Bills (Similar or Conflicting) HB 167, HB 130 and SB 43	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill

3. Program Effects of Bill

As an option to land disposals offered under subdivision, remote parcel, homestead or agriculture, the Department would offer land disposals under the homestead provisions of this bill.

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:

To discourage speculation, require payment of 10% of appraised fair market value to the State on any subsequent conveyance within 99 years.

6. Comments:

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 102 Date on Bill: 2-1-83
 Title: An act relating to homesteads and providing an effective date
 Sponsor: Rules Committee
 Requestor: Governor

Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue				
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Source of funds to offset fiscal impact of bill:

Assumptions:

A homestead program would be considered by DNR as an alternative to existing land disposal programs for which we are budgeted annually. Therefore, no additional funding is requested beyond the budget appropriation.

Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Sharon Barton Phone: 465-2400
 Division: Commissioner's Office Date: 2-19-83
 Approved by Commissioner: ^{WHS} William D Arnold, Deputy Date: 2-20-83
 Department: Natural Resources

E. Distribution:

Original to Legislative Finance
 Copy to OMB



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Natural Resources	Sponsor (Principal) Moss	Bill Number SB 43	
Department Position DNR favors the provisions of the Administration homestead bill - SB 102.			
Division Director Tom Hawkins	Date 2-22-83	Commissioner's Signature <i>Wms D Arnold, Deputy</i>	Date 2-22-83

GOVERNOR'S OFFICE USE

Comments:

<input type="checkbox"/> Position Noted	By	Date
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SUMMARY

1. a) Related Bills (Similar or Conflicting) SB 102, HB 167 and HB 130	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill

3. Program Effects of Bill

As an option to land disposals offered under subdivision, remote parcel, homesite or agriculture, the Department would offer land disposals under the homestead provisions of this bill.

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:

Amend open filing system of disposal to aliquot part or surveyed parcel disposal.

6. Comments:

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

No: SB 43 Date on Bill: 1-18-83
 Title: An act granting homesteads to Alaska citizens; and providing for an effective date
 Sponsor: Moss
 Director: _____

Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue				
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Source of funds to offset fiscal impact of bill:

Assumptions: A homestead program would be considered by DNR as an alternative to existing land disposal programs for which we are budgeted annually - therefore, no additional funding is requested beyond the budget appropriation.

Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Sharon Barton Phone: 465-2400
 Division: _____ Date: 2-19-83
 Approved by Commissioner: [Signature] Date: 2-20-83
 Department: Natural Resources

c. Distribution:

Original to Legislative Finance
 Copy to OMB



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Natural Resources	Sponsor (Principal) Uehling, Barnes, Cowdery etc.	Bill Number HB 130
Department Position DNR favors the passage of SB 102.		
Division Director Tom Hawkings	Date 2-22-83	Commissioner's Signature <i>Wms D Amund, Deputy</i> Date 2-22-83

GOVERNOR'S OFFICE USE

Comments:

<input type="checkbox"/> Position Noted	By	Date
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SUMMARY

1. a) Related Bills (Similar or Conflicting) SB 102, SB 43 and HB 67	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill

3. Program Effects of Bill

As an option to land disposals under subdivision, remote parcel, homesite or agriculture, the Department would offer land disposals under the homestead provisions of this bill.

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:

Reduce maximum acreage offered under agricultural program to 160 acres, reduce maximum non-agricultural land to 40 acres. Eliminate clearing requirement on non-agricultural land.

6. Comments:

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 130 Date on Bill: 1-26-83
 Title: An act relating to homestead entry; and providing for an effective date.
 Sponsor: Uehling, Barnes, Cowdery, Flood and Ward
 Requestor: _____

Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
EDUCATION	-0-	-0-	-0-	-0-
OPERATION	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-	-0-

b. Revenues:

REVENUE				

Source of funds to offset fiscal impact of bill:

Assumptions: A homestead program would be considered by DNR as an alternative to existing land disposal programs for which we are budgeted annually. Therefore, no additional funding is requested beyond the budget appropriation.

Disclaimer:

This statement has not been reviewed by the O B in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Sharon Barton
 Division: Commissioner's Office
 Approved by Commissioner: *William O. Arnold, Deputy*
 Department: Natural Resources

Phone: 465-2400
 Date: 2-19-83
 Date: 2-20-83

c. Distribution:

Original to Legislative Finance
 Copy to CMS



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Natural Resources	Sponsor (Principal) Tischer, Bettisworth, Bussell, Etc	Bill Number HB 167
Department Position The Department does not favor a homestead program by staking. We recommend the provisions of SB 102.		
Division Director Tom Hawkins	Date 2-22-83	Commissioner's Signature <i>Arthur D. Arnold Deputy</i>
		Date 2-22-83

GOVERNOR'S OFFICE USE

Comments:

Position Noted By _____ Date _____

SUMMARY

1. a) Related Bills (Similar or Conflicting) SB 102, HB 130 and SB 43	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill

3. Program Effects of Bill

As an option to land disposals offered under subdivision, remote parcel, homesite or agriculture, the Department would offer land disposals under the homestead provisions of this bill. Because of high costs involved in cadastral survey required by this bill, total acreage offered by DNR under a given land disposal appropriation would be reduced.

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:

Amend staking requirement to aliquot parcel or surveyed parcel disposal. Increase clearing requirement to 25% on agricultural land. To discourage speculation, require payment of 10% of appraised fair market value to the State on a subsequent conveyance within 99 years.

6. Comments:

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 167 Date on Bill: 2-7-83
 Title: An act relating to homesteads; and providing for an effective date.
 Sponsor: Tischer, Bettisworth, Russell, Kritz, Liska, Schultz, Ward and Szymanski
 Author: _____

Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86	
Capital							-
Operating							
Total	-0-		-0-	-0-	-0-	-0-	

b. Revenues:

Revenue							
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Source of funds to offset fiscal impact of bill:

Assumptions:

A homestead program would be considered by DNR as an alternative to existing land disposal programs for which we are budgeted annually. Therefore, no additional funding is requested beyond the budget appropriation.

Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Sharon Barton Phone: 465-2400
 Division: Commissioner's Office Date: 2-19-83
 Approved by Commissioner: *William D. Smith*, Deputy Date: 2-20-83
 Department: Natural Resources

Distribution:

Original to Legislative Finance
 Copy to OMB

Specific Comparisons

HB 167/HB 130

Findings (A)

Neither House Bill contains a findings section.

Land Identification (B)

The main difference in the two bills is HB 167 specifically directs that the Commissioner shall designate land and make it available for homestead entry. HB 130 does not.

HB 167 also requires a cadastral survey to establish section corners to be paid for by the state, requires public notice and denies any preference rights such as length of residency, veteran, etc.

Qualifications for Applicants (C)

HB 167 requires staking of the parcel which can be up to 160 acres and requires that entry permits be let out on a first come first serve basis. HB 130 requires applicants to be qualified under (AS 38.05.057) the lottery program or (AS 38.05.077) the remote parcel disposal procedures. HB 130 also disqualifies a person who has leased a remote parcel, or applied for a homestead entry within the previous 8 years.

HB 167 prohibits the conveyance of a permit in any manner except by testate or interstate succession. HB 130 does not address conveyance. HB 167 requires a specific fee of \$500.00 for applicants of which \$400.00 is refundable after meeting all other patent requirements. HB 130 simply states that a fee may be charged. HB 167 also requires a commitment from the applicant that he or she agrees to all conditions necessary for patent.

Revocation of Permit (D)

HB 167 spells out specific prohibited actions that must not take place or the state may condemn and the property revert to state ownership in 90 days.

Those conditions are:

- 1) an assignment, conveyance, or other transfer of the permit;
- 2) failure of the permittee to submit a plat of survey to the director within 18 months after issuance of the permit;
- 3) failure to erect a dwelling or to clear the land in the time required under AS 38.09.040(a), except that if the director finds that the dwelling or clearing has been nearly completed and progress toward completion is being made at the expiration of the time required, the director may extend the time required for completion for not more than one year;

4) failure to brush the boundaries of the parcel within one year.

HB 130 also requires compliance with specific criteria and authorizes the A.G. to eject the homestead applicant if called on by the director to do so. The required criteria is as follows:

- 1) occupies the land for a total of 35 months;
- 2) erects a habitable dwelling;
- 3) clears and prepares for cultivation not less than
 - (A) one-fourth of the land entered if the land is limited to agricultural use; or
 - (B) one-eighth of the land entered if the land is not limited to agricultural use;
- 4) brushes the boundaries of the homestead entry and maintains the brushed boundaries so that they are easily visible from the ground;
- 5) causes a survey of the homestead entry to be made that is acceptable to the director.
 - (b) The director shall require an applicant for homestead entry to submit proof necessary to establish compliance with the requirements of (a) of this section. An applicant is not required to submit proof under (a) (4) or (5) of this section if the land comprising homestead entry has been surveyed.
 - (c) As used in this section, "habitable dwelling"
 - (1) means a permanent dwelling of not less than 2000 square feet and its fixtures and facilities;
 - (2) does not include a mobile home unless it is permanently attached to a permanent foundation.
 - (d) A person who has applied or received state land under this chapter is not eligible for a state loan under AS 03.10 for the habitable dwelling or the clearing of the land required under this section.

HB 130 also states that a person who has received state land under a homestead provision is not eligible for a state loan until patent is received.

Patent Requirements

HB 130

- 1) occupies the land for a total of 35 months;
- 2) erects a habitable dwelling;
- 3) clears and prepares for cultivation not less than
 - (A) one-fourth of the land entered if the land is not limited to agricultural use; or
 - (B) one-eighth of the land entered if the land is not limited to agricultural use;
- 4) brushes the boundaries of the homestead entry and maintains the brushed boundaries so that they are easily visible from the ground;
- 5) causes a survey of the homestead entry to be made that is acceptable to the director.
 - (b) The director shall require an applicant for homestead entry to submit proof necessary to establish compliance with the requirements of (a) of this section. An applicant is not required to submit proof under (a) (4) or (5) of this section if the land comprising homestead entry has been surveyed.
 - (c) As used in this section, "habitable dwelling"
 - (1) means a permanent dwelling not less than 200 square feet and its fixtures and facilities;
 - (2) does not include a mobile home unless it is permanently attached to a permanent foundation.
 - (d) A person who has applied or received state land under this chapter is not eligible for a state loan under AS 03.10 for the habitable dwelling or the clearing of the land required under this section.

HB 167

Sec. 38,09.040. ISSUANCE OF PATENT. (a) The director shall issue a patent to homestead entry land if the permit holder for that parcel

- (1) resides on the homestead entry land for not less than five months a years for five years;
- (2) completes an approved survey of the land within 18 months after issuance of the permit;

- (3) erects, within three years after the date of issuance of the homestead entry permit, a habitable, permanent, single-family dwelling on the homestead; for the purposes of this paragraph, a mobile home is not a permanent dwelling unless it is placed on and attached to a permanent foundation;
- (4) clears five percent of the land within five years after the issuance of the homestead entry permit; for the purposes of this paragraph, land used for improvements is considered to be cleared;
- (5) brushes the boundaries of the parcel within one year after issuance of the permit.

Municipal Considerations

HB 167 allows potential municipal and borough land to be designated for homestead land and also prevents those entities from selecting those lands already designated as homestead lands. HB 167 also exempts homestead entry land from local platting, recording, or subdivision requirements established under AS 29.33 and AS 40.15 unless it is subdivided in the future.

HB 130 requires that the Commissioner of DNR consult with a municipal assessor before determining the purchase price of land located in the municipality.

Authorization of Regulations

HB 167 gives authority to commissioner to adopt regulations for implementing homestead provisions. HB 130 does not address regulation authority.

Definitions

HB 167
Sec. 38.09.900 DEFINITIONS. In this chapter

- (1) "commissioner" means the commissioner of natural resources;
- (2) "director" means the director of the division of land and water management in the Department of Natural Resources;
- (3) "Habitable dwelling" means a dwelling of a permanent nature, together with fixtures and facilities, including sanitary facilities, required by law or customary in the vicinity of the land made available for homestead entry;
- (4) "resident" means a person who has resided in the state for at least one year, does not claim residence in another state, and shows by all attending circumstances an intent to make this state the person's permanent residence.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: CSHB 130 Date on Bill: 24 March 1983
 Title: An act relating to homesteads
 Sponsor: Hehling
 Requestor: Resources Committee

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital		-0-	-0-	-0-
Operating		-0-	-0-	-0-
Total		-0-	-0-	-0-
			-0-	-0-
b. Revenues:				
Revenue		-0-	-0-	-0-

2. Source of funds to offset fiscal impact of bill:

Existing program budget for land offering program.

3. Assumptions:

Given the anticipated high cost of implementing and administering this program, due to potential difficulties with adjudication and inspection of staking programs, the Department's other land offering programs will be reduced.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Ned Farquhar Phone: 465-2400
 Division: Commissioner's Office Date: 28 March 1983
 Approved by Commissioner: AMS D Arnold, Deputy Date: 28 March 1983
 Department: Natural Resources

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

HOMESTEAD

Re: Staking Requirements

Typical Arguments Against:

- 1) Staking method is very inefficient and leaves scattered parcels of land undeveloped.
 - WHY IS THAT A PROBLEM? AREN'T GREEN BELTS SOMETHING MANY PEOPLE (AND GOVERNMENT ENTITIES) ARE CONSTANTLY STRIVING TO INCLUDE IN EVERY LAND USE MANAGEMENT PROGRAM?
 - IN ADDITION, IT'S IMPORTANT TO REMEMBER THAT IF THERE IS A BETTER USE FOR THAT "UNDEVELOPED" LAND -- SOMEONE WILL SEE IT AND WILL PUT IT INTO ACTION (IF PERMITTED BY THE GOVT.) OTHERWISE IT'S PROBABLY BETTER LEFT IN ITS NATURAL STATE.

- 2) Staking is too expensive due to adjudicating overlapping claims.
 - EMPHASIZE THAT AN INDIVIDUAL APPLYING FOR A HOMESTEAD ENTRY PERMIT SHOULD HAVE A WAITING PERIOD (POSSIBLY 18 MONTHS - THE TIME REQUIRED FOR THE SURVEY) WHERE HE IS TENTATIVELY APPROVED FOR A HOMESTEAD ENTRY PERMIT FOR THAT PARCEL OF LAND. HE MAY GO AHEAD AND START MAKING IMPROVEMENTS ON THE LAND, BUT THEY ARE AT HIS OWN RISK DURING THE FIRST 18 MONTHS. AFTER 18 MONTHS, THE DEPT. WOULD HAVE VERIFIED HIS CLAIM AND EITHER DETERMINED THERE WAS NO CONFLICT WITH ANOTHER CLAIM AND THUS AUTHORIZED HIS PERMIT, OR THEY WOULD HAVE DENIED IT.

By *Mal Fischer*

3/14

Original sponsors: Uehling, Tischer,
Barnes, et al

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 130 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

9 * Section 1. AS 38 is amended by adding a new chapter to read:

10 CHAPTER 09. HOMESTEAD ACT.

11 Sec. 38.09.010. DESIGNATION OF LAND FOR HOMESTEAD ENTRY. (a)

12 The commissioner shall designate and make available for homestead
13 entry state land, including land classified for agricultural use.
14 State land made available for homestead entry under this chapter shall
15 be distributed throughout the state.

16 (b) The commissioner shall complete a cadastral survey of home-
17 stead entry land that establishes a control point monument ^{not less than} each two
18 miles along section line boundaries before designating the state land
19 for homestead entry.

20 (c) Notice of the designation and offering of land for homestead
21 entry shall be given by the commissioner under AS 38.05.345.

22 (d) Land designated for homestead entry is not subject to a
23 preference right under AS 38.05.

24 (e) The commissioner shall prescribe a homestead
25 entry procedure for each area designated under (a) of this section.
26 The homestead entry procedure shall establish

27 (1) the minimum distance between homestead entries in the
28 area;

29 (2) the dimensions, configuration, orientation or other

1 design requirements for a homestead entry in the area;

2 (3) a description of land within the area that may not be
3 included in a homestead entry;

4 (4) a requirement that a landmark, monument or other point
5 be used as a point of reference for the measurement of distances
6 within an area;

7 (5) a specification of the type of stakes to be used to
8 mark the corners of a homestead entry;

9 (6) the time within which a homestead entry must be staked.

10 (f) The commissioner shall establish the maximum size of a
11 homestead entry that may be selected in each area designated under (a)
12 of this section except that the commissioner may not permit an entry
13 on more than

14 (1) 160 acres of land classified for agricultural use; or

15 (2) 40 acres of land not classified for agricultural use.

16 Sec. 38.09.020. HOMESTEAD ENTRY PERMITS. (a) A homestead entry
17 permit entitles an applicant to enter land within an area designated
18 under AS 38.09.010 and to survey, occupy, and improve the land in
19 order to qualify for a patent under this chapter.

20 (b) An applicant for a homestead entry permit shall personally
21 stake the corners and flag the boundaries of the land entered in
22 accordance with AS 38.09.010 and shall personally file with the com-
23 missioner a description of the land entered. A homestead entry shall
24 be described by aliquot parts, unless otherwise permitted by the Commissioner.

25 Sec. 38.09.030. QUALIFICATION FOR HOMESTEAD ENTRY. (a) An
26 applicant for a homestead entry permit shall

27 (1) submit proof acceptable to the commissioner that the
28 applicant is at least 18 years of age and has been a resident of the
29 state for not less than one year immediately before the date of appli-

1 cation;

2 (2) pay a fee of \$5 per acre according to the description
3 provided by the applicant;

4 (3) agree to comply with the requirements of AS 38.09.050;

5 (4) certify that the corners of the land entered have been
6 staked and the boundaries have been flagged;

7 (5) assume full responsibility for the accuracy of the
8 description of the land filed with the commissioner under AS 38.09.-
9 020(b).

10 (b) An applicant may not hold more than one homestead entry
11 permit at one time and may not receive a patent to more than one
12 homestead entry in a lifetime, *except as provided in subsection (c).*

13 (c) The homestead entry permit may not be assigned, conveyed, or
14 in any manner transferred except

15 (1) by testate or intestate succession;

16 (2) to a spouse during marriage;

17 (3) by order of a court as part of a divorce settlement;

18 (4) to either a member of the immediate family or a grantee
19 of the applicant in the case of an extreme emergency or illness which
20 disables the applicant.

21 Sec. 38.09.040. REVOCATION OF ENTRY PERMITS. (a) A homestead
22 entry permit may be revoked by the commissioner for any substantial
23 breach of the permit conditions or the requirements of this chapter,
24 including

25 (1) an assignment, conveyance, or transfer of the permit
26 not authorized under AS 38.09.030(c);

27 (2) failure of the permit holder to submit a plat of survey
28 to the commissioner within two years after the issuance of the permit
29 or under (b) of this section;

1 (3) failure of the permit holder to erect a dwelling in the
2 time required under AS 38.09.050(a), except that if the commissioner
3 finds that the dwelling has been nearly completed and progress toward
4 completion is being made at the expiration of the time required, the
5 commissioner may extend the time required for completion for not more
6 than one year;

7 (4) failure to brush the boundaries of the land within 90
8 days after issuance of the homestead entry permit;

9 (5) failure to clear and either put into production or
10 prepare for cultivation 25 percent of the land classified for agricul-
11 tural use within five years after the issuance of the permit.

12 (b) If the commissioner determines that a permit holder has made
13 a good faith effort to obtain a plat of survey, the commissioner may
14 extend the time required for completion of the plat of survey for not
15 more than three years after the issuance of the permit.

16 (c) If a homestead entry permit is revoked under (a) of this
17 section, improvements or personal property upon the land shall be
18 managed under AS 38.05.090 and the state land remains available for
19 homestead entry under this chapter.

20 Sec. 38.09.050. ISSUANCE OF PATENT. (a) The commissioner shall
21 issue a patent to homestead entry land if the permit holder

22 (1) resides and lives on the homestead entry land for not
23 less than 25 months within five years after the issuance of the home-
24 stead entry permit;

25 (2) completes an approved survey of the land within two
26 years after the issuance of the permit or under AS 38.09.040(b);

27 (3) erects a habitable, permanent dwelling on the homestead
28 within three years after the issuance of the homestead entry permit;

29 (4) brushes the boundaries of the land within 90 days after

1 the issuance of the permit;

2 (5) clears and either puts into production or prepares for
3 cultivation 25 percent of the land classified for agricultural use
4 within five years after issuance of the permit.

5 (b) Nothing in this chapter prohibits a homestead entry permit
6 holder from residing in a temporary dwelling on the homestead before
7 erection of the permanent dwelling.

8 (c) The commissioner may reserve or exclude from a patent ease-
9 ments or rights-of-way for roads, trails, trap lines, public access
10 ways, utility corridors, and transportation facilities.

11 Sec. 38.09.060. MARKING BOUNDARIES. If it is impractical to
12 brush the boundaries of a homestead entry, an applicant shall flag the
13 boundaries.

14 Sec. 38.09.070. PRIORITY OF APPLICATIONS. The commissioner
15 shall issue a homestead entry permit to the first applicant for land
16 to comply with AS 38.09.020(b).

17 Sec. 38.09.080. LAND WITHIN MUNICIPALITIES. (a) If a munic-
18 ipality has filed a selection of state lands under AS 29.18.201 -
19 29.18.213 with the commissioner, the state lands selected may not be
20 designated for homestead entry; if the commissioner determines that
21 land selected by a municipality is not available for patent to the
22 municipality under AS 29.18.201 - 29.18.213, the state land is avail-
23 able for designation by the commissioner for homestead entry under
24 AS 38.09.010.

25 (b) The disposal of homestead entry land is subject to local
26 platting, recording, or subdivision requirements established under
27 AS 29.32 and AS 40.15.

28 Sec. 38.09.090. PURCHASE. If an applicant complies with the
29 requirements of AS 38.09.050(a)(2) and (4) and pays to the commission-

1 er an amount equal to five percent of the fair market value within two
2 years of the issuance of an entry permit, an applicant may purchase
3 the land under AS 38.05.065. The purchase price is the fair market
4 value, of the land at the issuance of the entry permit as determined by
5 the commissioner.

6 Sec. 38.09.100. LESSEES OF REMOTE PARCELS. (a) A lessee of a
7 remote parcel under AS 38.05.077 may elect to obtain title to the
8 remote parcel under AS 38.09.050. If a lessee of a remote parcel
9 elects to obtain title under AS 38.09.050, the effective date of this
10 act shall be considered the date of the issuance of the homestead
11 entry permit.

12 (b) Except as provided in (a) of this section, nothing in
13 AS 38.09 affects the rights and obligations of lessees of remote
14 parcels under AS 38.05.077.

15 Sec. 38.09.110. REGULATIONS. The commissioner shall adopt
16 regulations to implement this chapter.

17 Sec. 38.09.900. DEFINITIONS. In this chapter

18 (1) "brush" means to clear a swath along the boundary lines
19 of a homestead entry so that the boundary lines may be identified from
20 the ground;

21 (2) "commissioner" means the commissioner of natural re-
22 sources;

23 (3) "habitable dwelling" means a dwelling of a permanent
24 nature, together with fixtures and facilities, including sanitary
25 facilities, required by law or customary in the vicinity of the land
26 made available for homestead entry;

27 (4) "permanent dwelling" does not include a mobile home
28 unless it is placed on and attached to a permanent foundation;

29 (5) "resident" means an individual who has resided in the

1 state for one year, does not claim residence in another state, and
2 shows by all attending circumstances an intent to make this state the
3 individual's permanent residence.

4 * Sec. 2. AS 38.05.077 and 38.05.078 are repealed.

5 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
6 10.070(c).

Original sponsors: Uehling, Tischer,
Barnes, et al

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IN THE HOUSE

BY THE RESOURCES COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 130 (Resources)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

* Section 1. AS 38 is amended by adding a new chapter to read:

CHAPTER 09. HOMESTEAD ACT.

Sec. 38.09.010. DESIGNATION OF LAND FOR HOMESTEAD ENTRY. (a)

The commissioner shall designate and make available for homestead entry state land, including land classified for agricultural use. State land made available for homestead entry under this chapter shall be distributed throughout the state.

(b) The commissioner shall complete a cadastral survey of homestead entry state land before designating the state land for homestead entry. No portion of any land available for homestead entry shall be located greater than one mile from a survey control monument.

(c) Notice of the designation and offering of land for homestead entry shall be given by the commissioner under AS 38.05.345.

(d) Land designated for homestead entry is not subject to a preference right under AS 38.05.

(e) The commissioner shall prescribe a homestead entry procedure for each area designated under (a) of this section. The homestead entry procedure shall establish

(1) the minimum distance between homestead entries in the area;

(2) the dimensions, configuration, orientation or other

1 design requirements for a homestead entry in the area;

2 (3) a description of land within the area that may not be
3 included in a homestead entry;

4 (4) a requirement that a landmark, monument or other point
5 be used as a point of reference for the measurement of distances
6 within an area;

7 (5) a specification of the type of stakes to be used to
8 mark the corners of a homestead entry;

9 (6) the time within which a homestead entry must be staked.

10 (f) The commissioner shall establish the maximum size of a
11 homestead entry that may be selected in each area designated under (a)
12 of this section except that the commissioner may not permit an entry
13 on more than

14 (1) 160 acres of land classified for agricultural use; or

15 (2) 40 acres of land not classified for agricultural use.

16 Sec. 38.09.020. HOMESTEAD ENTRY PERMITS. (a) A homestead entry
17 permit entitles an applicant to enter land within an area designated
18 under AS 38.09.010 and to survey, occupy, and improve the land in
19 order to qualify for a patent under this chapter.

20 (b) An applicant for a homestead entry permit shall personally
21 stake the corners and flag the boundaries of the land entered in
22 accordance with AS 38.09.010 and shall personally file with the com-
23 missioner a description of the land entered. A homestead entry shall
24 be described by aliquot parts, *unless otherwise permitted by the Commissioner.*

25 Sec. 38.09.030. QUALIFICATION FOR HOMESTEAD ENTRY. (a) An
26 applicant for a homestead entry permit shall

27 (1) submit proof acceptable to the commissioner that the
28 applicant is at least 18 years of age and has been a resident of the
29 state for not less than one year immediately before the date of appli-

1 cation;

2 (2) pay a fee of \$5 per acre according to the description
3 provided by the applicant;

4 (3) agree to comply with the requirements of AS 38.09.050;

5 (4) certify that the corners of the land entered have been
6 staked and the boundaries have been flagged;

7 (5) assume full responsibility for the accuracy of the
8 description of the land filed with the commissioner under AS 38.09.-
9 020(b).

10 (b) An applicant may not hold more than one homestead entry
11 permit at one time and may not receive a patent to more than one
12 homestead entry in a lifetime, *except as provided in subsection (c).*

13 (c) The homestead entry permit may not be assigned, conveyed, or
14 in any manner transferred except

15 (1) by testate or intestate succession;

16 (2) to a spouse during marriage;

17 (3) by order of a court as part of a divorce settlement;

18 (4) to either a member of the immediate family or a grantee
19 of the applicant in the case of an extreme emergency or illness which
20 disables the applicant.

21 Sec. 38.09.040. REVOCATION OF ENTRY PERMITS. (a) A homestead
22 entry permit may be revoked by the commissioner for any substantial
23 breach of the permit conditions or the requirements of this chapter,
24 including

25 (1) an assignment, conveyance, or transfer of the permit
26 not authorized under AS 38.09.030(c);

27 (2) failure of the permit holder to submit a plat of survey
28 to the commissioner within two years after the issuance of the permit
29 or under (b) of this section;

1 (3) failure of the permit holder to erect a dwelling in the
2 time required under AS 38.09.050(a), except that if the commissioner
3 finds that the dwelling has been nearly completed and progress toward
4 completion is being made at the expiration of the time required, the
5 commissioner may extend the time required for completion for not more
6 than one year;

7 (4) failure to brush the boundaries of the land within 90
8 days after issuance of the homestead entry permit;

9 (5) failure to clear and either put into production or
10 prepare for cultivation 25 percent of the land classified for agricul-
11 tural use within five years after the issuance of the permit.

12 (b) If the commissioner determines that a permit holder has made
13 a good faith effort to obtain a plat of survey, the commissioner may
14 extend the time required for completion of the plat of survey for not
15 more than three years after the issuance of the permit.

16 (c) If a homestead entry permit is revoked under (a) of this
17 section, improvements or personal property upon the land shall be
18 managed under AS 38.05.090 and the state land remains available for
19 homestead entry under this chapter.

20 Sec. 38.09.050. ISSUANCE OF PATENT. (a) The commissioner shall
21 issue a patent to homestead entry land if the permit holder

22 (1) resides and lives on the homestead entry land for not
23 less than 25 months within five years after the issuance of the home-
24 stead entry permit;

25 (2) completes an approved survey of the land within two
26 years after the issuance of the permit or under AS 38.09.040(b);

27 (3) erects a habitable, permanent dwelling on the homestead
28 within three years after the issuance of the homestead entry permit;

29 (4) brushes the boundaries of the land within 90 days after

1 the issuance of the permit;

2 (5) clears and either puts into production or prepares for
3 cultivation 25 percent of the land classified for agricultural use
4 within five years after issuance of the permit.

5 (b) Nothing in this chapter prohibits a homestead entry permit
6 holder from residing in a temporary dwelling on the homestead before
7 erection of the permanent dwelling.

8 (c) The commissioner may reserve or exclude from a patent ease-
9 ments or rights-of-way for roads, trails, trap lines, public access
10 ways, utility corridors, and transportation facilities.

11 Sec. 38.09.060. MARKING BOUNDARIES. If it is impractical to
12 brush the boundaries of a homestead entry, an applicant shall flag the
13 boundaries.

14 Sec. 38.09.070. PRIORITY OF APPLICATIONS. The commissioner
15 shall issue a homestead entry permit to the first applicant for land
16 to comply with AS 38.09.020(b).

17 Sec. 38.09.080. LAND WITHIN MUNICIPALITIES. (a) If a munic-
18 ipality has filed a selection of state lands under AS 29.18.201 -
19 29.18.213 with the commissioner, the state lands selected may not be
20 designated for homestead entry; if the commissioner determines that
21 land selected by a municipality is not available for patent to the
22 municipality under AS 29.18.201 - 29.18.213, the state land is avail-
23 able for designation by the commissioner for homestead entry under
24 AS 38.09.010.

25 (b) The disposal of homestead entry land is subject to local
26 platting, recording, or subdivision requirements established under
27 AS 29.33 and AS 40.15.

28 Sec. 38.09.090. PURCHASE. If an applicant complies with the
29 requirements of AS 38.09.050(a)(2), (4) + (5) and pays to the commission-

1 er an amount equal to five percent of the fair market value within two
2 years of the issuance of an entry permit, an applicant may purchase
3 the land under AS 38.05.065. The purchase price is the fair market
4 value of the land at the issuance of the entry permit as determined by
the commissioner. A patent to land purchased under this subsection and
issued under AS 38.09.050 shall contain the following conditions:

(1) the land may not be sold, leased, otherwise conveyed before
five years after the date that the patent is issued except under the
provisions of AS 38.09.030(c); and

(2) the land may not be subdivided before five years after the
issuance of patent.

5 Sec. 38.09.100. LESSEES OF REMOTE PARCELS. (a) A lessee of a
6 remote parcel under AS 38.05.077 may elect to obtain title to the
7 remote parcel under AS 38.09.050. If a lessee of a remote parcel
8 elects to obtain title under AS 38.09.050, the effective date of this
9 Act shall be considered the date of the issuance of the homestead
10 entry permit.
11

12 (b) Except as provided in (a) of this section, nothing in
13 AS 38.09 affects the rights and obligations of lessees of remote
14 parcels under AS 38.05.077.

15 Sec. 38.09.110. REGULATIONS. The commissioner shall adopt
16 regulations to implement this chapter.

17 Sec. 38.09.900. DEFINITIONS. In this chapter

18 (1) "brush" means to clear a swath along the boundary lines
19 of a homestead entry so that the boundary lines may be identified from
20 the ground;

21 (2) "commissioner" means the commissioner of natural re-
22 sources;

23 (3) "habitable dwelling" means a dwelling of a permanent
24 nature, together with fixtures and facilities, including sanitary
25 facilities, required by law or customary in the vicinity of the land
26 made available for homestead entry;

27 (4) "permanent dwelling" does not include a mobile home
28 unless it is placed on and attached to a permanent foundation;

29 (5) "resident" means an individual who has resided in the

state for one year, does not claim residence in another state, and shows by all attending circumstances an intent to make this state the individual's permanent residence.

*Sec. 2. AS 38.04.020(d)(1) is amended to read:

(1) land suitable for [remote parcels] homestead disposal;

*Sec. 3. AS 38.04.020(e)(1) is amended to read:

(1) for survey and disposal of land proposed to be made available for [remote parcel] homestead staking, with the general location of the land;

*Sec. 4. AS 38.04.020(g)(1) is amended to read:

(g) After July 1 of each year, the commissioner shall direct the expenditure of money appropriated for the disposal of land in response to requests made under (e) and (f) of this section for the following:

(1) Land designated as suitable for [remote parcel] homestead disposal shall be classified and surveyed under AS 38.04.005--38.04.910 and AS 38.05.005--38.05.370 and made available for staking and lease under [AS 38.05.077] AS 38.09.

*Sec. 5. AS 38.05.057(f) is amended to read:

(f) If only one application for a parcel is received, the commissioner shall offer the parcel to the applicant who applied for the parcel if the applicant is qualified to participate in the lottery. If more than one application is received for a parcel [or if more applications are received for the right to select a remote parcel offered under AS 38.05.077 than the number of remote parcels authorized,] the commissioner shall select the applicant who is entitled to receive a conveyance of the land by lottery. If the commissioner does not receive an application for a parcel of state land or if a purchaser fails to sign a lease agreement or contract of sale, the parcel shall be offered to the first eligible person to apply for the parcel. If the parcel was designated as a homesite and offered to the public under AS 38.05.047(f), the parcel shall be disposed of under the terms required by AS 38.08.010--38.08.120.

*Sec. 6. AS 38.05.067(e) is amended to read:

(e) This section does not apply to the sale of state land under AS 38.04.020(g)(2) [AS 38.05.077, and 38.05.078] and AS 38.09.

*Sec. 7. AS 38.05.077 and 38.05.078 are repealed.

*Sec. 8. Section 1 of this Act takes effect immediately in accordance with AS 01.10.070(c).

*Sec. 9. Sections 2,3,4,5,6, and 7 of this Act take effect July 1, 1984.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 20, 1983

SUBJECT: Homesteads
[CSHB 130 (Finance)]

TO: Representative Rick Uehling

FROM: Richard A. Bradley B
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, I must advise you that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill; the bill itself is the best statement of its contents. For a full explanation of any point, please consult the bill itself; if you would like an interpretation of the bill as it may apply to a particular set of circumstances, please address a specific request to this office.

Sec. 1 establishes a new chapter, AS 38.09.

Sec. 10 provides for the designation of the land for homestead entry.

Sec. 10(a) directs the commissioner to classify and make available for homestead entry state land. The subsection also directs that the land be made available throughout the state though later sections acknowledge the apparent fact that certain areas of the state (southeastern, Kodiak, the Prince William Sound areas and perhaps the areas around the state's larger municipalities) may have relatively little land, particularly if it is taken up in 160 acre segments.

Sec. 10(b) provides that a cadastral survey will be completed before the land is made available for homestead entry. As I understand the concepts in sec. 10(b), the outer boundaries of the parcel of land made available by the state for entry (in this sense, the "parcel" is the entire contiguous tract

of state land designated for homestead entry) will contain "control points" which will assist the entrymen in describing the land. I confess that if more than that is implied in the concept of a "control point," I do not understand what is meant; the term is used in surveying to indicate a reference point for other descriptions.

Sec. 10(c) provides that the standard notice requirements found at AS 38.05.345 will be used to give the public notice of the sale.

Sec. 10(d) provides that preference rights are not available. I understand that preference rights include discounts (see AS 38.05.058) and veteran's preferences.

Sec. 20 deals with the homestead entry permit.

Sec. 20(a) provides that the entry permit entitles an applicant to enter land within the designated parcel and then to "survey, occupy, and improve" the land in order to qualify for patent.

Sec. 20(b) requires an entryman to stake the corners and to flag the boundaries.

Somewhat as an aside, note that the entrymen is required to stake, flag, and brush the land -- in that order. The concept of staking seems clear; an entrymen must stake before filing for the land with the commissioner.

Sec. 20(b). "Staking" occurs at the corners of the entry. I gather that the latest form of staking includes dropping a dart-like device from a helicopter; the dart will typically imbed itself in the land and become a "stake."

The concept of "flagging" is useful when brushing is not practical; see sec. 60. It is assumed that flagging will occur when land without trees is entered. I may say that I argued against retaining the phrase "and flag the boundaries of the land entered" on page 1, line 28 simply because if the land can be brushed, sec. 60 says that there is "no point to the flagging."

"Brushing" also seems clear; it involves the removal of trees so that a visible boundary is established. As I understand the bill, the brushing is measured on the ground; see sec. 900(1). The alternative is to require that brushing be visible from the air.

Returning to the bill, sec. 20(b) requires the applicant to stake and flag the boundaries and then file the application containing the description of land with the commissioner. The section provides that an entry "may not exceed 10 percent of the total acreage of a parcel of state land made available for disposal after the effective date of this Act." This provision permits the commissioner to make land go further in areas where state land is determined to be scarce. And the subsection also says that the entry may not be for less than 2 1/2 acres (or more than 160 acres). The land is also required to be "described by aliquot parts"; as I understand this requirement, the land must be described by reference to section fractions such as N1/2, SE1/4, and the like.

Sec. 30 relates to qualification for homestead entry.

Sec. 30(a) provides that an applicant for an entry permit shall

submit proof that an applicant is 18 years of age and a one year resident of the state (sec. 30(a)(1));

pay a \$5 per acre filing fee based on the description of the applicant; unlike earlier versions of the bill, it is no longer refundable (sec. 30(a)(2));

agree to comply with requirements for patent under sec. 50 (sec. 30(a)(3));

certify that the corners have been staked and the boundaries flagged (sec. 30(a)(4));

assume full responsibility for the accuracy of the description offered (sec. 30(a)(5)).

Sec. 30(b) limits an entryman to one permit at a time though more than one permit in a lifetime is permitted if 160 acres under this chapter have not been obtained.

Sec. 30(c) provides that the entry permit is not assignable except

by testate succession (by a will or estate plan) or by intestate succession (inheritance by operation of law) (sec. 30(c)(1));

to a spouse during marriage (sec. 30(c)(2));

as a part of a divorce settlement order by a court
(sec. 30(c)(3));

to either a member of the immediate family or, "in the
case of extreme emergency or illness which disables the
grantee," to a grantee selected by the applicant
(sec. 30(c)(4)).

Sec. 40 permits the revocation of entry permits.

Sec. 40(a) provides that an entry permit may be revoked by
the commissioner for "any substantial breach of the permit
conditions" or the "requirements of this chapter. The
section then specifies a number of explicit requirements
permitting cancellation:

an assignment, conveyance, or other transfer of the
permit (to the extent not permitted under sec. 30(c)
(sec. 40(a)(1));

failure of the permit holder to submit a plat of survey
within two years of the issuance of the permit
(sec. 40(a)(2));

failure of the permit holder to erect a dwelling within
three years of the issuance of the permit except that
the commissioner may extend the time required to com-
plete the dwelling if it is substantially completed
(sec. 40(a)(3));

failure to brush the boundaries within 90 days after
issuance of the permit (sec. 40(a)(4)).

Sec. 40(b) permits the improvements and personal property on
the land to be managed under AS 38.05.090 if the permit is
revoked.

Sec. 50 permits the issuance of the permit.

Sec. 50(a) is largely the reciprocal of sec. 40(a). Thus a
patent shall issue if the permit holder

resides and lives on the entry land for not less than
25 months within five years from the issuance of the
permit (sec. 50(a)(1));

completes an approved survey within two years of the issuance of the permit (sec. 50(a)(2));

erects a habitable, permanent dwelling on the homestead within three years of the issuance of the permit (sec. 50(a)(3));

brushes the boundaries within 90 days of the issuance of the permit (sec. 50(a)(4)).

Sec. 50(b) permits a permit holder to reside in a temporary residence on the entry before the permanent dwelling is completed.

Sec. 50(c) permits the commissioner to "reserve or exclude from a patent easements or rights-of-way for roads, trails, registered trap lines, public access ways, utility corridors, and transportation facilities." The term "registered trap lines" is interesting; as I understand it, legislation may be pending that would result in "registered trap lines." At this time, however, no such legal concept exists. See the definition at sec. 900(5).

Sec. 60 relates to the marking of boundaries. If it is impractical to brush boundaries, they shall be flagged. I would expect regulations to flesh out what is only hinted at here.

Sec. 70 deals with the priority of applications; the commissioner is directed to issue an entry permit to the first applicant to comply with sec. 20(b) (which means staking the corners, flagging the boundaries, and filing with the commissioner).

Sec. 80(a) permits use of land within municipalities that would otherwise be eligible for borough or city selection.

Sec. 80(b) provides that entries are subject to "local platting, recording, or subdivision requirements under AS 29.33 and AS 40.15."

Sec. 900 establishes definitions. The terms "brush", "habitable dwelling", "permanent dwelling", "registered trap lines", and "resident" are defined.

Sec. 2 establishes an immediate effective date.

Representative Rick Uehling
Page 6
April 20, 1983

If I may be of further assistance, please advise.

RAB:ljb
15/025

Summary of Teleconference

Topic: Homesteading

March 3, 1983

Homesteading in General

Nearly all participants enthusiastically supported the concept of a homestead program. The overriding reason seems to be in keeping with the Article VIII, Sec. 1 & 2 of our Constitution:

ARTICLE VIII NATURAL RESOURCES

SECTION 1. It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.

SECTION 2. The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

In short, participants seem to agree that Alaskan residents should have the opportunity to own land and determine for themselves what the use and lifestyle is appropriate on that land.

Stipulations

Overall, the testimony seemed to indicate that 160 acres was an acceptable parcel size, and that a reasonable portion of that acreage should be cleared.

- a) SURVEYING - Yes, an accurate survey should be required, but it should not cost prohibitive. State funded surveys for major control points such as section corners would help reduce costs. Also, either loans, or additional time to complete survey requirements would help.
- b) HABITABLE DWELLING - Yes, a permanent habitable dwelling should be required.
- c) ACCESS - This topic of discussion came up repeatedly. First, their needs to be accessible to homesteads via rights-of-way preferably along section lines. Secondly, homesteads should not block public

access to streams, lakes, or public lands. Lastly, access to one's homestead should not be hindered by other homestead selections.

d) STAKING - Yes, their should be traditional staking requirements and boundary lines should be brushed and reasonably marked.

e) ENTRY - Participants, overall, did not support the lottery or auction approach to disposal and mentioned several times that HB 130 was not acceptable because it too closely resembled current land disposal programs. A traditional (select your own ground, stake it, and file for an entry permit) approach appears to have the strongest support.

f) CLEARING REQUIREMENTS - Nearly everyone felt that some clearing was reasonable, but many participants stressed that it should be a reasonable requirement Not one that adds extreme expense, but rather a "sweat equity" for the homestead entree.

g) OCCUPANCY - Again, most people favored occupancy requirements with the stipulation that homesteaders be required to make their home on the selection for a reasonable portion of 5 to 7 yrs. Suggestions varied, but an average of 5 mos. a year seemed to prevail.

h) OWNERSHIP - Nearly all participants wished to obtain a "fee simple" title or patent to the homestead selection upon fulfillment of requirements. Many expressed a desire for more sub-surface rights and water rights, in addition to surface ownership.

i) AGRICULTURE USE - Overall participants did not favor stipulations for Agriculture. Citing existing Ag programs and the need for homesteading, not necessarily small farm projects, those testifying seemed to stress the need for people to determine what use they had for their 160 acres. Most testimony indicated that on good land, some form of agriculture would be desirable, but it should not be made conditional by the state.

j) PRIOR LAND HOLDERS - Several participants expressed the need to let people who have participated in previous land programs also have the opportunity to homestead, as it was not available before.

k) LOANS - Many participants felt that loans should be available to offset expenses incurred while fulfilling homestead requirements.

Other Suggestions:

- a) SPECIAL EXCEPTIONS - One participant raised the issue of handicapped residents who may need special provisions to compete in the program. Veteran benefits were also cited by this individual.
- b) TRADITIONAL ACCESS - Trails, traplines and traditional routes of access should be maintained if at all possible.
- c) RESIDENCY - Most participants support the 1 year residency requirement, however, some felt that a longer term should be required (Constitutionally that would present the district possibility of a court challenge).
- d) ABANDONED ENTRIES - Should revert back to the state.
- e) MUNICIPAL CONSIDERATIONS - Should meet local municipal requirements for zoning and platting.
- f) SUBDIVIDING - It was suggested that a turn limit be set before sale or subdividing can occur.
- g) ADDITIONAL OCCUPANCY TIME - Two participants felt that homesteaders should live the greater portion of at least one year out of the total required on the homestead entry.
- h) SPOUSES - One person suggested that marriage should not prohibit two individuals from each filing separate homesteads.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
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Senate Committee on Resources

June 10, 1983

Memo

To: Senate Resources Committee Members

From: Senate Resources Committee Staff

Subject: Draft CS for CSHB 130, Homesteads

The attached draft amends CSHB 130 to address several of the comments received from the DNR, from the North Star Borough, from Tanana Chiefs Conference and citizens. The draft contains the following changes:

- It specifically would require DNR to provide lands classified for agriculture among the areas identified for homestead entry. Ag lands could be larger parcels (up to 160 acres), would require a 25% clearing and preparation for cultivation in addition to the other "sweat equity" requirements, and under existing statute only ag rights patent would be issued.
- It would change the maximum acreage available for homestead staking for non-ag lands from 160 acres to 40 acres.
- It would give DNR the latitude similar to current remote parcel statute to specify staking conditions, parcel spacing, acreage, etc.
- Applicants would be limited to one homestead per lifetime rather than 160 acres per lifetime as in House bill.
- The remote parcel program would be repealed and most of the relevant requirements and benefits rolled into the homestead program. As such homestead entrymen could elect within two years to purchase parcel for fair market value with terms under existing law and do a survey similar to existing remote parcel rather than prove up through sweat equity requirements. Both systems could work on the same areas open for staking. Current remote parcel lessees could elect to obtain patent through sweat equity requirements of homestead program.
- The time to complete a survey by entrymen could be administratively extended from two to three years if a good-faith effort to obtain a survey has been made.
- To facilitate individual surveys and avoid staking errors, DNR is required to monument along all section lines every two miles in homestead areas. The House bill only required exterior boundary monumentation.

REMAINING QUESTIONS, OPTIONS

- Adoption of this legislation would set up different "sweat equity" requirements as are now required under the "homesite" program. Other out-of-sync homesite requirements include 3-year residency. Perhaps now, but certainly during the interim we should look at either the possibility of rolling in the "homesite" program or bringing the homesite requirements into conformance with this legislation and court rulings.
- Surveying represents a significant cost to DNR. The more surveying that is done, the more state expense is incurred. But the less surveying of staking areas that is done, the more likelihood of staking errors, confusion and higher survey costs for individuals. Thus, compromises are necessary and alternatives exist on the amount of pre-surveying that might be required of DNR for homestead parcel areas.
- Repeal of the Remote Parcel program may cause confusion or hard feelings on the part of the public who may have wanted to enjoy some aspect of that program such as the 5 and 10-year leasing option prior to patent. An option would be to keep this program on the books and let DNR have the ability to continue to use it if necessary.
- There are several other sections of Title 38 which deal with DNR's making land available in various program including remote parcels, lotteries, and homesites. There is an obvious need to go back and review the statutes to see if any new program such as homesteading is properly or appropriately considered with other programs.
- DNR has suggested that if homestead lands are made available in accessible popular areas, a land "stampede" may result with considerable confusion and overlapping staking. It might be helpful to give DNR authority or a directive to conduct a lottery to determine the number of stakers who would be permitted to enter a staking area.
- This CS would limit homesteads to one per lifetime. It would be possible for persons to have one homestead, one homesite and other lands. The question of limiting total "sweat equity" patents might be considered.
- The remote parcel program currently has a stipulation that a parcel can't be sold or subdivided for 10 years after receiving patent. A similar limitation might be considered for homestead patents.

MEMORANDUM

State of Alaska

TO: The Honorable John Ringstad
Co-chairman, House Resources Committee
Alaska House of Representatives

DATE: March 4, 1983

FILE NO:

TELEPHONE NO: 465-2400

FROM: Sharon Barton *SB.*
Special Assistant
Department of Natural Resources

SUBJECT: Homestead program

In the last hearing on the homestead bill, the House Resources Committee requested maps of the kinds of areas which DNR would consider for homesteading. I have attached copies of quad maps indicating such areas in northcentral and southcentral Alaska. Please understand that these are only "representative" areas - no decision has been made as to the final disposition of these lands nor is this a complete listing of such lands.

In response to a second question, DNR would attempt to offer approximately 10-15,000 acres per year for homesteading given the current level of the land disposal program.

Attachments

145° W 13 E

R 14 E 700 000 FEET

R 15 E 30

R 16 E

R 17 E

144°00

66°00

1,14 N

"Central"

Boj Lake

Little Crazy Mountains

15E

Landing Area
Circle
BM 937

Big

Bluff

11N

Fiasco Lake

Crazy

Mountains

Boulder Hill

Twelve Mile House
(Site)

10N

Albert

Albert

Crooked

Creek

Central

9N

Creek

Creek

Cabin

Gravel Pits

Gravel Pits

Gravel Pits

Gravel Pits

Circle
Hot Springs
(Circle Springs POT)

Medicine Lake

Reichem

Dome

Cabin

VALIM
Z. Pool
919

13 N

12

4 300 000 FEET
45

1

T

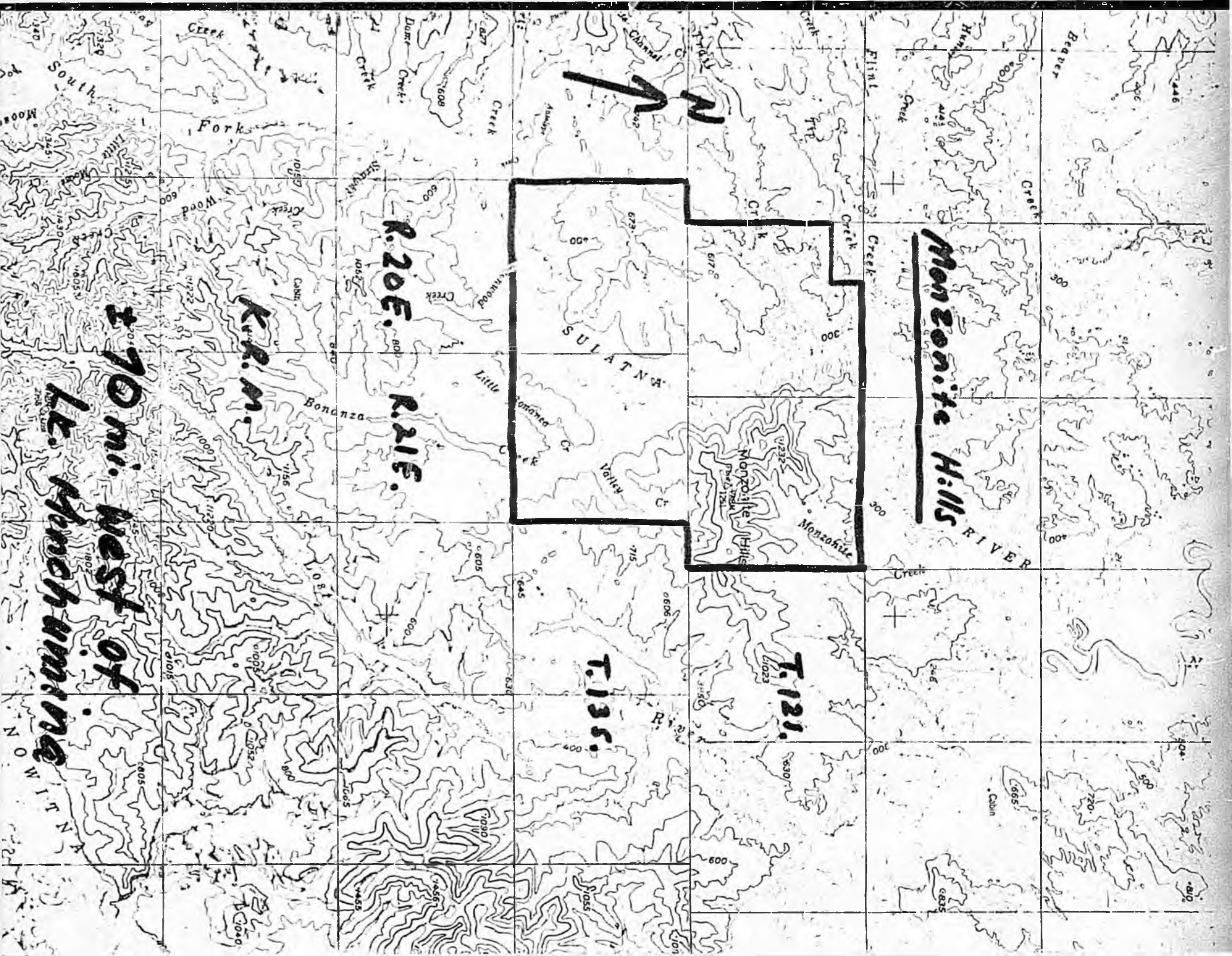
1000

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Monzonite Hills

Monzonite RIVER

S U L A T N W

Monzonite Hills

K.R. 205

K.R. 115

T. 121

T. 135

70 mi. West of
Le. Hensch mining

KANTISHNA RIVER

R 22 W 152°

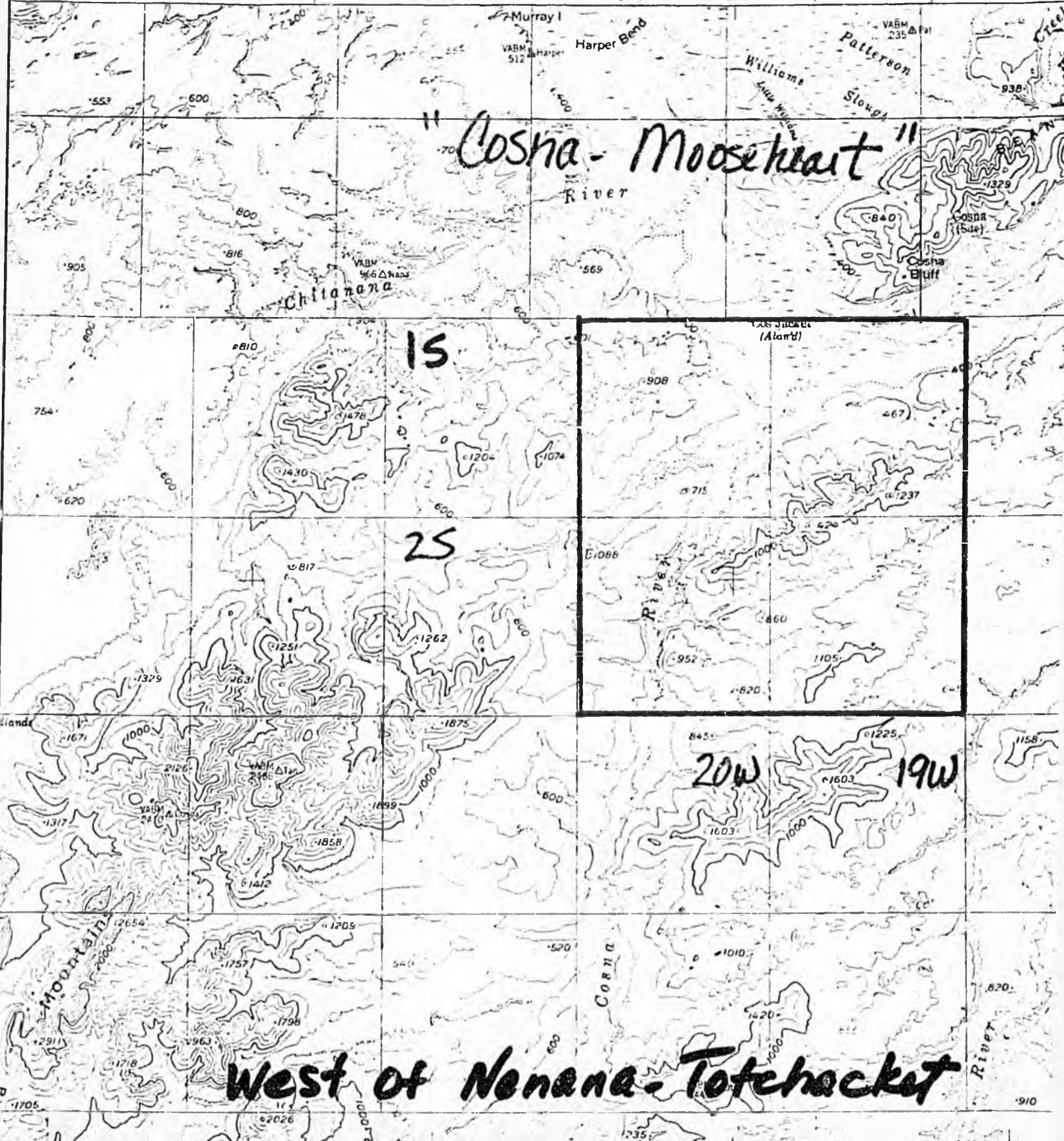
F 21 N

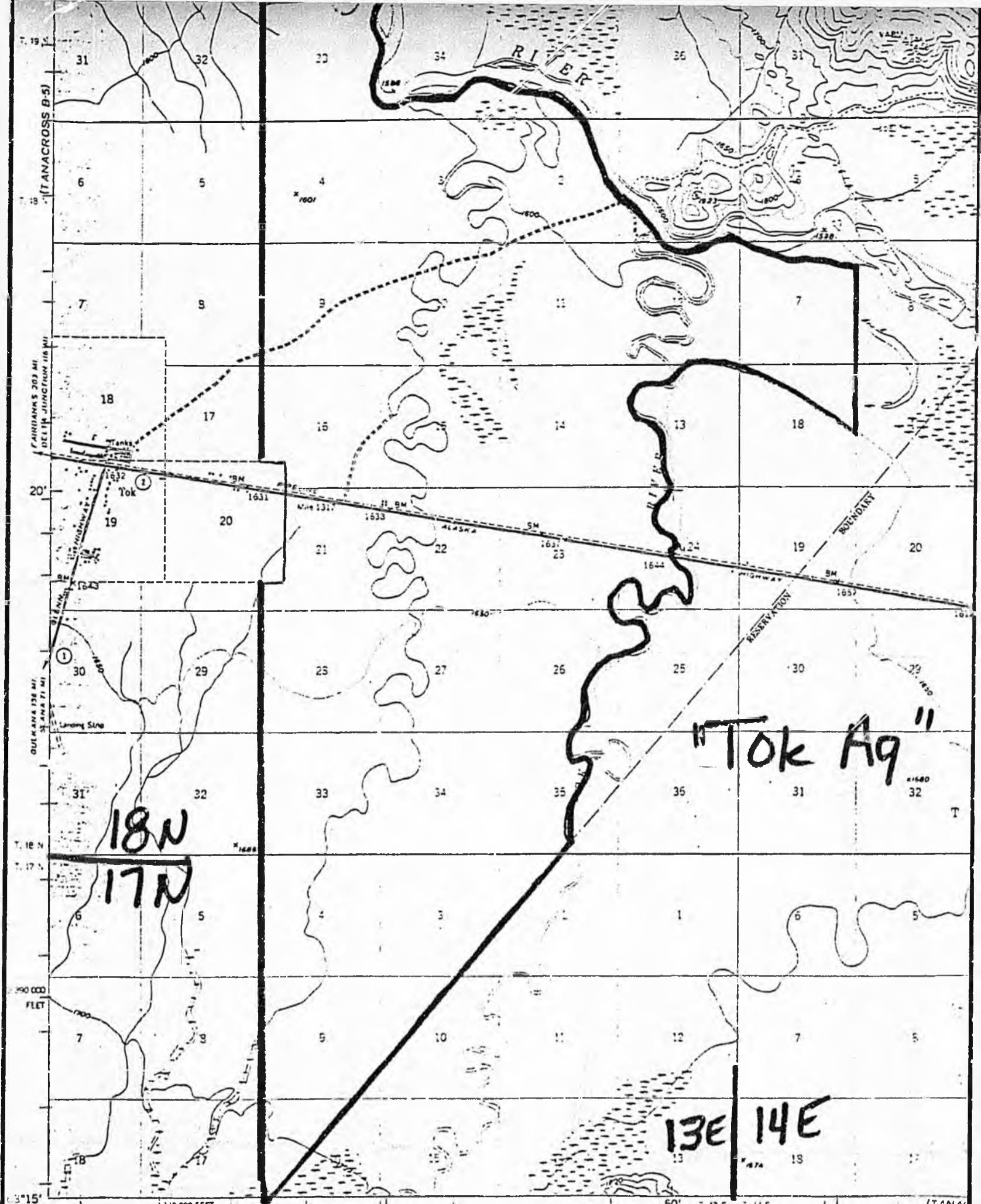
F 20 N

30'

F 19 N

1:300 000 FEET (ZONE 4)



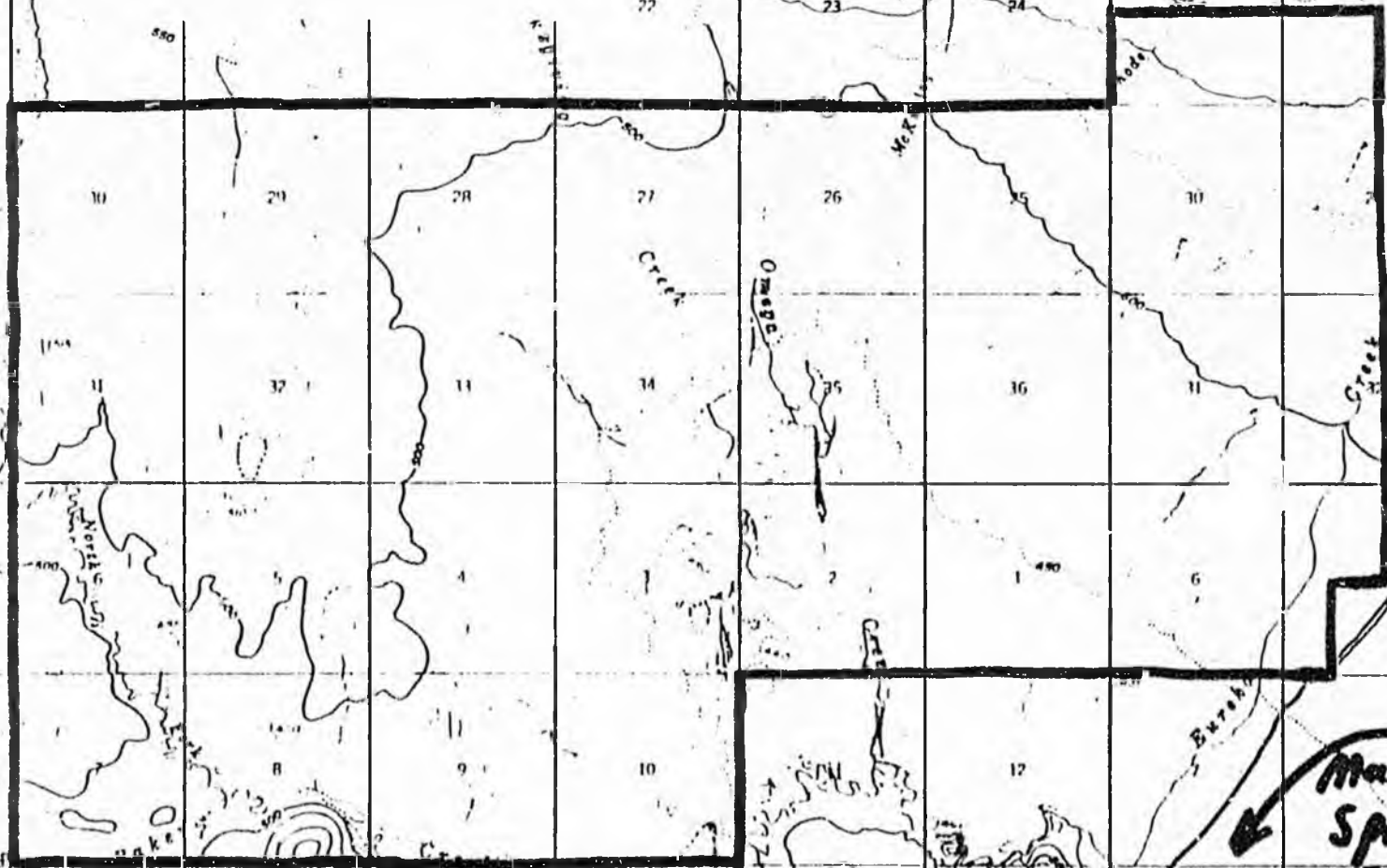


Overland Agricultural

Access: Manley Hot Springs Road
Conflicts: Proximity to Sean Ridge Selected lands. Mining activity located in hills to the north. Proposed by request of residents of Manley.



T. 4 N.
T. 3 N.

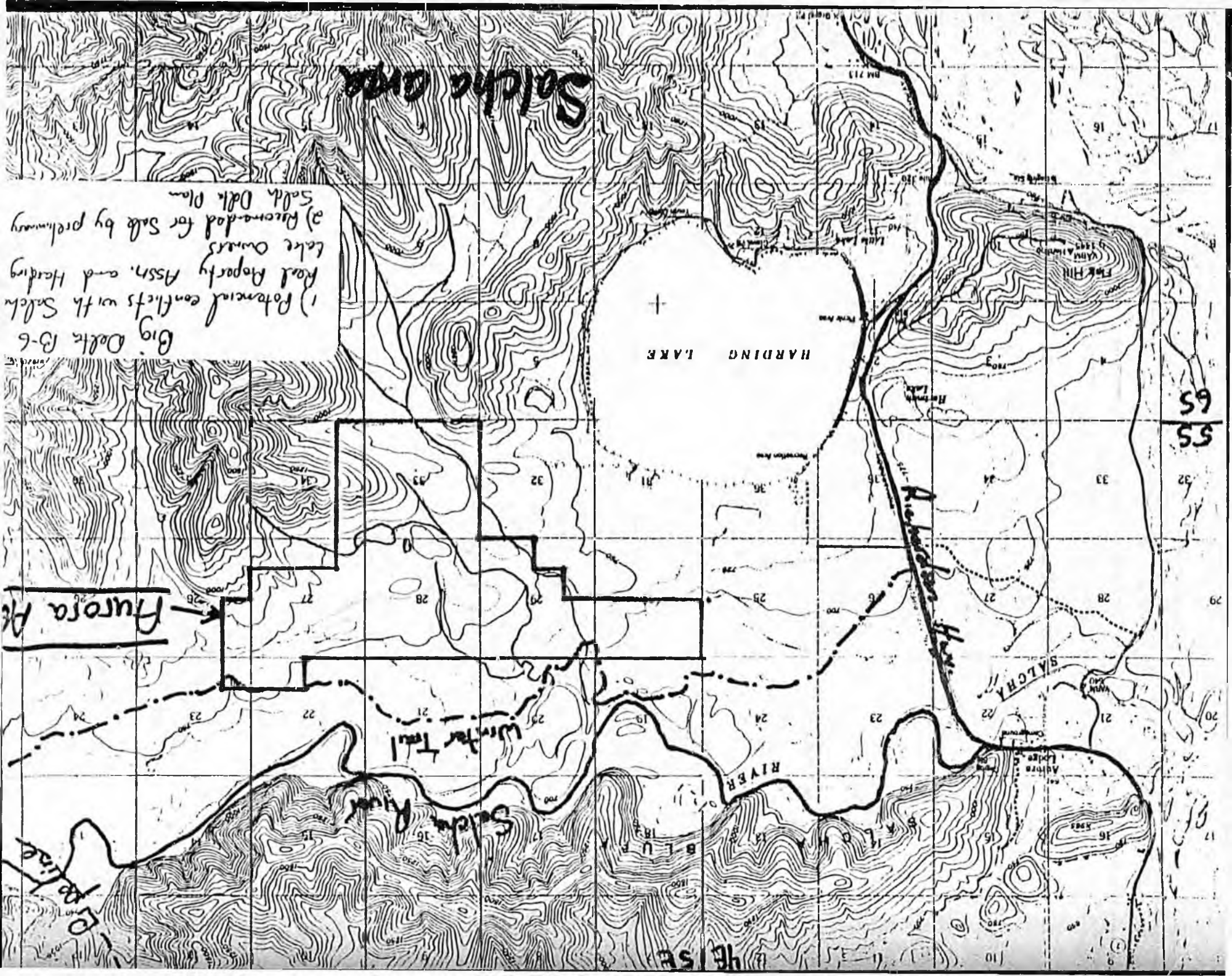


Manley Hot Springs
15 miles

Tanana A-1
Fairbanks Meridian

R. 14 W. R. 13 W.

Tanana A-1



Salcha area

Big Doltz B-6
1) Potential conflicts with Salcha
Rd Property Assn. and Harding
Lake Owners
a) Recommended for Sale by preliminary
Salch Doltz Plan

Furosa Pt

Paline

65
55

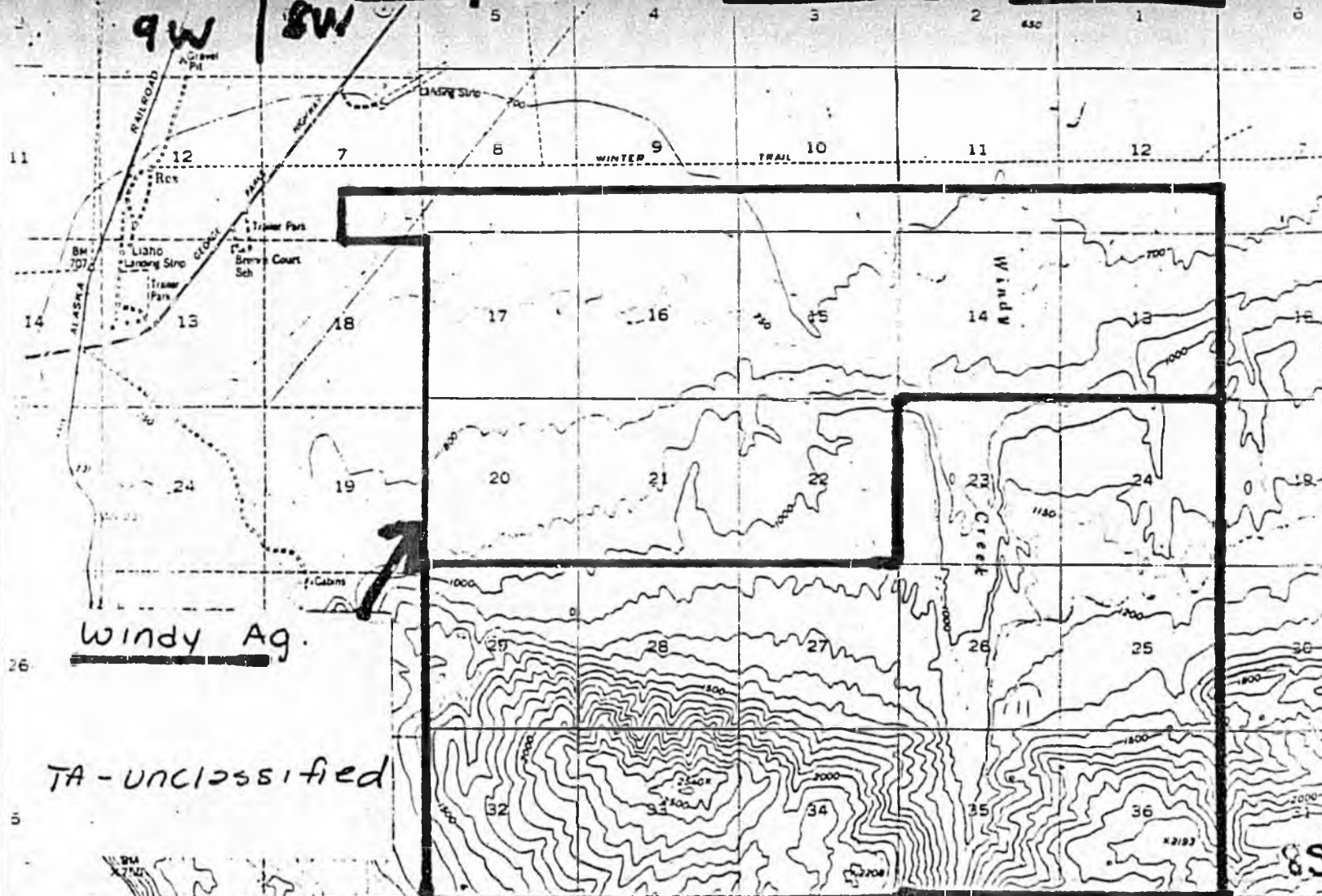
32

29

20

17

10



Windy Ag.

TA - unclassified

Conflicts:

- soil quality unknown

Southwind Remote

40's

TA - unclassified

Conflicts:
possible state
mining claim in section

33

T8S R8W FM
Fairbanks (A-5)

Clear Area

3/1

① Map of

Delta head - Delta Salinas
Nimera - To
Desha Flats

Cosmo - Moorhead
TOK -

Kushokim - Beech
↳ all state lands

② Fun Farneis
Permit?

③ Join Apr 15th

Jim La-sua - ^{Bob} takes a professor (quit)

Lloyd Lavaca - ~~B~~ Management funds

Lopeland extended 2 weeks (DRD) also SE Planner

Van Horn - Donna Lane to DRD

① Litch - ^② Goldberg - go

Bill Wright - Justice 10

Don Yang - Duran Vol deungado

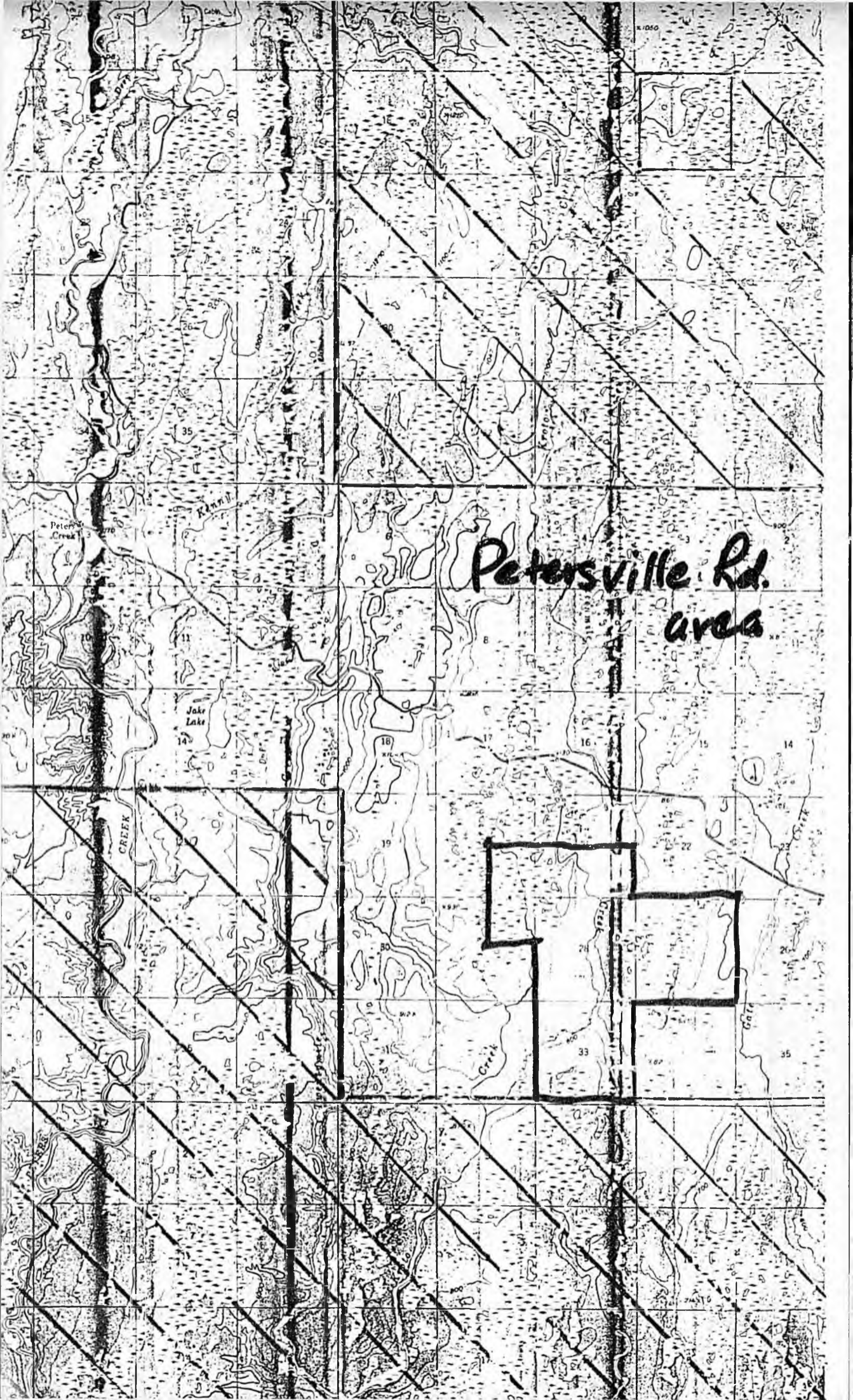
③ Thompson -

Steve Mack - Janice - D665

④ Jhara - Wignar / Pedrof / Skelton
Talk to Tom

⑤ Weekly reports to Barnett - use to show doing a lot -
3 PM daily - call from Jimson to Barnett

- Wed Comm. Sec
- Plus Kawai



1:7050

**Petersville Rd.
area**

Petersville Creek

Kann

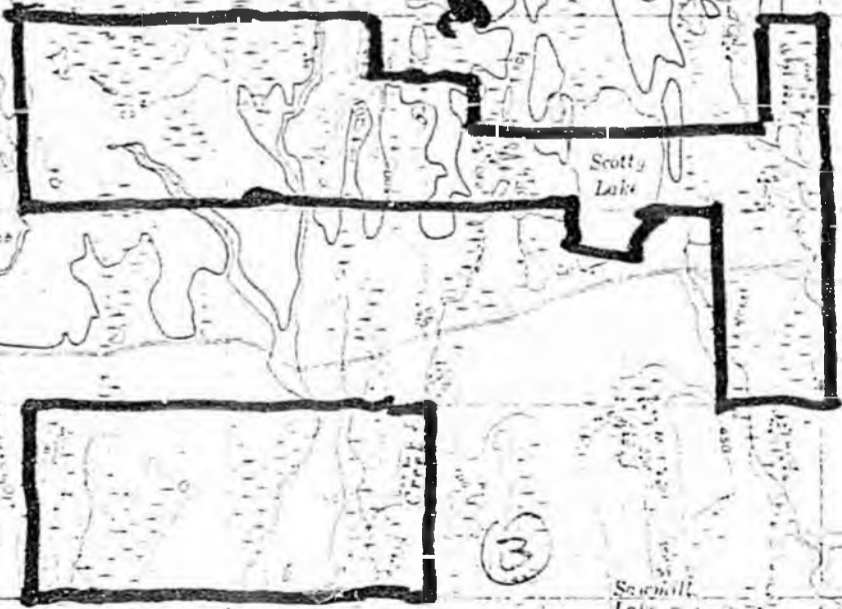
Jokr Lake

CREEK

Creek

Gar

Trapper Creek area



(3)

(2)

Scotty Lake

Sawmill Lake

SHUETLINA

Moose Creek

Trapper Creek

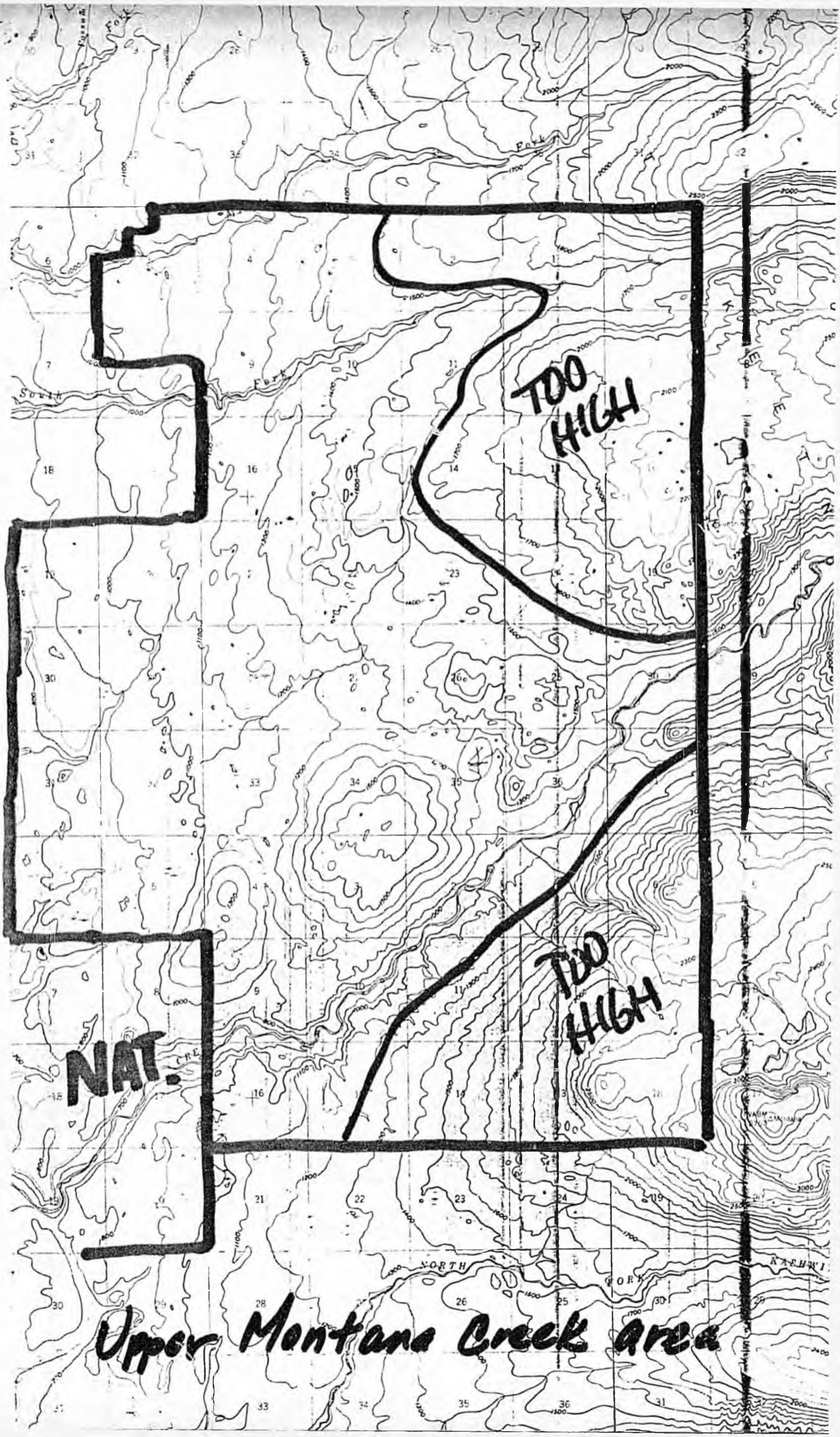
DEER CREEK

PROPER

Sawmill

Winnipeg

North



TOO HIGH

TOO HIGH

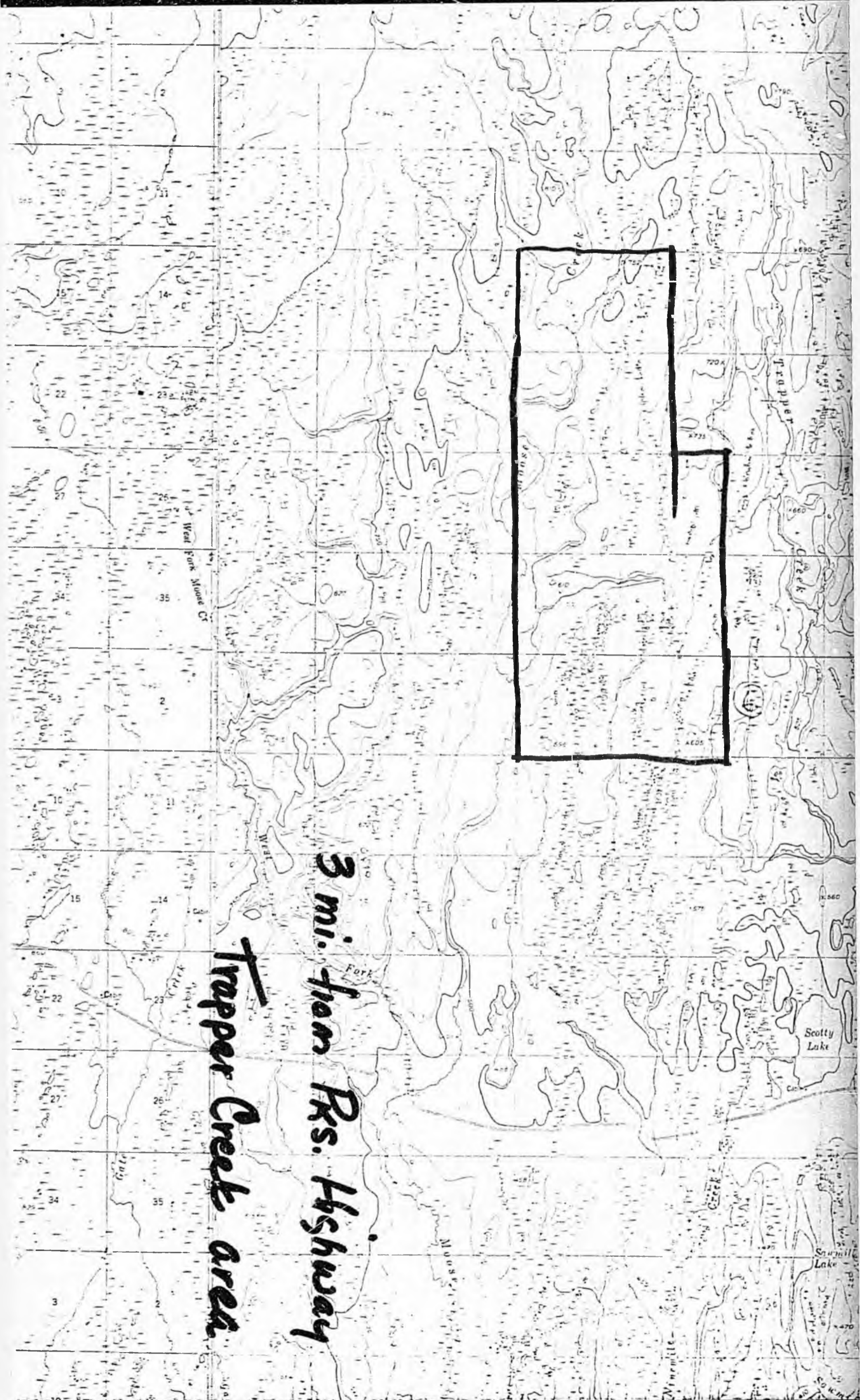
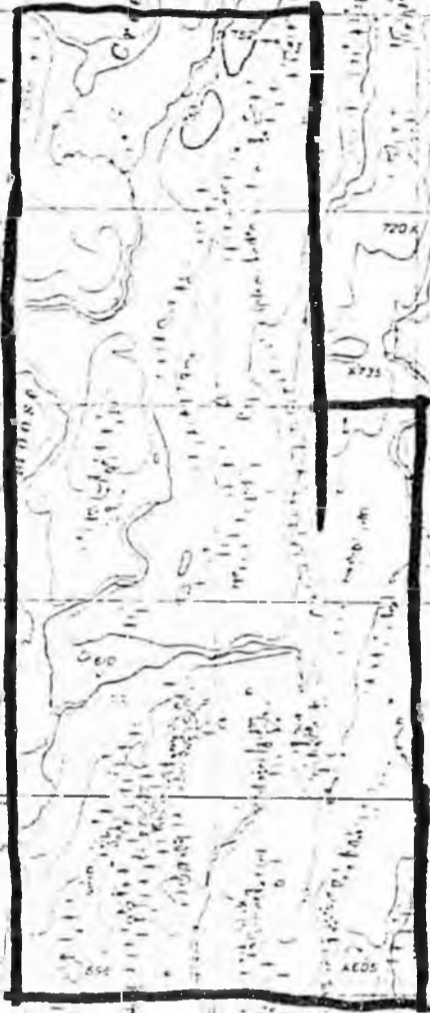
NAT.

Upper Montana Creek area

**KAHULTNA
REMOTE**

**Schneider Lk.
area**

*3 mi. from R.S. Highway
Trapper Creek area*



Effect of amendment. — The 1977 amendment rewrote this section.

Editor's note. — Section 12, ch. 138, SLA 1977, provides: "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 a new lease with the lessee for a term equal to the remaining period of the original lease which is being terminated that is consistent with the provisions of this Act. However, for purposes of determining the annual rent by the state, the fair market

value of the property which is used to establish the fixed base annual rent for the initial period of the lease may not exceed the fair market value as it was last appraised on or before January 1, 1975, brought forward to January 1, 1976, at the rate of 10 per cent per year, or, if the lease was entered into after January 1, 1975, on the basis of the fair market value at the time the lease was entered into."

Section 13, ch. 138, SLA 1977, provides: "The provisions of sec. 12 of this Act expire January 1, 1979."

Quoted in *Alyeska Ski Corp. v. Holdsworth*, Sup. Ct. Op. No. 406 (File No. 620), 426 P.2d 1006 (1967).

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

(b) When not in conflict with this section, other provisions of §§ 70 — 105 of this chapter apply to leases under this section. (§ 1 ch 26 SLA 1963)

Sec. 38.05.090. Removal or reversion of improvements upon termination of leases. (a) Improvements owned by a lessee on state land shall, within 60 days after the termination of the lease, be removed by him if removal will not cause injury or damage to the land. The director may extend the time for removing improvements in cases where hardship is proven. The retiring lessee or permittee may, with the consent of the director, sell his improvements to the succeeding lessee or permittee.

(b) If improvements or chattels, or both, having an appraised value exceeding \$10,000 as determined by the director are not removed within the time allowed, the improvements or chattels or both shall, upon notice to the lessee, be sold at public sale under the direction of the director. The proceeds of sale inure to the lessee who placed the improvements or chattels on the land after paying to the state all rents due and expenses incurred in making the sale. If there are no other bidders at the sale, the director may bid in the name of the state. The bid money shall be taken from the fund to which the land belongs and the fund shall receive all money or other value subsequently derived from the sale or leasing of the improvements or chattels. The state acquires all the rights that any other purchaser could acquire by reason of the purchase.

(c) If improvements or chattels, or both, having an appraised value of \$10,000 or less, as determined by the director, are not removed within the time allowed, they revert to the state and absolute title vests in the

state. The preference right lessees of grazing or forest lands may follow the provisions for removal of improvements upon termination of the lease as authorized in the cancelled federal lease or permit.

(d) Improvements of the lessee which have become fixtures of the land shall be purchased by the subsequent purchaser or lessee of the land if the improvements were authorized in the former lease or by permit from the director. Upon the termination of a lease, and at additional times which may be necessary, the value of the authorized fixtures remaining on the land shall be set by agreement between the former lessee and the director or, if agreement cannot be reached, by an independent appraisal made at cost to the former lessee.

(e) A notice or offer by the state to sell or lease formerly leased land shall state

- (1) the value of the authorized fixtures remaining on the land;
- (2) that the purchaser or lessee will be required, as a condition of the sale or lease, to purchase the fixtures from the former lessee for an amount equal to the value specified. (§ 4 art V ch 169 SLA 1959; § 12 ch 61 SLA 1960; § 5 ch 74 SLA 1961; am § 1 ch 140 SLA 1966)

Legislative committee report. — For report on ch. 140, SLA 1966 (HCSCSSB 280), see 1966 House Journal, p. 1026.

C.J.S. reference. — 73 C.J. Lands § 23.

Cited in *Swindel v. Kelly*, Sup. Ct. Op. No. 812 (File Nos. 1416, 1418), 499 P.2d 291 (1972).

Sec. 38.05.095. Subleases. A lessee may sublease or assign or portion of it upon which he has a lease if, after application to the director, the director issues a permit. The director may issue a permit if he finds that it is in the best interests of the state to do so. (V ch 169 SLA 1959)

Sec. 38.05.100. Renewal of lease.

Repealed by § 15 ch 257 SLA 1976.

Editor's note. — The repealed section derived from § 6, art. V, ch. 169, SLA 1959; § 1, ch. 77, SLA 1966.

Legislative committee report. — For report on ch. 77, SLA 1966, see 1966 House Journal, p. 896

Sec. 38.05.102. Lessee preference. If land within a leasehold created under §§ 70 — 100 of this chapter is offered for sale or long-term lease at the termination of the existing leasehold, the director may, if he finds that it is in the best interest of the state, allow the holder in good standing of that leasehold to purchase or lease the land for the amount of the high bid received at public auction. (§ 2 ch 36 SLA 1976; § 7 ch 257 SLA 1976)

Revisor's note (1976). — AS 38.05.102 was added by both § 2, ch. 36, SLA 1976, and § 7, ch. 257, SLA 1976. Since the two

acts appear to be inconsistent, and ch. 36 is superseded by ch. 257, only the later enactment has been given effect here.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3634
(907) 465-3835

Senate Committee on Resources

June 13, 1983

Memo

To: Senate Resource Committee Members

From: Senate Resources Committee Staff

Subject: Proposed CS for CSHB 130, Homesteads

Attached is a proposed CS which we will be considering today at 3:00pm. This bill contains several changes from the draft which was handed out on June 10. The additional changes are marked with an asterisk below.

The proposed Committee CS makes the following changes from the House CS:

- Would require DNR to provide lands classified for agriculture in addition to other lands made available for homestead entry. Ag lands could be larger parcels (up to 160 acres), would require a 25% clearing and preparation for cultivation in addition to the other "sweat equity" requirements, and under existing statute only ag rights patent would be issued.
- Would change the maximum acreage available for homestead staking for non-ag lands from 160 acres to 40 acres.
- Would give DNR latitude similar to current remote parcel statute to specify staking conditions, parcel spacing, acreage, etc.
- Applicants would be limited to one homestead per lifetime rather than 160 acres per lifetime as in House CS.
- The remote parcel program would be repealed and most of the relevant requirements and benefits rolled into the homestead program. Current remote parcel lessees would be protected and would also have the option of obtaining patent through sweat equity requirements of homestead program.
- Like remote parcel program homestead entry stakers would have the option of purchasing parcels at fair market value if they elect to within two years of staking and meet survey, brushing, and clearing requirements (ag only).
- * ---If land purchased within two years, patent would contain condition that land not be sold or subdivided within 5 years of patent.
- The time to complete a survey by entrymen could be administratively extended from two to three years if a good-faith effort to obtain a survey has been made.

---To facilitate individual surveys and avoid staking errors, DNR is required to monument no less than one mile from each homestead entry available for staking. The House bill only required exterior boundary monumentation.

- * ---Sections 2-6 were added to the draft CS to conform other sections in Title 38 to the repeal of the remote parcel program. Where applicable, references to remote parcels or to the statute sections were substituted with references to homesteads and its statute chapter.
- * ---Section 9 on page 8 was added to have the repeal of the remote parcel program and other statute references take effect July 1, 1984 rather than immediately with the homestead program. The purpose is to permit the DNR time to continue to offer remote parcel lands before the homestead program can be implemented.

AMENDMENT

One optional amendment is attached which would authorize the DNR to conduct a lottery to limit the number of stakers permitted to go out and stake in a certain area.

OPTIONAL AMENDMENT FOR SENATE RESOURCES COMMITTEE CS FOR CSHB 130

On page 2, between lines 15 and 16, add an additional subsection (g):

" (g) The commissioner may limit the number of persons permitted to stake homestead entries within an area designated under (a) of this section by a lottery of qualified applicants. "

RATIONALE

If homestead land were opened for staking in an accessible or other desirable location, there may be a "land rush" of hundreds of stakers attempting to stake land. This could result in confusion, overlapping staking and disorderly staking patterns. The amendment would allow the commissioner to limit the total number of potential stakers permitted to go out in an area when the commissioner determines that many more stakers may be present than available homestead parcels. On the other hand, the amendment would permit the commissioner greater latitude over the program and limit the opportunities of individuals to "compete" for lands.

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IDENTIFICATION	BILL NAME "An Act providing a penalty for violation of a law or regulation relating to bees and beekeeping equipment."		BILL NUMBER HB 139
			DATE INTRODUCED 1/28/83
			RELATED BILLS PENDING
	SPONSOR(S) Rep. Malone and Rep. Phillips		REFERRALS
INITIAL RESEARCH	INITIAL SUMMARY COMPLETED	LEGAL DIVISION SUMMARY	
	SPONSOR CONTACTED FOR BACKUP MATERIALS	DEPT OF LAW SUMMARY	
	AGENCY RESPONSE	FISCAL NOTE	
		OTHER INTERESTED LEGISLATORS NOTIFIED	
BACKGROUND RESEARCH	SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES		OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, ETC
	RESPONSES FROM INTERESTED PERSONS AND/OR GROUPS		
HEARING PREPARATION	CHAIRMAN BRIEFED	DATE & PLACE SET February 21, 1983	
	STAFF MEMO TO COMMITTEE	TELECONFERENCE	
	BACKGROUND MATERIAL DISTRIBUTED	PSA/PRESS RELEASE	
	LIST OF WITNESSES	SUGGESTED AMENDMENTS/CS DRAFTED	

Edmund K Knutsen
Box 1525
Soldotna, Ak 99669
Feb. 4, 1983

Representative Hugh Malone
Pouch V
Juneau, Ak 99811

Dear Hugh,

I want to thank you personally for the quick response to the problems in Beekeeping.

I have read the copy of HB 139 and think it is what we need. I also called Dave Tozier and John Cramer and they both were pleased about the bill. Dave was going to call others in the Fairbanks area.

Please let us know when the hearings are scheduled.

Thank you for your interest in Alaska Beekeeping.

Sincerely,

Ed. Knutsen
Ed Knutsen

Introduced: 1/28/83
Referred: Resources and
Finance

1 IN THE HOUSE

BY MALONE AND PHILLIPS

2

HOUSE BILL NO. 139

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act providing a penalty for violation of a law or
7 regulation relating to bees and beekeeping equip-
8 ment."

9

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

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* Section 1. AS 03.47 is amended by adding a new section to read:

11

Sec. 03.47.035. PENALTY. A person who violates this chapter or

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a regulation adopted under this chapter is guilty of a class B misde-

13

meanor.

*AS 03. = Agriculture & Animals Statutes
03.47 = ~~Beekeeping and~~
Bees and Beekeeping Equipment*

(2) class B felonies, which characteristically involve conduct resulting in less severe violence against a person than class A felonies, aggravated offenses against property interests, or aggravated offenses against public administration or order;

(3) class C felonies, which characteristically involve conduct serious enough to deserve felony classification but not serious enough to be classified as A or B felonies;

(4) class A misdemeanors, which characteristically involve less severe violence against a person, less serious offenses against property interests, less serious offenses against public administration or order, or less serious offenses against public health and decency than felonies;

(5) class B misdemeanors, which characteristically involve a minor risk or physical injury to a person, minor offenses against property interests, minor offenses against public administration or order, or minor offenses against public health and decency;

(6) violations, which characteristically involve conduct inappropriate to an orderly society but which do not denote criminality in their commission.

(b) The classification of each felony defined in this title, except murder in the first and second degree, sexual assault in the first degree, and kidnapping, is designated in the section defining it. A felony under Alaska law defined outside this title for which no penalty is specifically provided is a class C felony.

(c) The classification of each misdemeanor defined in this title is designated in the section defining it. A misdemeanor under Alaska law defined outside this title for which no penalty is provided is a class A misdemeanor. (§ 10 ch 166 ALS 1978; am §§ 9, 10 ch 143 SLA 1982)

Effect of amendments. — The 1982 amendment inserted "sexual assault in the first degree" in the first sentences of subsections (a) and (b) and in the introductory language of the second sentence of subsection (a).

NOTES TO DECISIONS

Applied in *State v. Clayton*, Sup. Ct. Op. No. 1734 (File No. 3983), 584 P.2d 1111 (1978).

Quoted in *Griffith v. State*, Ct. App. Op. No. 71 (File No. 5914), 641 P.2d 228 (1982).

Sec. 12.55.035. Fines. (a) Upon conviction of an offense, a defendant may be sentenced to pay a fine as authorized in this section or as otherwise authorized by law. In determining the amount and method of payment of a fine, the court shall take into account the financial resources of the defendant and the nature of the burden its payment will impose. No defendant may be imprisoned solely because of inability to pay a fine.

(b) Upon conviction of an offense, a defendant who is not an organization may be sentenced to pay, unless otherwise specified in the provision of law defining the offense, a fine of no more than

(1) [Effective until January 1, 1983] \$75,000 for murder in the first or second degree, sexual assault in the first degree, or kidnapping;

[Effective January 1, 1983] \$75,000 for murder in the first or second degree, sexual assault in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree;

(2) \$50,000 for a class A, B, or C felony;

(3) \$5,000 for a class A misdemeanor;

(4) \$1,000 for a class B misdemeanor;

(5) \$300 for a violation.

(c) Upon conviction of an offense, a defendant that is an organization may be sentenced to pay a fine not exceeding the greater of

(1) \$100,000; or

(2) an amount which is three times the pecuniary gain realized by the defendant as a result of the offense.

(d) If a defendant is sentenced to pay a fine, the court may grant permission for the payment to be made within a specified period of time or in specified installments. (§ 12 ch 166 SLA 1978; am § 17 ch 45 SLA 1982; am § 26 ch 143 SLA 1982)

Sec. 12.55.135. Sentences of imprisonment for misdemeanors.

(a) A defendant convicted of a class A misdemeanor may be sentenced to a definite term of imprisonment of not more than one year.

(b) A defendant convicted of a class B misdemeanor may be sentenced to a definite term of imprisonment of not more than 90 days unless otherwise specified in the provision of law defining the offense.

(c) A defendant convicted of assault in the fourth degree committed in violation of the provisions of an order issued under AS 09.55.600 or 09.55.610 shall be sentenced to a minimum term of imprisonment of 20 days. The execution of sentence may not be suspended and probation or parole may not be granted until the minimum term of imprisonment has been served. Imposition of sentence may not be suspended, except upon condition that the defendant be imprisoned for no less than the minimum term of imprisonment provided in this section, and the minimum sentence provided for in this section may not be otherwise reduced. (§ 12 ch 166 SLA 1978; am § 2 ch 139 SLA 1980; am § 22 ch 59 SLA 1982; am § 13 ch 61 SLA 1982; am § 31 ch 143 SLA 1982)

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TABLE 4
FARM USE LAND ASSESSMENT

FY 82 PROGRAM SUMMARY BREAKDOWN MUNICIPALITY	NUMBER OF APPLICANTS	NUMBER OF ACRES	FULL AND TRUE LAND VALUE	TOTAL DEFERRED VALUE	TOTAL DEFERRED TAX
ANCHORAGE, MUNICIPALITY OF	5	124.31	\$ 2,607,800	\$ 1,802,088	\$ 13,364.58
FAIRBANKS NORTH STAR BOROUGH	17	2,839.48	2,965,125	2,517,950	\$ 14,144.82
HAINES BOROUGH	1	14.09	54,250	40,650	\$ 234.72
KENAI PENINSULA BOROUGH	18	3,790.24	5,415,250	3,239,350	\$ 13,072.78
KODIAK ISLAND BOROUGH	2	324.44	107,079	85,662	\$ 471.13
MATANUSKA-SUSITNA BOROUGH	<u>72</u>	<u>12,104.43</u>	<u>18,503,840</u>	<u>12,909,740</u>	<u>\$100,961.28</u>
STATEWIDE TOTAL	115	19,196.99	\$29,653,344	\$20,595,440	\$142,249.31
AVERAGE PER APPLICANT	1	167.0	\$ 257,855	\$ 170,091	\$ 1,236.95
AVERAGE PER ACRE			\$ 1,544	\$ 1,073	\$ 7.41
SEVEN-YEAR SUMMARY OF PROGRAM PERFORMANCE					
FISCAL YEAR 1976	91	18,759	9,279,400	6,140,300	77,805
FISCAL YEAR 1977	84	15,970	13,783,182	11,552,062	99,170
FISCAL YEAR 1978	86	15,467	13,807,490	11,373,877	118,616
FISCAL YEAR 1979	87	13,562	17,283,615	15,328,994	140,092
FISCAL YEAR 1980	108	16,412	19,705,705	18,338,680	145,129
FISCAL YEAR 1981	116	17,666	22,997,524	20,348,079	178,714
FISCAL YEAR 1982	115	19,197	29,653,344	20,595,440	142,249

Source: Alaska Taxable, Department of Community and Regional Affairs

leaving
Wed Feb 23
Fri - FEB 10 1983
Statewide tele
3:15

Star Route
Hacienda, Alaska 99657
February 14, 1983

Mr. Lawrence Tachew
House of Representatives
Juneau, Alaska 99801

Dear Mr. Tachew,

We back your agricultural bill to buy up farm land threatened by developers. It is a most timely bill.

We also feel that the Agricultural Security Loan Fund should be kept under the Division of Agriculture.

Sincerely yours,

Marvitt and Donald Olson

HB 148
C+RA+20



FEB 9 1983

Alaska Environmental Lobby, Inc.

419 6th Street, Suite 328

Juneau, Alaska 99801

907-586-2345

*Good
Answer w/ Bill
& file*

February 7, 1983

Honorable Barbara Lacher
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Representative Lacher,

On behalf of the Alaska Environmental Lobby we would like to express our support for your recent introduction of HB-148, "An Act relating to the preservation of agricultural land; and providing for an effective date."

As you know the loss of farmland to urbanization represents a major environmental concern throughout the United States. Your bill seems to provide a creative and workable solution to the continuing loss of high quality agricultural areas in Alaska.

We will be contacting you in person sometime in the near future to discuss some aspects of HB-148 and how we might assist you in securing passage of some form of this legislation.

For your information the Alaska Environmental Lobby represents 13 environmental organizations with a combined membership of several thousand members. Throughout the session we will be following issues of concern to the Alaska Environmental community.

If you have any questions about the environmental aspects of this or other legislative issues, feel free to contact us at our Juneau office.

Sincerely,

Jeff Bohman

Jeff Bohman
Volunteer

Jay W. Nelson

Jay Nelson
Executive Director

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

*file
w/ bill*

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

MEMORANDUM

April 12, 1983

SUBJECT: Preservation of agricultural land
(CSHB 148 (C&RA))

TO: Representative Barbara Lacher

FROM: Richard A. Bradley *B*
Legislative Counsel

You have requested a sectional analysis of the above described bill. You have also asked that I comment on a particular set of circumstances.

As a preliminary matter, I must advise you that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill; the bill itself is the best statement of its contents. For a full explanation of any point, please consult the bill itself.

I. Sectional Analysis.

Sec. 1 of the bill establishes a new chapter at AS 03.07 relating to "preservation of agricultural land.

Sec. 10(a) provides that the director [of agriculture] may acquire an "agricultural preservation easement" in certain privately owned agricultural land.

Sec. 10(b) requires the privately owned agricultural land to meet the requirements of AS 03.07.020. It also requires the state land to be exchanged to be classified for a purpose consistent with the exchange.

Sec. 10(c) requires the land offered to have the same monetary value as the land to be exchanged; an exchange with the transfer of money to equal the difference in value is permitted.

Sec. 10(d) provides that the director may not acquire an easement or exchange state land "except to preserve the agricultural use of the land."

Sec. 10(e) establishes public notice requirements for the acquisition of an easement or exchange. It also provides that the basic documents involved in the acquisition of the easement or the exchange remain public documents.

Sec. 10(f) provides that the operation of the chapter is "voluntary." A parcel may be considered for exchange only on the application of the owner of the land. And after the exchange or acquisition, the owner may not be required to carry out affirmative "agricultural activities" so long as the land is not subdivided or used for "residential, commercial, or industrial purposes or activities which are not related to agricultural uses."

Sec. 10(g) provides that the director may not use funds appropriated from the general fund of the state for the purpose of implementing AS 03.07 unless the appropriation is "specifically stated to be for that purpose." Funds from other sources may be used.

Sec. 20 describes the land eligible for agricultural preservation. It must be privately owned. The soil under no less than 40 percent of the surface of the parcel must meet stated standards established by the U. S. Soil Conservation Service. It is also required to be either (1) a parcel not less than 40 acres in cultivation or farm use; or (2) a parcel not less than 20 acres in cultivation or farm use which is adjacent to an established farm or farms totalling no less than 40 acres that has been in operation as a farm for no less than 10 years.

Sec. 30 establishes priority districts for the situation where the director does not have adequate funds to purchase easements in all offered land. Five levels of priority are established.

Sec. 40 establishes criteria for the selection of land within a single priority district. Five levels of criteria are offered.

Sec. 50 relates to agricultural land within a municipality. It requires the director to consider "any comprehensive plan or ordinances of the municipality on municipal farmland

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preservation priorities adopted by the municipality" before making an allocation of "easement money" to a farmland preservation priority district within the municipality. Before making the allocation, the director shall also consider recommendations from the municipality regarding priorities.

Sec. 60(a) relates to the acquisition of the easement or the exchange. Sec. 60(a) requires that an offer from a private land owner for participation under this chapter be in writing.

Sec. 60(b) requires the owner to specify the price at which the owner will agree to the sale. Also required is a complete description of land and an appraisal in support of the price.

Sec. 60(c) requires the director to respond within 30 days on the "sufficiency of the offer." This apparently relates to the extent to which an offerer has fully complied with the specific requirements of sec. 60(b). If insufficient, the director must specify the area of the insufficiency and give 30 days for compliance. If the compliance is made within the 30 days after notification by the director, the land is determined to qualify as land that meets the requirements of AS 03.07.020." Note an unstated requirement: that the land also meets acreage requirements.

Sec. 60(d) requires notification to a municipality of the determination made under (c). The municipality may request reconsideration. If reconsideration is requested, the director shall hold a public hearing in the municipality before an offer to sell or exchange is given to the owner. The municipality may appeal an adverse decision to the commissioner.

Sec. 70 provides that the director may accept the offer to buy or exchange land or make a counter-offer. The section appears to contain some awkward language; it provides that "The director may accept the offer . . . or may make a counter offer . . . within 90 days after approval of the landowner's offer to sell or exchange an agricultural preservation easement." I suspect that the emphasized phrase should rather read: "a determination of eligibility for exchange or sale of an easement under AS 03.07.060." Another unstated requirement is likely to be that the priority districts have been established; an eager owner may

move too fast for the time threshold established in the bill.

The section gives an owner of land 30 days for a response to the offer or counter offer of the director.

Sec. 80(a) provides that the maximum valuation of an easement acquired under this chapter is either (1) the asking price or (2) the difference between the fair market value of the land and the agricultural value of the land, -- whichever is less.

Sec. 80(b) requires the director to use appraisals by qualified appraisers, a defined term.

Sec. 90(a) outlines uses of the land under an agricultural preservation easement. Five broad uses are permitted.

Sec. 90(b) provides that the establishment of an agricultural preservation easement does not grant a member of the public access to the property or affect existing easements, rights-of-way, or rights of access that did not exist before. And "residential subdivision and the removal from the land of minerals or materials [which usually means gravel] for commercial purposes are not permitted."

Sec. 100 establishes definitions. While they are somewhat technical, they do not require review in this analysis. Among the terms defined are "agricultural operations", "agricultural preservation easement", "agricultural use", "agricultural value", "development rights", "fair market value", "qualified appraiser", and "residential subdivision". As suggested at the beginning of this memorandum, "director" means the director of agriculture in the Department of Natural Resources.

Sec. 2 amends AS 29.53.035(a); the amendment specifically provides that

The owner of farm land subject to this subsection who grants an agricultural preservation easement under AS 03.07 may not be required to reimburse the state under this subsection for revenue loss.

The section amended generally permits land not subject to an agricultural preservation easement to receive tax protection so long as it is used for farm purposes. The section