

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 00 / 2

2855 SRES SB 366 - SB 371

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Limited Action Management Option - This category recognizes those areas where a natural fire program is desirable or the values at risk do not warrant the expenditure of suppression funds. Suppression actions need only be to the extent necessary to keep a fire within the management unit or to protect critical sites within the area.

Modified Action Management Option - This option provides a level of protection between "Full" and "Limited". The intent is to provide manager/owners with an alternative for those lands that require a relatively high level of protection during critical burning periods, but a lower level of protection when the risks of large, damaging fires is diminished. Its intent is to reduce suppression costs and increase resource benefits during the entire fire season through its two distinct operational responses to fire.

During the critical portion of the fire season, all fires will receive aggressive initial attack. If a fire escapes initial attack and requires more than a modest commitment to contain it, an Escaped Fire Analysis (Appendix G) will be conducted to determine level of suppression commensurate with the values at risk. The intent is to allow acres burned to be balanced with suppression costs. Lands placed in this category will usually be suited to indirect attack.

On individually predetermined evaluation dates, each Modified Action unit will automatically convert to no initial attack status unless an evaluation of current conditions indicates that the preestablished date is too early. Reevaluations will be conducted every 10 days until conditions (such as recent local fire behavior and weather, State-wide fire load) safely allow for no initial attack status in each Modified Action unit. The intent is to reduce the commitment of suppression forces to these units when risks are low and to achieve some resource management objectives through limited fire activity.

The initial evaluation date for each individual unit will be determined prior to each fire season by the affected land manager/owners based on their assessment of the values at risk and the historical risk of fire (seasonal activity) in the unit. It is not the intent of this planning process to develop prescriptions (which integrate fuels, weather, and topographic variables) to quantify the decisions to cease initial attack in Modified Action areas. Local weather information is available from a very limited number of sites within the planning area. The flammability of the black spruce fuel complex fluctuates rapidly and no reliable method for predicting extended drying conditions exists for Alaska. A traditional "prescription" cannot delineate the end of the critical portion of the fire season in the Alaskan interior.

C. GENERAL DESCRIPTION

Critical Protection Sites (Areas)

Policy: This designation is for those areas where fire presents a real and immediate threat to human safety and designated physical developments. Fires burning in these areas (sites) will be immediately and aggressively suppressed.

Objectives:

1. Protect human life and inhabited property.
2. Place highest priority on the allocation of suppression forces to sites (areas) in this option.
3. Limit damage from fire to the minimum achievable.

Operational Considerations:

1. Areas designated by this option are restricted to sites and immediate surrounding areas.
2. Managers are encouraged to exercise restraint in the designation of physical developments, limiting the application of this option to those sites which are currently or routinely occupied as a residence, or of such high economic or cultural value that fire could cause an irretrievable loss.
3. The land manager/owner may elect to designate suppression tools which may not be used entirely or within selected locations. Any such constraints are documented in this plan within VII., Environmental Assessment.

Full Protection Areas

Policy: Fires burning in this area will be controlled through immediate and aggressive action.

Objectives:

1. Regardless of fire weather or behavior, control all fires at the smallest acreage possible.
2. Minimize the disruption by fire on designated, planned, or ongoing human activities in the area.

Operational Considerations:

1. Only fires in the critical protection area receive a higher priority for suppression resources.
2. Constraints on the use of selected suppression tools are at the discretion of the land manager/owner as documented in VII., Environmental Assessment.

Modified Action Areas

Policy: Contain all fires using aggressive initial attack unless otherwise directed by the land manager/owner upon completion of a modified initial attack analysis. (See Appendix F).

Manage fires to consider resource management objectives in a cost effective manner.

Objectives:

1. Reduce suppression costs on escaped fires through minimum force commitments and indirect suppression tactics.
2. Provide opportunities for fire to help achieve land management objectives.

Operational Considerations:

1. When a fire escapes control, the fire will be evaluated by the fire suppression organization and the land manager/owner, using the escaped fire analysis format to determine further fire strategy. (See Appendix G).
2. After the predetermined evaluation date, initial attack action will cease unless the land manager/owner instructs the fire suppression organization to continue suppressing fires occurring on certain lands within this designation.
3. Constraints on the use of selected suppression tools are at the discretion of the land manager/owner as documented in VII., Environmental Assessment.

Limited Action Areas

Policy: Contain fires only to the extent required to prevent undesirable escape from this area.

Objectives:

1. Reduce overall suppression costs.
2. Allow fire to burn unimpeded to the fullest extent possible.
3. Prevent fire activity in this area from violating fire management policies and objectives in adjoining areas.

Operational Considerations:

1. Careful monitoring of fire behavior and fire weather conditions is essential within this area.
2. When escape of a fire from this area appears imminent, the fire management organization and land manager/owner will jointly develop a strategic control plan.
3. Constraints on the use of selected suppression tools are at the discretion of the land manager/owner as documented in VII., Environmental Assessment.

MEMORANDUM

State of Alaska

TO: Ted Smith, Director
Division of Forestry
Dept. of Natural Resources
Box 7-005
Anchorage, Alaska 99501

DATE: February 4, 1982

FILE NO: A66-456-81

TELEPHONE NO:

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Fire Suppression
Responsibility

Through:
Shelley J. Higgins
Assistant Attorney General

By:
Claire Steffens
Legal Assistant

SSH

DIV. OF FORESTRY

FEB 3 1982

DIRECTORS OFFICE

I am responding to your memorandum of December 1, 1981 which asks questions concerning the responsibilities of the State, local governments, and volunteer fire organizations for suppression of wildfires on state, federal and private lands.

Your first question asks what responsibility tax-supported fire organizations have towards suppression of wildfires on lands within their service areas. Tax-supported fire service organizations include municipal or other local fire-fighting organizations.

Municipal tax-supported fire organizations have no statutory duty to fight wildfires within their service areas. However, municipal fire organizations are required to enforce those applicable rules and regulations adopted by them. Therefore, if a wildfire burns onto state or private land within the service area of a tax-supported fire organization, it may be responsible, under its own rules, for fighting the fire. No attempt is made here to analyze all applicable municipal ordinances or rules to determine whether any by their own terms would exclude protection against wildfires burning on state, federal, or private lands within their service areas. Except pursuant to contract or agreement, the State need not reimburse the municipal fire organization for its efforts in providing protection against fires burning inside the service area of the municipal fire organization.

Ted Smith

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February 4, 1982

Re: Fire Suppression
Responsibility

Local tax-supported fire organizations may also be obligated to provide aid in suppression of wildfires on State land under AS 41.15.030, which authorizes the Commissioner to enter into fire protection contracts which he considers necessary. The terms of the contract will govern whether reimbursement for such aid is required.

The second question raised in your memo is whether volunteer fire departments are responsible for fighting wildfires on federal, state, or private lands within their service areas. A volunteer fire department has no statutory duty to fight wildfires. However, a volunteer fire department has an obligation to fight wildfires when it is requested to do so by the State pursuant to AS 41.15.120. AS 41.15.120 requires any person to aid in the suppression of fire if requested to do so by an officer or employee of the United States or of the State. This statute applies because a volunteer fire department is not a "governmental agency", and may instead be considered a "person" as defined at AS 01.10.050(7). This section defines person as "... includ[ing] a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person". In cases where a volunteer fire department has been incorporated under state law such a department is clearly within the definition of a "person". In cases where the fire department has not incorporated, but is merely an association or an organization of persons voluntarily coming together to provide fire protection services, such a department may also be within the definition of a "person".

AS 41.15.120 is silent regarding compensation for requested aid; it may be assumed that none is required to be provided. However, a volunteer fire department may be compensated pursuant to terms of a contract entered with the State under authority of AS 41.15.030.

The third question raised in your memo is whether the State has ultimate responsibility for suppression of wildfires on all state and private lands. Your assumption that the ultimate responsibility for suppression of wildfires rests upon the State is correct. AS 41.15.010-.030 states the Legislature's intent to "provide protection for the timber resources and watersheds on all lands in the state." The distinction between "lands in the state" and "state lands" implies that the statutory protection extends to all lands (perhaps excepting federal lands), within the boundaries of Alaska.

Ted Smith

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February 4, 1982

Re: Fire Suppression
Responsibility

You ask whether this responsibility can be delegated to local governments. The ultimate responsibility is legislatively imposed on the State, and therefore cannot be delegated. However, the immediate responsibility for protecting lands within the state from wildfire may be spread in such a manner as to minimize the state's liability. Pursuant to AS 41.15.030, the Commissioner may enter into those fire protection contracts which he considers necessary.

The State's responsibility may not be spread by unilateral state action: assumed or shared responsibilities must be accepted by the delegate. See Memorandum Opinion of P. J. Gullufsen of December 19, 1978. (Copy attached). In State v. Jennings, 555 P.2d 249, 250-51 (1976) the Court identified three conditions, which, if present, will absolve the State from liability for failure to enforce state standards for fire prevention and inspection: 1) The city has developed its own protection system and program; 2) the city program recognizes and complies with state enforcement standards; 3) the city has specifically accepted the deferral of responsibility from the state. If the State attempts to share its responsibility for the suppression of wildfires with a municipality, for instance, it should carefully follow the guidelines of the Jennings opinion.

The provision of firefighting efforts by a tax-supported fire service organization, which includes agencies and departments created through a municipal governmental process, will be compensated or not according to the terms of the assistance agreement. Thus when the State defers or spreads its responsibility to a municipal fire service organization, it may be required by the municipal organization to compensate monetarily for the service received. Language in the assistance agreement concerning compensation or reimbursement, if any, should be explicit and carefully worded.

If you have further questions I will be happy to address them.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

Matanuska-Susitna Borough

BOULEVARD PALMER, ALASKA 99645 • PHONE 745-4801

DEPARTMENT OF FINANCE

February 16, 1983

TO: Mat-Su Fire Chief's Association
Matanuska-Susitna Borough Fire Service Areas Fire Chiefs

FROM: Jerry Pineau

SUBJ: Mutual Aid Agreement Between Borough and State
(See Attached Draft Copy)

The Borough administration has designated the Mat-Su Fire Chief's Association as the group to discuss the mutual aid and cooperative agreement concept with the State of Alaska. At some undetermined time it is contemplated that the Association would make recommendations to the Manager and the Assembly. After reading the proposed first draft I have become concerned that the concerns of the Borough may not have been related to the Association. Therefore, in lieu of waiting for recommendations whether it is a proposed agreement or a consensus not to be so obligated, I thought it best to analyse the draft from our point of view. I have purposely taken a hardline approach in order to raise many issues which need to be resolved. An in-depth review and discussion should be done to determine if assuming certain state obligations is in everyone's best interests, especially our constituents.

The following is my critique as it appears to me.

I have reviewed the proposed first draft of the subject mutual aid agreement and have discerned several infirmities which may jeopardize our special obligations to the taxpayers of the fire service areas.

The concept of assisting the Division of Forestry in its endeavors to provide fire protection for timber resources and watersheds of all lands in the state is commendable.

If a wildfire would threaten life and property within a fire service area, it would be our constituents' expectations to respond and aid in fire suppression. However, to assume more than the life and property threatened posture is not necessarily within the realm of our duties to our taxpayers. The State has

SUBJECT: Mutual Aid Agreement Between Borough and State

the duty of wildfire suppression and must support that duty with men, materials, equipment and funds.

It is my understanding that, as I also glean from the proposed draft, the state is attempting to shift a substantial part of its obligations to the local fire service areas. I suppose the basis of its attempts is due to limitations of state funding since wildfire protection in Alaska is an enormous task requiring a tremendous amount of resources.

Therefore, it is the balancing of state interests and local interests in the division of responsibilities and support thereof. The resultant mutual interests then necessitates a sharing of obligations. The key is the definition of mutual interests as it relates to state and local support.

Local interests are to protect lives and property using local resources within defined areas. In our case the areas are the fire service areas which are supported by taxpayers therein. The objective is to provide maximum quality fire protection at reasonable costs.

State interests are to protect lives, habits and property using state resources within the state without unnecessary duplication of fire protection services. The objective also is to provide maximum quality fire protection at reasonable costs.

With the expanding commercial and residential development with the attendant population increase, communities are demanding new or improved and expanded fire service areas. Such inherent growth of such services increases the burden on our resources such as taxes, material, equipment and manpower. It is incumbent on the borough, therefore, to respond to those demands as first priorities. The need to assist the state in its endeavors is secondary.

As the state has more and more lands transferred to it which require wildfire protection, its burden increases dramatically and strains its resources. It is prudent for the state to shift its responsibilities to existing fire protection services to eliminate duplication.

The proposed agreement on its face shifts in my opinion, too much responsibilities on the local fire service areas. More particularly in the following manner.

1. "Each party shall comply with provisions of AS 41.15.010-700 and the Forest Protection Regulations, ACC 95.400-490.

a. Under this term every local fireman responding or assisting the State would be required to know, understand and abide by the state law and regulations. For instance, failure to be fully trained in wildfire protection services may establish a liability which the Borough, fire service areas and volunteers do not desire nor contemplate.

b. Although the term may be reworded to limit the potential liability thereunder, if the state's intentions are to consolidate and lessen its forces and equipment within the Borough, the liability limitation may not be enforceable against the state without legislative action.

c. Since the term is the essence of the agreement, state law must be changed to accommodate the special relationship with the state before any agreement is consummated.

d. At this time it is my suggestion that the matter be turned over to the state for a legislative resolution.

2. "The failure of either party to insist upon compliance of any guideline, etc" appears on its face to be fair and reasonable, but apparently it manifests the infirmities of number 1 above.

a. Of course "guidelines" is very poor wording but its impact could be harsh. If number 1 is not enforce during a time period, even in good faith later a stricter or fuller compliance therewith could suddenly jeopardize the Borough.

b. The "compliance" by the state, or, in other words, the state's obligations are specious. Is the Borough receiving any real benefits from the state?

(1) "Respond to any wildfire upon request within the FSA contingent upon manpower and equipment availability." Since the agreement appears to shift the duty of wildfire suppression to the Borough as the primary obligor, any benefit derived from the state is not real. The state has the existing obligation to suppress wildfires within a fire service area.

(2) "Respond to any reported fire within the support area, contingent upon manpower and equipment availability, for the purpose of protecting the timber resources and watershed. The state has the duty now. The agreement shifts the burden to the Borough to provide assistance to the state for any wildfires within the support area. Since support areas, by definition are outside fire service areas, the Borough's obligations have been expanded. No new benefit is derived.

3. (MCA): Mutual Aid Agreement Between Borough and State

(3) "Not charge the FSA for any fire suppression costs." This is not a benefit since the state's obligation is to respond to any wildfire within the fire service area. That response is conditioned upon a request from the Borough and availability of state manpower and equipment. Since it is believed the state is intending to consolidate and lessen manpower and equipment within the Borough, there appears to be no substance to its response obligation. In any case, it already has the duty and, again, the burden under the agreement would be shifted to the Borough.

(4) Notification of the "FSA of any fires within the FSA that comes to the state's attention" sounds very magnanimous but it is reasonably assumed a state employee would do so anyway. However, it should be remembered the "any fire" could mean, by definition, "fire" and "wildfire", especially in view of the shift of burden for wildfire suppression to the Borough. Residential, etc., fires normally encountered by the fire service areas are reported in many ways.

(5) "Not delay any response to any fire near the FSA boundary due to jurisdiction questions" may be a benefit to the Borough except that the interpretation in light of number (1) above (respond to any wildfire, etc.) means the state, if it responds, will not stop at the boundary. If the state consolidate its services, etc., and limits its wildfire suppression in and near fire service area boundaries, it is difficult to glean any real benefit.

(6) "Assume command of any wildfire when:
a. requested by FSA officer-in-charge; and
b. the amount of state equipment dictates the need for state management of said equipment" should be read in conjunction with the total agreement. If the primary intent is to shift wildfire suppression burden to the Borough, will the state ever be in command and, if so, is it a benefit to the Borough?

(7) For the state to furnish the fire service area with information needed to fill out a state fire ^{notification} report for any fire within a fire service area when the fire service area is not in attendance is commendable. However, such duty presupposes the state responds to wildfires for it will not do so for residential fires normally, due to lack of training and equipment. In any case, the benefit to the Borough is minimal and the burden on the state is not great.

(8) "Waive all claims against the Borough for any loss, damage, death or injury connected with the performance of this Mutual Aid Agreement" is certainly a benefit to the Borough.

... the contingent liability may be minimal if the Borough assumes full or substantial responsibility for suppressing wildfires in its fire service areas. The "mutual aid" concept, upon analysis of the proposed agreement, is specious since, by its terms, places an onerous burden on the Borough with minimal benefit to the local taxpayers.

3. "In addition, the FSA also agrees to:" is the term of the proposed agreement which capriciously attempts to make the Borough, through its fire service areas, a "quasi-division" of the state without the state having any corresponding liability. In other words, based on the delineated duties of the Borough (fire service areas), the state could be relieved from its responsibilities of wildfire suppression within the existing fire service areas, within the support areas and any future fire service areas or annexations, such as the proposed Willow and Kaik areas.

a. "Respond to any reported fire within the FSA limits, as outlined on Attachment A" means the inclusion of all wildfires therein. The obligation is placed on the Borough at the exclusive burden of costs on the local taxpayers. The Borough is agreeing to not charge the state for any fire suppression costs within the fire service area. This places the Borough subservient to the state since it is obligated to perform in accordance with state law and regulations. The state would only respond to "wildfires" and only if requested and if sufficient manpower and equipment available. Since it appears the state intends to consolidate its services and decrease the state support, it may not have manpower and equipment to assist the Borough in wildfire suppression.

b. "Provide assistance to the state for any wildfire within the support area..." with the final decision resting on the Fire Chief or his designee on the assistance to be given, obligates the Borough to provide some support in most cases. However, since the state's obligation is contingent upon its available resources, the support area wildfire suppression duty of the Borough could be greater than contemplated.

c. "Not charge the state for any fire suppression costs within the FSA" relieves the state from any financial costs pertaining to wildfire suppression. The burden is obviously shifted to the local taxpayers.

d. "Not charge the state for any wildfire suppression costs within the support area for up to eight hours" places a substantial burden on local residents. If as the term further indicates, the next two sentences modifies the above quote, the local taxpayer's burden is lessened. Fire service area personnel will not be paid for the first eight hours but the equipment may be hired at a

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determined rate. But it can be interpreted that the equipment will also be used free of charge for the first eight hours.

e. "Immediately notify the state of any wildfire outside the FSA that comes to the FSA's attention" manifests a special obligation on the fire services areas that, if carried or interpreted to its extremes, could create a "fire watch" duty. Such notification would normally occur but should not be an obligation written into an agreement.

f. "Immediately notify the state of any wildfire within the FSA" also obligates the fire service area specially since "immediately" could create, in the extreme, a priority over mobilization of fire service area response. In other words, not only is there a duty to suppress wildfires but also to notify the state for possible instructions etc. which would be disruptive to good firefighting practices.

g. "No delay any response to any wildfire near a FSA boundary due to jurisdictional questions. (1 mile outside FSA boundary minimum)" appears to be an attempt by the state, through the agreement to expand the Borough FSA boundaries without acquiring the proper legal authority. In essence the state is attempting, through this provision, to usurp the Borough's powers and expand them into the state's domain as well as placing it under the state's jurisdiction.

h. "Provide the state with information needed to fill out incident reports for any wildfires within the support area in which the FSA provided assistance, and the state was unable to respond" presupposes the Borough has the duty to respond, as noted above, to any wildfire in a support area.

i. "Issue burn permits within the FSA as an agent of the state during declared fire season" again shifts the burden to the Borough under the jurisdiction of the state. As a courtesy to the state, but not as a duty, the fire service areas have assisted the state in issuing fire permits. To take on the obligation, especially as an agent of the state, would necessitate a certain degree of providing a regular place and time for issuance. It could very easily mean that the fire service areas would be obligated to provide personnel on a regular basis to issue permits.

j. "Waive all claims against the state for any loss, damage, death or injury connected with the performance of this Mutual Aid Agreement" is a standard state clause but it must be weighted in terms of potential liabilities. The more the state shifts its mandated obligations on to the Borough with impunity the greater the risks to the fire service area and its taxpayers. In placing the duty upon obtained in wildfire suppression fire

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service area personnel and using commercial and residential specialized fire equipment the potential liabilities can be enormous.

K. "Assist the state with law enforcement cases relating to violations of the Natural Resources Code ACC 94.400-490" places the duty of the fire service area personnel to perform in accordance with state policies and procedures. Do we have volunteer personnel that are trained in preserving evidence, apprehension, etc. if the interpretation of this provision is very broad? Are the personnel subject to criticism, etc. if proper procedures are not followed? Doing one's duty which is voluntary is a matter different than obligating oneself under an agreement.

In the final analysis, it appears that the bottom line is whether or not the Borough (fire service areas) has the resources, funds, manpower, equipment and materials and substantial interest at this time to provide wildlife protection on behalf of the state. Will our commitments conflict with any determination to carry out the state's existing duty at their expense in funds and resources?

If the state, in the agreement, would absolutely agree to maintain a level of support, equipment, etc. at its expense, reasonably close to the requirements as if the fire service areas would not support wildlife, a mutual assistance arrangement would be in the best interests of the Borough.

At this time the fire service areas do respond to wildfires in their areas. First as a prudent measure to protect life and property of the fire service areas residents. Secondly, as a volunteer measure to assist the state, but without a formal duty. Hence, as a matter of Borough interests, is there a real need to take on the state's responsibility? That is, should the taxpayers be burdened with additional costs when they already have wildfire suppression services from the state and the fire service areas?

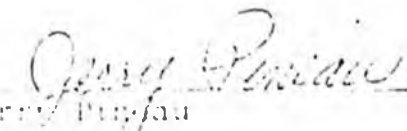
If the state could train volunteers, reimburse fire service areas for costs and provide additional wildfire equipment and facilities to the fire service areas, it would make sense for the Borough to take on wildfire suppression duties within certain defined areas. The state should also limit the Borough's liabilities and not remove itself from all responsibilities.

SUBJECT: Mutual Aid Agreement Between Borough and State

I do not believe the question of the legal authority of Director of the Division of Forestry to enter into any agreement with the Borough has been determined. That issue, especially if the above last three paragraphs would apply, need be resolved prior to any actions.

Gentlemen, this memo is not to state that the issues can not be resolved nor that an agreement can not be reached. It is my opinion that the matters discussed herein will be raised by the Assembly and our constituents when it is reviewed at a public hearing.

If I can be of any assistance, please feel free to contact me. Good luck in your endeavors. I have no doubts the task is almost onerous. Your efforts are greatly appreciated.



Jerry Puzan

cc: Gary Thurlow, Borough Manager
Vern Roberts, Finance Director
Steve Merrisott, Borough Attorney

JP/lp

AND
THE STATE OF ALASKA
DIVISION OF FORESTRY

This agreement is made and entered into between the Matanuska-Susitna Borough
FSA's, hereinafter referred to as the FSA, acting by and through it's Borough
Assembly, and the State of Alaska, Division of Forestry, hereinafter referred
to as the State, acting by and through it's Director.

DEFINITIONS:

1. FIRE SERVICE AREA (FSA): That area within the FSA limits, in which the
volunteer fire department is ordained to provide fire protection.
2. SUPPORT AREA: That area mutually defined by the parties hereto, in which
the FSA may render assistance to the State, for wildfire protection.
Assistance rendered may be the result of either a formal request from the
State, or from the FSA's own initiative.
3. FIRE: Generally used to define any uncontrolled or unwanted fire, regard-
less of material burning, i.e. vehicles, grass, brush, structures, etc.
4. WILDFIRE: Used to define any uncontrolled or unwanted fire burning on any
lands on which grass, brush, timber or other vegetative material grows.

WITNESSETH, THAT:

1. WHEREAS, pursuant to Matanuska-Susitna Borough Ordinance Title 5 of
Borough Code Ch. 5.10-5.35, the Borough has established Volunteer Fire
Department for the purpose of providing fire protection to private and
public property within the limits of said FSA; and
2. WHEREAS, pursuant to AS 41.15.010-020, the State is responsible for
providing protection for the timber resources and watersheds of all lands
in the state.

NOW THEREFORE, the parties hereto agree to the following guidelines with respect
to the land outlined on Attachment A, which is a map of the Matanuska-Susitna
Borough's FSA's, to wit:

1. Each party shall comply with the provisions of AS 41.15.010-700 and the
Forest Protection Regulations, AAC 95.400-490.
2. This Mutual Aid Agreement shall be effective upon execution by all parties
and shall remain in effect until termination. Either party may terminate
this agreement sixty days after written notice of intent to terminate has
been served on the other party.
3. The failure of either party to insist upon compliance of any of the guide-
lines of this agreement shall not constitute a waiver of either of the
parties of it's rights with respect to any assistance rendered thereafter or
to insist upon full and strict compliance of the exact terms of this
agreement.

IN ADDITION, THE FSA ALSO AGREES TO:

1. Respond to any reported fire within the FSA limits, as outlined on Attachment A.
2. Provide assistance to the State for any wildfires within the support area, contingent upon equipment and manpower availability. The final decision as to what will be sent to assist will rest with the Fire Chief or his Designate. This information will be relayed to the State as soon as possible.
3. Not charge the State for any fire suppression costs within the FSA.
4. Not charge the State for any wildfire suppression costs within the support area for up to eight hours. After eight hours, FSA personnel may be hired as EFFERT and paid at current rates according to position held. FSA equipment, if used, will be hired according to predetermined continuing offer rates.
5. Immediately notify the State of any wildfire outside the FSA that comes to the FSA's attention.
6. Immediately notify the State of any wildfire within the FSA.
7. Not delay any response to any wildfire near a FSA boundary due to jurisdictional questions. (1 mile outside FSA boundary minimum.)
8. Provide the State with the information needed to fill out an incident report for any wildfires within the support area in which the FSA provided assistance, and the State was unable to respond.
9. Issue burn permits within the FSA as an agent of the State during the declared fire season.
10. Waive all claims against the State for any loss, damage, death, or injury connected with the performance of this Mutual Aid Agreement.
11. Assist the State with law enforcement cases relating to violations of the Natural Resources Code AAC 95.400-400.

IN ADDITION, THE STATE ALSO AGREES TO:

1. Respond to any wildfire upon request within the FSA contingent upon manpower and equipment availability.
2. Respond to any reported fire within the support area; contingent upon manpower and equipment availability, for the purpose of protecting the timber resources and watershed.
3. Not charge the FSA for any fire suppression costs.
4. Immediately notify the FSA of any fires within the FSA that comes to the State's attention.
5. Not delay any response to any fire near the FSA boundary due to jurisdictional questions.

SERVICE AREA LEGISLATION

1. Reaction of Local Fire Chiefs

9 fire chiefs, or primary officers, were contacted from Juneau to Fairbanks. Out of these, 8 would support the proposed legislation if it is our intent to continue to attack inaccessible wildland fires and take over those wildland fires that are beyond the capability of the local fire department. The 9th chief was speaking from a personal standpoint only and is a State ^{DOF} employee.

2. Statistical List

A. Number of Tax Supported Fire Service Areas in the State:

(We are unable to verify these figures
State Fire Marshall could not verify)

Mat-Su Borough	11	North Pole	1
Palmer	2	North Star	1
Homer	2	U of A (Fci)	1
Anchorage	3	Nenana	1
Ridgeway	1	Soldotna	1
Nikiski	1	Kenzi	1
Fairbanks	1	Cardwood	1

Ester	1	Shagway	1
Steese	1	Jones	1
Inoose Cr.	1	Ketchikan	1
Chugiak	1	Valdez	1
Bear Creek	1	Wrangell	1
Seward	1	Haines	1
Seldovia	1	Cordova	1
			<u>42</u>

B. How many Tax Service Areas have agreement with us?

- | | |
|-------------------|------------|
| Soldotna | Shagway |
| Kenai | Anchorage |
| Ridge way | Fairbanks |
| Jickiski | North Pole |
| Houston | North Star |
| Nenana | U. of. A. |
| Chatna | Homer |
| Ester | Steese |

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(3)

C. How many Tax Service Areas don't want to sign Co-operative/Mutual Aid Agreements with us?

We have not found any fire chief that would not sign some type of agreement. Some of them would sign only a Mutual Aid Agreement that does not obligate them to keep track of costs and require reimbursement.

The opposition to agreements in the Mat-Su area appears to be from the Borough, and more specifically from the Borough Finance Director (Jerry Pineau) This has a direct influence on the 11 Fire Service Areas financed by the Mat-Su Borough.

D. How many fires occurred in these areas in 1983

During 1983 there were 241 wildland fires reported by local fire departments in the state.

We estimate that from 25% to 50% of these would be in Tax Service Areas

$$241 \times 35\% = 84 \text{ Fires}$$

3. Build an economic efficiency statement - what do we save in \$'s if this legislation passes?

Trucks, people, Other

What are the other benefits?

If the trend that was established in 1983 continues, we can estimate that we will have to double our present organization within the next six years to cope with ALL wildland fires

Gearing-up to suppress all wildland fires will require more engines, suppression personnel, support personnel, stations and aircraft. In addition, we must embark on a planning effort to determine the fire coverage needed, placement of stations and aircraft to meet required response times and the best combination of ground equipment and aircraft to meet the demands that will be placed on the Division

The Division will also have to consider a longer fire season than it now uses because of the early and late season wildland fires that occur in populated areas that will not be suppressed by the local fire departments.

(5)

We may also have to man our stations and equipment for more hours per day.

Response time to a wildland fire burning near structures could be a very volatile question if the Division has responsibility for the wildland fire and someone else has responsibility for the structure. Our present policy of stopping fires at 10 acres or less would undoubtedly not fill the bill. We would have to improve our capability and reduce response times to wildland fires in populated areas.

It must be remembered that the capability we build into the organization in order to respond to the roadside fires in populated areas must be in addition to the capability we must maintain for inaccessible wildland fires.

There appears to be no restrictions at this time on the amount of wildlands that can be included within a Fire Service Area. If this is the case, then it is to the advantage of the FSA to ~~include~~ extend its boundaries to encompass as many taxpayers as possible without regard to the

(6)

number of acres of wildland included as they have no responsibility for protection of the wildlands

Present law places no incentive for cooperative agreements on the local fire protection agency as we cannot attack structural fires and they have no responsibility for wildland fires. The proposed statute would place some, but not all, of this responsibility on the local fire protection agency and give them some incentive for cooperating.

We visualize that the big impacts on fire suppression costs will come from the Mat-su, Kenzi and Fairbanks areas where most of the tax supported fire service areas are located

ECONOMIC ANALYSIS

Operating Costs

Operating Cost per Engine and Crew

Crew - Tech IV + Tech III \$ 2500 each/month Salary + benefits.

Engine & Pump - \$1.00/mile x 200 miles/month = \$200/month

250/month x 12 = 3000/Year ÷ 6 = \$500/month

100/month Pump Fuel, maint., accessories

\$800/month Operating costs

Engine & Crew Operating Costs = \$5,800/month x 6 months:

\$34,800/Year. Op per unit.

Met-Su Area now doing 60% of wildland fire

Suppression within fire service areas w/10 units

Need 40% increase or 4 units @ \$34,800/Year

or \$139,200 Annual increase in Operating costs

Fairbanks at least 50% increase. Now have 9 units

4.5 units @ \$34,800 = \$156,600 Annual Increase

Kenzi Area increase by 50%. 10 units now.

5 unit increase @ \$34,800 = \$174,000

TOTAL = \$139,200 + 156,600 + 174,000 = \$469,800

TOTAL WILL EXCEED \$500,000 IF TOK, DELTA & COPPER

RIVER AREAS ARE INCLUDED

STATE OF ALASKA
BOARD OF FORESTRY

February 20, 1984


The Honorable Bettye Fahrenkamp
Senator
Pouch V
Mail Stop 3100
Juneau AK 99811

Dear Senator Fahrenkamp:

We wish to thank you again for the opportunity to express our opinions and concerns to the Joint House and Senate Committee at the end of our Board of Forestry meeting in January.

During the Board meeting we discussed the proposed SB 366, an "Act relating to protection of forested land..." and offer the following mark-up as our recommendation for your consideration. The Board supports the rest of the bill as modified in the attachment.

Sincerely,



Joe Wilson
Chairman, Board of Forestry

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to protection of forested land."

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

8 * Section 1. AS 41.15.010 is amended to read:

9 Sec. 41.15.010. INTENT. It is the intent of AS 41.15.010 --
10 41.15.170 to provide ^{fire} protection, [REDACTED]

11 [REDACTED] for the natural [TIMBER] resources and watersheds
12 on land that is owned privately, by the state, or by a municipality;

13 [REDACTED]
14 provided, however: that the protection level afforded to lands which
15 are subject to an approved cooperative fire management plan shall be

16 [REDACTED]
17 [REDACTED] commensurate
18 with the value of the resources at risk, [REDACTED]

19 [REDACTED] [ALL LAND IN THE
20 STATE].

21 * Sec. 2. AS 41.15.030(b) is amended to read:

22 (b) The commissioner may hire emergency fire-fighting personnel
23 [UP TO A TOTAL OF 30,000 MAN-HOURS EACH YEAR], and shall establish
24 classifications and rates of pay for the emergency fire-fighting
25 personnel consistent with the compensation paid by other fire-fighting
26 agencies. The commissioner may adjust the classifications and rates
27 based on findings of the federal Bureau of Land Management for Alaska.
28
29

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-465-2400

*Senators
Take a look thru
return to
me*

February 21, 1984

The Honorable Jalmar Kerttula
President of the Senate
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

I am pleased to submit to you the Fire Suppression Fund use records for calendar year 1983, as required by AS 41.15.240.

Copies of these records are being distributed to all legislators. I believe that the fund use figures ably demonstrate the need for a Fire Suppression Fund.

Sincerely,

Esther C. Wunnicke

Esther C. Wunnicke
Commissioner

Attachment

cc: Members of the Senate

MEMORANDUM

State of Alaska

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE COMMISSIONER

TO: THE HONORABLE
BILL SHEFFIELD
GOVERNOR

DATE: January 13, 1984

SEND:

FROM: ESTHER WUNNICKE
Commissioner

JAN 24 1984
PHONE NO: 465-2400

SUBJECT: 1983 Suppression
Fund Report

As required by AS 41.15.240, I have attached the records of the Fire Suppression Fund use for calendar year 1983.

The 1983 fire season could be classed as moderate or average in the number of fires and acreage burned. There were 397 incident responses by the Division of Forestry and cooperative fire forces, of which 253 required fire suppression action. These 253 fires burned a total of 32,276 acres within the area protected by the State.

During the 1983 season, 95% of all fires that occurred within our protection area were controlled at less than 10 acres in size by aggressive and effective initial attack action. There were only 13 fires, or 5% that exceeded 10 acres in size. These 13 fires, however, accounted for 32,149.5 acres or 99% of the acreage burned and accounted for most of the suppression costs.

The lightning caused Munson Creek fire east of Fairbanks, was the largest of the year with a total burned area of 22,800 acres. Only limited suppression action was taken on this fire after initial attack failed to suppress the fire. The human caused Rosie Creek fire, which threatened the City of Fairbanks, was the most expensive fire of the year within our protection area with a total cost over 3 million dollars.

These two fires illustrate the need for and use of the Fire Suppression Fund. The Rosie Creek fire required an immediate and massive response by the State with manpower and equipment to control the fire, avoid destruction of property, prevent possible loss of human life and prevent further damage to forest resources. Much of this manpower and equipment was in excess of that maintained by regular operating funds and had to be acquired, without delay, through the Suppression Fund. The Munson Creek fire, on the other hand, did not require an immediate or massive buildup of fire suppression forces because there was no immediate threat to valuable property, resources or inhabitants. This fire did, however, require that the State monitor the fire, prevent the fire from moving into the Chena Hot Springs area and be prepared to mobilize additional forces if needed to keep the fire from other inhabited areas. The Fire Suppression Fund provided this capability.

Approval of three more fire plans during 1983, by all land management agencies involved, allowed the State to defer suppression action on several fires. Monitoring of these fires resulted in some expenditure from the Fire Suppression Fund but was much less than the cost would have been had full suppression action been taken. We believe this to be a judicious use of the fund.

The State provided direct fire protection for 58 million acres of State, private, native and Federal lands in 1983. In addition to this direct protection, the State paid the U.S. Bureau of Land Management to protect an additional 14.4 million acres of State-owned or tentatively approved lands under a Cooperative Agreement.

Costs incurred chargeable to the Fire Suppression Fund during CY83 amounted to \$6,463,938.17. Costs incurred by the U.S. BLM and Forest Service while taking fire suppression action for the State were not computed or billed in CY83 and will be paid in CY84. It is estimated that these bills will total in excess of \$3 million.

If you have any questions concerning the enclosed materials, please call my office.

cc: John L. Sturgeson, State Forester
Mary Halloran, Director

CY 1983 FIRE SUPPRESSION FUND

STATUS REPORT

Beginning Balance		
Balance, 12/31/82	97,417.72	
Restricted funds, 12/31/82	<u>7,803,720.61</u>	
Balance, 1/1/83		\$7,901,138.33
Receipts, 9/1/83(JV841361)		
		\$9,600,000.00
Budget Adjustments		
Restricted Funds, 12/31/83	4,500,000.00	
FY83 Balance, 12/31/83	2,909,122.36	
FY83 Balance Reduction, *12/31/83	<u>88,237.51</u>	
Net Budget Adjustments		<u>-7,497,359.87</u>
Net Available Balance		\$9,403,778.46
Expenditures		
1/1/83 to 6/30/83	\$4,903,778.46	
7/1/83 to 12/31/83	<u>1,560,159.71</u>	
Total CY83 Expenditures		<u>-6,463,938.17</u>
Balance Ending 12/31/83		\$2,939,840.29

* FY83 balance reduced by FY83 expenditures charged to FY84 authorization.

CURRENT YEAR AUTHORIZATION BALANCES

	AUTHORIZATION	FISCAL YEAR TO DATE 12/31/82 DISBURSEMENTS	TRANSFERS OUT	EXPENDITURES	RESTRICTIONS	BALANCE
NATURAL RESOURCES						
463 LUBE OILS & GREASE		479.76		479.76		
465 PARTS & SUPPLIES		828.05		828.05		
469 EQUI PARTS/SUPPLY HCE		2,119.69		2,119.69		
479 PROF/SCIENT SUPPL HCE		83.60		83.60		
484 PHOTOGRAPHIC SUPPLYS		63.77		63.77		
489 OFC/LIBRARY SUPS HCE		86.73		86.73		
494 FULL NONVEHICULAR		3,452.35		3,452.35		
499 OPRING SUPP/MATS HCE		370.91		370.91		
TOTAL SUPPLIES & MATERIALS	599,826.07	19,701.26		19,701.26		580,124.83
500 MACHINERY/EQUIPMENT	15,402.69					
559 OFFIC/HOUSEHOLD HCE		1,361.18		1,361.18		
559 SPECIAL EQUIPMENT HCE		2,640.53		2,640.53		
TOTAL MACHINERY/EQUIPMENT	15,402.69	4,001.71		4,001.71		11,400.98
FGPP TOTAL FIRE SUPP FUND 126 SUBPROGRAM	9,000,000.00	1,094,371.75	4,489.92	1,098,861.67	7,803,720.61	97,417.72
GROUP 000	2,106,803.35				7,802,720.61	9,909,523.55
GROUP 100	107,454.47	108,207.50		108,207.50		753.03
GROUP 200	38,467.69	205.24		205.24		38,262.45
GROUP 300	10,111,652.41	952,750.04	4,489.92	957,239.96	1,000.00	9,377,906.45
GROUP 400	599,826.09	19,701.26		19,701.26		580,124.83
GROUP 500	15,402.69	4,001.71		4,001.71		11,400.98
SPRG TOTAL FIRE SUPP FUND 126	9,000,000.00	1,094,371.75	4,489.92	1,098,861.67	7,803,720.61	97,417.72
10-45-9-004 DHR FLW MANAGEMENT CAP IMPROVE PRGMS 79 FIRE SUPPRESS BLD						
FUND 100 ACCOUNT 7200 BUDGET COMPONENT 06.45 09.03.00 PRIOR Y181 SPEC PROJ 79 FIRE SUPPRESS BLD						
300 CONTRACTUAL SERVICES	11,665.99					
369 EQUIPMENT RENTAL HCE		333.00		333.00		
389 PROFESSIONAL SVC HCE			593.56	593.56		
TOTAL CONTRACTUAL SERVICES	11,665.99	333.00	593.56	926.56		10,739.43
400 SUPPLIES & MATERIALS						
451 MASONRY MATERIALS		2,072.06		2,072.06		
452 LUMBER		2,236.35		2,236.35		
456 PLUMBING & ELECTRICAL		541.63		541.63		
459 STRUCT MATS/SUPP HCE		2,085.15		2,085.15		
499 OPRING SUPP/MATS HCE		5.70		5.70		
TOTAL SUPPLIES & MATERIALS		6,960.90		6,960.90		6,960.90
FGPP TOTAL 79 FIRE SUPPRESS BLD ELEMENT	11,665.99	7,293.90	593.56	7,887.46		3,778.53
GROUP 300	11,665.99	333.00	593.56	926.56		10,739.43
GROUP 400		6,960.90		6,960.90		6,960.90
ELEM TOTAL 79 FIRE SUPPRESS BLD	11,665.99	7,293.90	593.56	7,887.46		3,778.53

signature *10/1/83*

STATE DISTRIBUTION VOUCHER

12 949 (7/82)

USED FOR (CIRCLE ONE ONLY)

AV JV OTHER TA NB

FILE NO. 15-36

LIMIT DESCRIPTION TO 24 CHARACTERS ADDITIONAL EXPLANATION SHOULD BE ENTERED BELOW TRANSACTION AS NEEDED

HW

AGENCY ACCOUNT NO.

DATE PREPARED

10-84-0050

8/3/83

DESCRIPTION	REFERENCE	FUND CODE	DEPT	PRO GRAM	PR	ACCOUNT	OBJECT RECEIPT	ACTIVITY	PROJECT LEDGER	AMOUNT
FS 10-84-0050		110	10	457		001	100			2,410,000.00
~		~	~	~	~	~	200			135,000.00
~		~	~	~	~	~	300			5,830,000.00
~		~	~	~	~	~	400			605,000.00
~		~	~	~	~	~	500			20,000.00
~		~	~	~	~	~	010			610,000.00
~		~	~	~	~	~	020			110,000.00
~		~	~	~	~	~	030			3,530,000.00
~		~	~	~	~	~	040			235,000.00
~		~	~	~	~	~	050			15,000.00

changed to 120
2/20/83

Reference: AS 41.15.210
Fire Suppression Fund 126

To establish FY84 with restriction of \$7,000,000.00
and place a restriction of \$4,500,000.00
leaving an unrestricted with restriction of \$4,500,000
available for projected expenditures for the period
7/1/83 through 9/30/83.

MM 7/2
1/23

THIS VOUCHER IS VALID ONLY IF THE FUNDS HEREIN OR AN SUBORDINATE DOCUMENT NUMBERED HEREIN CONSTITUTE A LEGAL OBLIGATION AND THE APPROPRIATIONS CITED ARE SUFFICIENT AND AVAILABLE TO BE USED IN THE DISBURSEMENT OF THEREOF TO THE EXTENT OF THE UNENCUMBERED BALANCE IN THE APPROPRIATION ACCOUNT AT THE DATE OF THIS VOUCHER

DOCUMENT TOTAL → \$ 5,500,000.00

DATE ENTERED: SEP 06 1983
CHECK NUMBER: 841352

CERTIFYING OFFICER
AV - Adjustment Voucher JV - Journal Voucher OTHER - PO DU

431 STATIONERY & SUPPLIES		1,275.19	1,275.19		
432 EDUCATIONAL TRAINING		95.66	95.66		
434 PHOTOGRAPHIC SUPPLIES		275.98	275.98		49.40 ADJ
435 DUPLICATION SUPPLIES		756.26	756.26		
439 OFFICE/STATION SUPPLIES		52,473.40	52,473.40		576.14 ADJ
451 AMMUNITION		35.50	35.50		
459 FUEL MONUMENTAL		91,993.90	91,993.90		1,352.80 ADJ
455 MINOR TOOLS/EQUIPMENT		1,055.61	1,055.61		
499 OTHER SUPPLIES NCE		12,430.64	12,430.64		2,206.23 ADJ
PRIOR YEAR 6/30/83	604,826.09	164,565.81	164,565.81		440,260.28
CURRENT YEAR 12/31/83		291,792.23	291,792.23		312,644.78-ADJ
TOTAL SUPPLIES & MATERIALS	604,826.09	456,358.09	456,358.09		127,615.50 ADJ
500 MACHINERY/EQUIPMENT	22,402.69				
521 COMMUNICATIONS		1,763.74	1,763.74		
559 OFFICE/HOUSEHOLD NCE		1,361.18	1,361.18		

NATURAL RESOURCES	AUTHORIZATION	AUTHORIZATION BALANCES		EXPENDITURES	RESTRICTIONS	BALANCE
		PERIOD 7/01/82	THRU 12/31/83			
551 LAW ENFORCEMENT		234.00		234.00		
559 SPECIAL EQUIPMENT NCE		3,025.68		3,025.58		
559 MACHINERY/EQUIPT NCE		339.00		339.00		
PRIOR YEAR 6/30/83	22,402.69	6,170.86		6,170.86		16,231.83
CURRENT YEAR 12/31/83		552.74		552.74		552.74-
TOTAL MACHINERY/EQUIPMENT	22,402.69	6,723.60		6,723.60		15,679.09
SUBF TOTAL FIRE SUPP FUND 126	1,000,000.00	5,975,410.61	27,229.52	6,002,640.13		2,909,122.56 ADJ
SLFF PROGRAM						
GROUP 100	2,410,154.47	2,155,619.37		2,155,619.07		254,535.40
GROUP 200	134,187.69	8,701.17		8,701.17		124,973.55 ADJ
GROUP 300	5,928,429.05	3,348,008.65	27,229.52	3,375,238.20		2,386,319.02 ADJ
GROUP 400	404,826.09	456,358.09		456,358.09		127,615.50 ADJ
GROUP 500	22,402.69	6,723.60		6,723.60		15,679.09
PRIOR YEAR 6/30/83	9,000,000.00	3,679,293.31	18,691.13	3,698,584.44	800.00	5,300,615.56
CURRENT YEAR 12/31/83		2,295,517.30	8,538.39	2,304,055.69	800.00-	2,391,493.00-ADJ
SUBF TOTAL FIRE SUPP FUND 126	9,000,000.00	5,975,410.61	27,229.52	6,002,640.13		2,909,122.56 ADJ

10-45-9-004 LNK FM MANAGEMENT CIP/SPECIAL PROJECTS		79 FIRE SUPPRESS BLD	
FUND 100 ACCOUNT 7200	BUDGET COMPONENT 04.45.09.03.00	PRIOR FY81	SPEC PROJ 79 FIRE SUPPRESS BLD
352 CONTRACTUAL SERVICES	11,665.99		
359 EQUIPMENT RENTAL NCE		482.00	482.00
359 PROFESSIONAL SVC NCE		2,409.00	593.56
359 CONTRACTUAL FEES NCE		1,927.00	3,002.56
PRIOR YEAR 6/30/83	11,665.99	2,409.00	593.56
TOTAL CONTRACTUAL SERVICES	11,665.99	2,409.00	3,002.56
400 SUPPLIES & MATERIALS			
429 OSHLD/INSTITUTIAL NCE		52.66	52.66
451 MASONRY MATERIALS		2,092.06	2,092.06
452 LUMBER		2,307.67	2,307.67
453 SIGNS PRNRS & PRESER		46.36	46.36
455 PLUMBING & ELECTRICAL		1,297.15	1,297.15
459 STRUCT MATS/SUPP NCE		2,861.83	2,861.83
499 OTHER SUPP/MATS NCE		5.70	5.70
PRIOR YEAR 6/30/83		8,663.43	8,663.43
TOTAL SUPPLIES & MATERIALS		8,663.43	8,663.43
SUBF TOTAL 79 FIRE SUPPRESS BLD	11,665.99	11,072.43	593.56
ELEMENT			
GROUP 300	11,665.99	2,409.00	593.56
GROUP 400		8,663.43	3,002.56
PRIOR YEAR 6/30/83	11,665.99	11,072.43	593.56
ELEM TOTAL 79 FIRE SUPPRESS BLD	11,665.99	11,072.43	593.56

* 82909 122.56
 88,237.31
 8,197,359.87

agreement.

2. What is the cooperative agreement between the State and the Federal Government? How does that affect our fiscal impact? How will the bill change the program that exists now?

ANSW: The state agreement is primarily with BLM. Since the state selections are scattered throughout, in any given "unit" there is a mix of ownership. To eliminate duplication of manpower and expenses, the state and Fed. Gov't. literally draw lines on maps and divvy up protection responsibilities. The State will agree to protect a 30 million parcel here, regardless of ownership, and the Feds will take care of 40 million there, regardless of ownership.

Currently, BLM protects more state land than we protect federal land. For preparedness (not suppression, which involves manpower), the state pays BLM 5¢ - 6¢ an acre. There are areas in the state that the State would like to assume more acreage on, such as the McGrath/Bristol Bay area. If they assumed control over the 70 million acres there, it would be cheaper to the state since fires occur frequently there and are in categories 1 or 2. It's expensive for us to pay the feds to protect land we have the capabilities to handle.

"Costs incurred chargeable to the Fire Suppression Fund during CY 83 amounted to \$6,463,938.17. Costs incurred by BLM and the USFS while taking fire suppression action for the State were not computed or billed in CY83 and will be paid in CY84. It is estimated that these bills will total in excess of \$3 million." This is an excerpt of Comm. Wunnicke's memo to the Governor supporting the need for a Fire Suppression Fund. Memo is in the bill file.

NOTE: Elmer is going to express mail 10 copies of a question/answer booklet published by DNR which explains the reasons for the bill and gives some historical perspective for us and the committee members.

MEMORANDUM

TO: Sandra
FM: Edie
RE: SB 366 - fire protection
DT: February 29, 1984

~~The following lists questions with answers and other pertinent comments about SB 366 which was~~ provided to me by ELMER HURD, Assistant State Forester, Division of Forestry, DNR. 265-4477

The bill will accomplish two things:

1) Will give the Commissioner of DNR the authority to work out cooperative agreements with each municipality that has tax-supported fire areas. Presently, the state is establishing Mutual Aid agreements with Municipal Fire Departments. Each agreement is unique in that the state and the municipal fire departments determine together what the capabilities of a fire department ~~is~~ for its area. Based on this capability determination, they come up with a cooperative agreement otherwise known as a Mutual Aid agreement. This is the only way the State can determine exactly what the capabilities of these fire departments are - by physically going to the location of the department, evaluating the equipment and manpower, the area they serve, the roads they have access to, etc. Without the signed agreement and the cooperation of the fire department, the State has no guarantee that a fire department will respond to a fire they can access, so they must be there regardless of the fire dept's capabilities.

2) Will provide the Department the authority to use the Fire Management Council's protection categories. The Alaska Land Use Council in 1980 organized the Alaska Fire Management Council (AFMC). The AFMC is composed of representatives from the state, feds, Native Corps, and villages for the purpose of identifying "protection categories" for each "management unit" in the State. There are 13 management units, five of which have been categorized and signed by the Council.

The following identifies the categories:

- 1 - CRITICAL - involving life and property
- 2 - HIGH VALUE - involving valuable natural resources such as timber and/or a critical wildlife habitat.
- 3- MODIFIED SUPPRESSION - resource value does not merit considerable commitment in firefighters or suppression equipment but does require a "central line cut" at a river.
- 4- LIMITED SUPPRESSION - no suppression, in some cases beneficial for burn, monitored.

**Guidelines for determining resource value commensurate with risk would come from these categories. Until the state categorizes all land (AFMC) and has cooperative agreements with all municipalities, it is obligated to provide category 1 protection in management units which have not been categorized and signed by the AFMC.

bill - not protect fed land.

ANSWERS TO POSSIBLE QUESTIONS:

1. 30,000 hours? Hasn't it been enough in the past? What is the fiscal impact?

ANSW: The 30,000 man hours was established in 1976 when the state had title to only 30,000 acres of land. 30,000 man hours is equivalent to 8 days of a full fire force. The fire at Rosie Creek in Fairbanks totaled over 30,000 man hours.

The State currently has title or transfer on patent to 76 million acres. They're entitled to 104 million for state and will be responsible for the 2 additional million for the native corporations. Presently they are protecting approximately 67 to 68 million acres.

See question 2 for answers to cost and the fed/state cooperative agreement.

2. What is the cooperative agreement between the State and the Federal Government? How does that affect our fiscal impact? How will the bill change the program that exists now?

ANSW: The state agreement is primarily with BLM. Since the state selections are scattered throughout, in any given "unit" there is a mix of ownership. To eliminate duplication of manpower and expenses, the state and Fed. Gov't. literally draw lines on maps and divvy up protection responsibilities. The State will agree to protect a 30 million parcel here, regardless of ownership, and the Feds will take care of 40 million there, regardless of ownership.

Currently, BLM protects more state land than we protect federal land. For preparedness (not suppression, which involves manpower), the state pays BLM 5¢ - 6¢ an acre. There are areas in the state that the State would like to assume more acreage on, such as the McGrath/Bristol Bay area. If they assumed control over the 70 million acres there, it would be cheaper to the state since fires occur frequently there and are in categories 1 or 2. It's expensive for us to pay the feds to protect land we have the capabilities to handle.

"Costs incurred chargeable to the Fire Suppression Fund during CY 83 amounted to \$6,463,938.17. Costs incurred by BLM and the USFS while taking fire suppression action for the State were not computed or billed in CY83 and will be paid in CY84. It is estimated that these bills will total in excess of \$3 million." This is an excerpt of Comm. Wunnicke's memo to the Governor supporting the need for a Fire Suppression Fund. Memo is in the bill file.

NOTE: Elmer is going to express mail 10 copies of a question/answer booklet published by DNR which explains the reasons for the bill and gives some historical perspective for us and the committee members.

Sturgeon 1-18-84

Fire Suppression

1976 - state suppression of fires began.

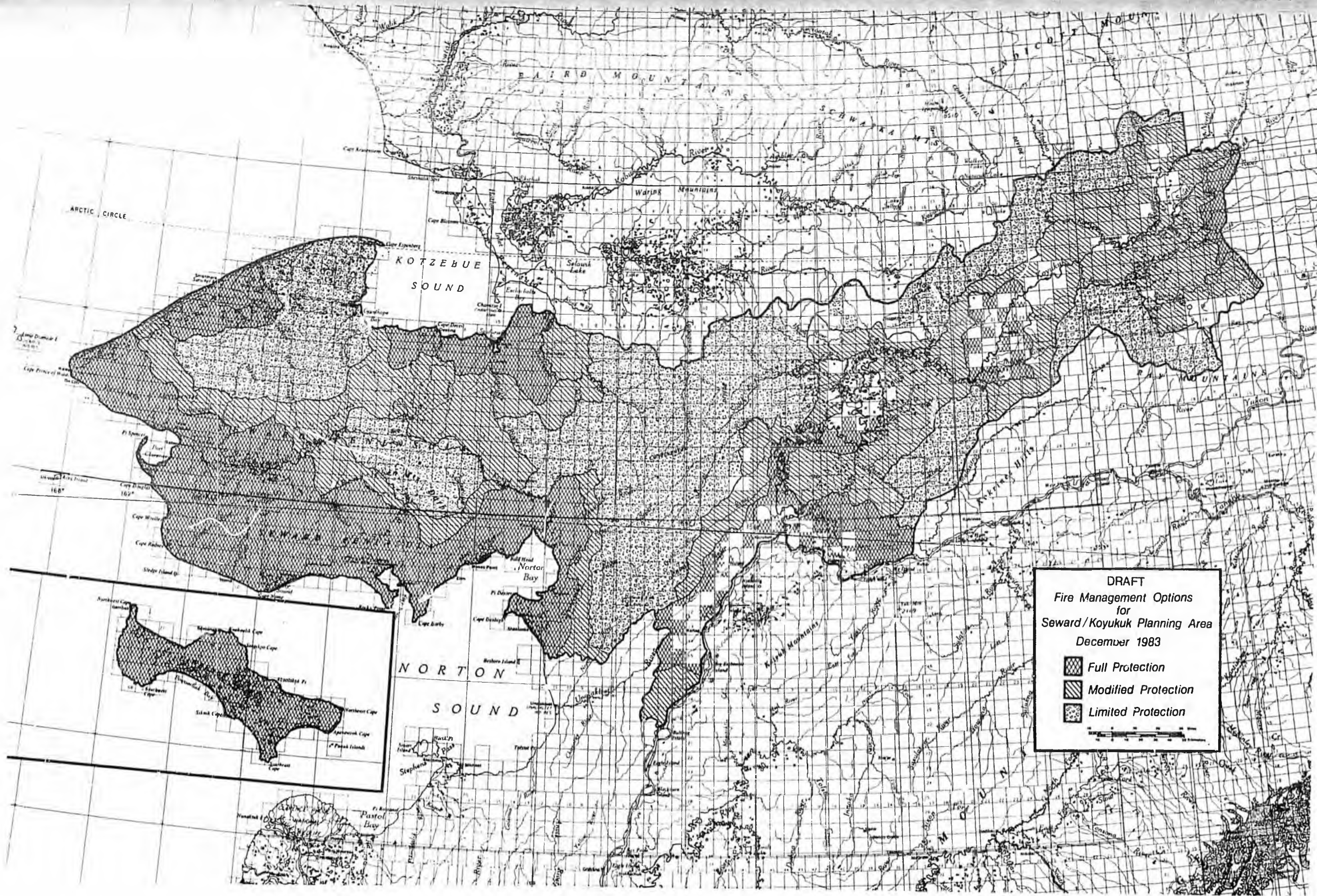
Now protecting 78 million acres.

(Have taken over from BLM in stages -
have a cooperative agreement w/ BLM -
state is split between the 2.)


5% ~~more~~ of fires have reached
project size & have comprised 90%
of suppression cost, so need strong
initial attack.

Developing fire plan:

critical	human life & property at risk Full response until suppressed.
full	high value resource. full response until suppressed unless needed on "critical."
modified	option to allow acres burn in trade for suppression cost
limited	lot burn. Resource value at risk is low.



DRAFT
Fire Management Options
for
Seward/Koyukuk Planning Area
December 1983

-  Full Protection
-  Modified Protection
-  Limited Protection



Alaska State Legislature

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



POUCH V
STATE CAPITAL
J'NEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

MINUTES

March 5, 1984
3:11 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice Chair
Senator Eliason
Senator Mulcahy
Senator Sturgulewski

CALENDAR

SB 278, An Act establishing a waterfowl conservation stamp.
SB 366, An Act relating to protection of forested land.
SJR 31, Relating to the capture of orcas in Alaska waters.

SB 278

Senator Rodey, sponsor of the bill, explained that proceeds from the sale of stamps would be used for the conservation and enhancement of waterfowl and said the bill has the support of conservation and sport hunting groups. He supported the Committee Substitute, as it clears up any questions over dedication of funds.

Dan Timm, Regional Management Coordinator, Game Division, and Tom Rothe, Waterfowl Coordinator, Game Division, Alaska Department of Fish and Game, testified in support of the Committee Substitute, which would make the purchase of the stamps mandatory and specify that the stamp would not be required of hunters until September 1, 1985. They answered questions from members of the committee regarding the Department's administrative costs, the process of requesting proposals for design and publishing of stamps, and how the Department plans to use the revenues generated.

Jay Nelson, Executive Director, Alaska Environmental Lobby, spoke in support of the Committee Substitute, and urged the state to become more actively involved in waterfowl management.

Ron Sommerville, Alaska Outdoor Council, testified in support of the Committee Substitute.

Jim King spoke in support of the bill, urging the state to take more control over the management of its waterfowl.

Senator Sturgulewski moved to adopt the Committee Substitute. There was no objection.

Senator Mulcahy moved CS SB 278 with individual recommendations. There was no objection.

SB 366

John Sturgeon, State Forester, Department of Natural Resources, testified in support of the bill, explaining that transferring responsibility for firefighting to local service areas would remove the duplication of effort by the state and municipalities.

Ginny Chitwood, Alaska Municipal League, testified in opposition to those sections of the bill that would give municipalities primary responsibility for fire suppression within service areas, expressing concern over municipalities' capabilities and the costs they would incur.

Senator Fahrenkamp asked that Sturgeon and Chitwood work with Committee staff to prepare a Committee Substitute that would address the needs and concerns of both the state and the municipalities.

SJP 31

Senator Vic Fischer spoke in support of the Committee Substitute and moved it be adopted and moved from Committee with individual recommendations. There was no objection.

The meeting adjourned at 4:27 pm.

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) 465-3834
(907) 465-3835

Senate

Committee on Resources

MINUTES

March 26, 1984
3:04 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice Chairman
Senator Eliason
Senator Paul Fischer
Senator Vic Fischer
Senator Mulcahy
Senator Sturgulewski

CALENDAR

SB 366, An Act relating to protection of forested land.

SB 480, An Act relating to the establishment of certain commodity marketing commissions.

SB 461, An Act relating to the management and use of water in mining; and providing for an effective date.

SB 462, An Act making a special appropriation to the Mining Water Use Board for loans and grants concerned with the management and use of water in mining; and providing for an effective date.

SB 366

Sandra Schubert, Aide to Senator Fahrenkamp, explained that the Committee Substitute leaves fire suppression responsibility with the State, and clarifies which lands the State must protect and how much protection must be provided.

Senator Mulcahy moved to adopt the Committee Substitute for SB 366. There was no objection.

Carole Wilson, Special Assistant to the Commissioner of the Department of Natural Resources, testified that the Department supported the Committee Substitute.

Senator Sturgulewski moved CS SB 366 from committee with individual recommendations. There was no objection.

SB 480

Richard Ramsey, Aide to Senator Kerttula, explained that commodity marketing commissions, common in the lower 48, are intended to function as self-help institutions to further agricultural potential through marketing research, education, and promotion.

Sharon Barton, Special Assistant to the Commissioner of the Department of Natural Resources, testified that the Department supported the bill as an important step for Alaskan farmers. The Department would be involved in the organization of the commissions but not in their ongoing operations. She proposed an amendment that would clarify that DNR would perform "shell egg" inspections.

Senator Mulcahy moved to adopt DNR's proposed amendment and to move CS SB 480 from Committee. There was no objection.

SB 461

SB 462

Jim Palmer, Aide to Senator Fahrenkamp, explained that these bills would set up a program for researching the problems of placer mining and the pollution of streams. He spoke in support of the Department of Natural Resources' proposed amendments.

Pedro Denton, Division of Mining, Department of Natural Resources, spoke in support of the bill as the programs will provide a source of needed information for making management decisions. He offered specific amendments to clarify the intent of the bill.

Senator Vic Fischer suggested language be added to the Committee Substitute that would clarify that the intent of the innovative gold recovery grant program is to reduce water usage and pollution.

Randy Bayliss, Water Quality Section, Department of Environmental Conservation spoke in support of the bills urging the development of new methods and procedures for gold recovery as the best long range solution to placer mining problems.

Phil Holdsworth, Alaska Miners Association, spoke in support of the bills, and the need for more data from miners on new recovery techniques.

Senator Ziegler moved to adopt the added language suggested by Senator Vic Fischer. There was no objection.

Senator Sturgulewski moved to adopt the amendments proposed by the Department of Natural Resources. There was no objection.

Senator Ziegler moved CS SB 461 and SB 462 from Committee with individual recommendations. There was no objection.

The meeting adjourned at 4:04 pm.

Chapter 15. Forests.

Article

- 1. Protection of Forested Land (§§ 41.15.010 — 41.15.170)
- 2. Forest Reserve Fund (§ 41.15.180)
- 3. Fire Suppression Fund (§§ 41.15.200 — 41.15.240)
- 4. Haines State Forest Resource Management Area (§§ 41.15.300 — 41.15.330)
- 5. Miscellaneous Provisions (§ 41.15.900)
- 6. General Provisions (§ 41.15.950)

Article 1. Protection of Forested Land.

Section

- 10. Intent
- 20. Regulations
- 30. Contracts for forest protection
- 40. Right of entry to control and suppress fires
- 50. Fire season
- 60. Permits
- 70. Disposal of burning materials
- 80. Equipment and notice required
- 90. Building or leaving fires

Section

- 100. Setting fires without consent
- 110. Uncontrolled spread of fire; leaving fire unattended
- 120. Failure to assist in preventing or suppressing fires
- 130. Backfires excluded
- 140. Penalty for misdemeanor
- 150. Malicious or wanton setting of fires
- 160. Double damages in civil actions
- 170. Definitions

Collateral references. — 52 Am. Jur. 2d, Logs and Timber, §§ 64 — 65; 63 Am. Jur. 2d, Public Lands, § 18.
98 C.J.S., Woods and Forests, § 1 et seq.
Constitutionality of reforestation or forest conservation legislation, 13 ALR2d 1095.
Constitutionality of fire prevention provisions of forest conservation legislation, 13 ALR2d 1129.

Liability for spread of fire purposely and lawfully kindled, 24 ALR2d 241.
Res ipsa loquitur in actions against owner or occupant of premises for personal injury, death, or property damage caused by fire, 8 ALR3d 974.
Measure of damages for destruction of or injury to fruit, nut, or other productive trees, 90 ALR3d 800.

Sec. 41.15.010. Intent. It is the intent of AS 41.15.010 — 41.15.170 to provide protection for the timber resources and watersheds on all land in the state. (§ 1 ch 138 SLA 1961)

Sec. 41.15.020. Regulations. The commissioner shall, by regulation, make provision for the protection of forested land in the state from fire and other destructive agents. (§ 2 ch 138 SLA 1961)

Sec. 41.15.030. Contracts for forest protection. (a) The commissioner may enter into necessary protection contracts.

(b) The commissioner may hire emergency fire-fighting personnel up to a total of 30,000 man-hours each year, and shall establish classifications and rates of pay for the emergency fire-fighting personnel consistent with the compensation paid by other fire-fighting agencies. The

commissioner may adjust the classifications and rates based on findings of the federal Bureau of Land Management for Alaska. (§ 2 ch 138 SLA 1961; am § 1 ch 100 SLA 1976)

Sec. 41.15.040. Right of entry to control and suppress fires. Upon approval by the commissioner or an authorized agent, employees of the division of lands, or of any organization authorized to prevent, control or suppress fires or destructive agents, and others assisting in the control or suppression of fires upon request of an officer or employee of the United States or the state may at any time enter upon any land, whether publicly or privately owned, for the purpose of preventing, suppressing or controlling forest fires and destructive agents. (§ 2 ch 138 SLA 1961)

Collateral references. — 22 Am. Jur., 2d Fires, § 2.
Constitutionality of fire prevention provisions of forest conservation legislation, 13 ALR2d 1129.

Sec. 41.15.050. Fire season. The period from May 1 to September 30, inclusive, of each year is designated the fire season. The commissioner may designate other periods as fire season. The commissioner may proclaim an additional period for all or any portion of the state when weather or other conditions require action for the protection of forested land. The commissioner may also, during the fire season, prohibit, or allow only by permit, the setting of fires, smoking, entry or other use on the land, when, in the judgment of the commissioner, the activities would unduly increase the fire danger. (§ 3 ch 138 SLA 1961; am § 1 ch 27 SLA 1973)

Sec. 41.15.060. Permits. The commissioner shall, by regulation, prescribe the conditions of and the manner for obtaining a permit. Failure to obtain the required permit, or violation of a condition of the permit is a misdemeanor. (§ 3 ch 138 SLA 1961; am § 1 ch 179 SLA 1970)

Sec. 41.15.070. Disposal of burning materials. A person who, during the fire season, throws away lighted tobacco, cigar, cigarette, match, firecracker or other burning material on forested land, whether public or private, is guilty of a misdemeanor. (§ 4 ch 138 SLA 1961)

Sec. 41.15.080. Equipment and notice required. Every conveyance operated through or above forested land shall be equipped at all times in each compartment with a suitable receptacle for the disposition or reception of burning material mentioned in AS 41.15.070. Every owner or operator of a public conveyance operated through or above forested land shall post and keep displayed at all times a copy of AS 41.15.050 — 41.15.080 and 41.15.140 in a conspicuous place within the smoking compartment of the conveyance. Every person owning or



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 20, 1984

The Honorable Jalmar Kerttula
President of the Senate
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the protection of forested land. This bill clarifies the extent of the state's duty to protect forested land, and removes the limitation on the number of man-hours of emergency fire-fighting service that the Department of Natural Resources may use each year.

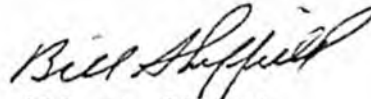
AS 41.15.010 currently provides that "[i]t is the intent of AS 41.15.010 -- 41.15.170 to provide protection for the timber resources and watersheds on all land in the state." The bill first clarifies that the protection provided by the state is to be commensurate with the value of the resources at risk. The state is not obligated to provide more protection to forested land than is reasonable, based on the value of the resources at risk.

This bill next clarifies that the state need not protect all forested land located within the state, but only state land (as defined in AS 38.05.365(16)) or land owned privately or by a municipality. The U.S. Departments of Agriculture, Interior, and Defense are obligated to protect federal land located within the state, and there is no reason for the state to provide duplicate protection.

This bill also clarifies that the primary responsibility for suppressing fires on forested land located within a tax-supported fire service area rests with the municipality in which that service area is located. The state's duty with regard to fires in these areas is to provide assistance to the municipality if the fire exceeds its capabilities.

Finally, this bill removes the limitation placed on the number of man-hours of emergency fire-fighting service that may be used each year by the Department of Natural Resources. In an average or worse-than-average year, the state cannot adequately suppress forest fires occurring in the areas for which it is responsible using only the 30,000 man-hours permitted by AS 41.15.030.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
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Senate

Committee on Resources

March 21, 1984

On Friday, March 23 at 3:00 pm in the Beltz Room, the Senate Resources Committee will hear the following bills:

SB 366 AN ACT RELATING TO PROTECTION OF FORESTED LAND.

This bill received a preliminary hearing by the Resources Committee on March 5, 1984. As originally drafted, the bill would have placed the primary responsibility for suppressing fires on forested land located within a tax-supported fire service area on the municipality. Concern over this provision was expressed by the Alaska Municipal League at the committee hearing. The attached Committee Substitute is the result of meetings between the Department, the Municipal League, the local Fire Chiefs Association, and Committee staff.

1. Fire suppression responsibility remains with the State.
2. Clarifies that the State need not protect all land in the state, but only land that is owned privately, by the state, or by a municipality.
3. Clarifies that the protection provided by the State is to be commensurate with the value of the resources at risk.

SB 480 AN ACT RELATING TO THE ESTABLISHMENT OF CERTAIN COMMODITY MARKETING COMMISSIONS.

SB 480 would authorize the Commissioner of the Department of Natural Resources to assist in the establishment of commodity marketing associations and make matching grants to these associations. Through an assessment collected from commodity producers and matching funds, the commission could further the market development potential for products through education, research, and promotion. DNR has designated \$10,000 in its FY 85 budget for matching funds to commodity commissions.

The Department will propose an amendment to the bill (copy attached) to clarify its inspection authority over shell eggs.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
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(907) 465-3834
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Senate

Committee on Resources

MEMORANDUM

TO: Senate Resources Committee Members

FROM: Senate Resources Committee Staff

RE: Committee Meeting, March 5, 1984

DATE: March 1, 1984

On Monday, March 5, at 3:00 pm in the Beltz Room, the following bills will be heard:

SB 278, An Act establishing a waterfowl conservation stamp.

SB 278 amends the Fish and Game fund to include money received from the sale of waterfowl conservation stamps. Proceeds from the sale of stamps would be used for the conservation and enhancement of waterfowl and the administration of the stamp program.

The Alaska Department of Fish and Game will be proposing amendments to the bill to:

- 1) Make the purchase of the stamp mandatory for waterfowl hunters, and establish a \$5.00 purchase price. (The State's current license fee is \$12.00, with an additional mandatory federal stamp fee of \$7.50.)
- 2) Give the Department the authority to sell art prints made from the stamps.
- 3) Specify that the stamp would not be required of hunters until September 1, 1984.

The Department anticipates \$100,000-\$300,000 in revenues from the program, with 25% of these revenues derived from the sale of stamps to hunters, the rest from sale to stamp collectors.

SB 366, An Act relating to protection of forested land.

AS 41.15.010 currently provides that "it is the intent to provide protection for the timber resources and watersheds on all land in the state". SB 366:

1) clarifies that the state need not protect all forested land located within the state, but only land that is owned privately, by the state, or by a municipality.

2) clarifies that the primary responsibility for suppressing fires on forested land located within a tax-supported fire service area rests with the municipality in which that service area is located. The state's duty with regard to fires in these areas would be to provide assistance to the municipality if the fire exceeds the municipality's capabilities.

Presently, the state is establishing Mutual Aid agreements with Municipal Fire Departments. The state and the municipal fire department determine together what the capabilities of a fire department are, based on an evaluation of equipment and manpower, the area served, access roads, etc.

3) clarifies that the protection provided by the state is to be commensurate with the value of the resources at risk. The Alaska Land Use Council in 1980 organized the Alaska Fire Management Council (AFMC), composed of representatives from the state, federal, Native Corporations, and villages for the purpose of identifying "protection categories" for each "management unit" in the state. There are 13 management units, five of which have been categorized and signed by the Council.

The following identifies the categories:

- 1) Critical - involving life and property.
- 2) High Value - involving valuable natural resources such as timber and/or critical wildlife habitat.
- 3) Modified Suppression - resource value does not merit considerable commitment in firefighters or suppression equipment.
- 4) Limited Suppression - no suppression, in some cases beneficial for burn, monitored.

The state's guidelines for determining resource value commensurate with risk would come from these categories.

4) removes the limitation placed on the number of man-hours of emergency firefighting service that may be used each year by the Department of Natural Resources. The 30,000 man-hour limit was established in 1976 when the state had title to only 30,000 acres of land. 30,000 man-hours is equivalent to 8 days of a full fire force. The Rosie Creek fire in Fairbanks in the spring of 1983 totaled over 30,000 man-hours. The State is currently protecting approximately 67 million acres. 30 million

SJR 31, Relating to the capture of orcas in Alaska waters.

The attached Committee Substitute requests that the Department of Fish and Game require any holder of a permit to conduct orca capturing activities in state waters to:

- 1) annually submit results of ongoing population studies
- 2) conduct research recommended by the University of Alaska and the Alaska Department of Fish and Game
- 3) abide by capture conditions set by the Department
- 4) station Alaska Department of Fish and Game observers aboard capture vessels, and reimburse the state for any expense incurred in placing these observers

The Resolution also requests that the Governor assure that public hearings are held in Alaska prior to issuance of any future permits for the capture of orcas.

S

B

369

SENATE RESOURCES COMMITTEE
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: *SB 369*
BILL NAME: *planning; designing; constr. of agricultural and forestry facilities*
SPONSOR(S): *Kerthula* RELATED BILLS PENDING:
DATE INTRODUCED: *1-23-84*
REFERRALS: *Transportation*

INITIAL RESEARCH:

BILL SUMMARY COMPLETED: SUMMARY BY LEGAL DIVISION:
SPONSOR CONTACTED FOR DEPT. OF LAW SUMMARY:
BACKUP MATERIALS: FISCAL NOTE:
AGENCY RESPONSE: OTHER INTERESTED SENATORS OR REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:
RESPONSES FROM INTERESTED PERSONS/GROUPS:
OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED: DATE AND PLACE SET:
STAFF MEMO TO COMMITTEE: TELECONFERENCE:
BACKGROUND MATERIAL DISTRIBUTED: PSA/PRESS RELEASE:
LIST OF WITNESSES: SUGGESTED AMENDMENTS/COMMITTEE SUBSTITUTES DRAFTED:

Dean Brown, Div. Ag.
Kerthula - sponsor
Sharon Barton - DNR
John Sturgeon - Div. Forestry

M E M O R A N D U M

TO: Sandra
FM: Edie
RE: SB 309 - PLANNING, DESIGNING, CONSTRUCTION OF AG. & FOREST FACILITIES BY DNR
DT: 3/28/84

The Divisions of Forestry and Agriculture often require simple facilities to be constructed such as a warehouse to store fire-fighting equipment (Forestry) or a greenhouse for the Plant Materials Center (Agriculture). DOT has the responsibility to provide the planning, design, and construction for all facilities, regardless of size, complexity, and cost. There are a number of examples I could provide you with which demonstrate how a \$100,000 appropriation for a warehouse either (1) turns into a request for an additional \$300,000 to complete the warehouse or (2) never gets spent for the appropriate purpose because DOT, without malice intended, overdesigns certain facilities and by doing so escalates the cost of a facility to a point where its cost does not justify its means. Additionally, there is a consideration of time, ie, a warehouse that can be constructed in two weeks takes either four months or is put off till the next season because of a backlog at DOT.

As the bill is presently written, it would allow DNR to design, plan, and construct all of their own facilities. Neither DNR nor DOT want to get crossways with each other over this bill and both agencies recognize the problems as they exist. Today, DOT and DNR are getting together to work on a couple of changes to the bill which would satisfy both agencies without usurping anyone's authority. The proposed changes, which Sharon Barton says will be available to us no later than 10:00am Thursday, are:

- 1) Eliminate the word "research" in sections 2 and 3 to allow forestry to construct their own warehouses.
- 2) Establish limitations on DNR with respect to the size and cost of facilities that they can design, construct, and plan for themselves.
- 3) Add a concurrence requirement between the two agencies for facilities with which DOT is responsible [not including those in (2)].

Sharon will have a fiscal note to us today. It is zero. She said basically the Commissioner wants to support the bill, but only if it can be redone in a way that does not aggravate the relationship between agencies. Sharon, as well as the other people I spoke with, (see below) all agree that the divisions want to be able to design and construct very simple structures - no more, no less.

My conversation with Sharon regarding the meeting DNR is having with DOT today was confirmed by Susan Fleischhauer, Administrative Assistant, DOT. She is hoping that we'll get a letter of proposed changes to the bill this evening signed by both DOT and DNR. At this point, she does not know who from DOT is working with Sharon on the bill, nor does she know who will be representing DOT at Friday's meeting. However, she'll let us know ASAP.

PEOPLE I CONTACTED:

- Paula Ramsey, Special Assistant, DOT
3900
- Susan Fleischhauer, Administrative Assistant, DOT
3900
- Bill Heim, Director, Division of Agriculture, DNR
745-7200
- Bob Parkerson, Director, Plants Material Center, DNR
745-4119
- John Sturgeon, Director, Division of Forestry, DNR
276-2653
- Sharon Barton, Special Assistant, DNR
2400

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 3/23

REQUEST FISCAL DETAIL
 Bill/Resolution No.: SB 369 Agency Affected: Natural Resources
 Title: design and construction of aqu and forestry facilities Program Category Affected: Agriculture and Forestry
 Sponsor: Kerttula BRU, Program or Subprogram(s) Affected:
 Requestor: Agriculture Management
 Date of Request: Forestry Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Sharon L. Barton Phone: 465-2400
 Division: Commissioner's Office Date: 3-31-84

MK Approved by Commissioner: William D. Armstrong Deputy Date: 3-31-84
 Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
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STATE CAPITAL
JUNEAU, ALASKA 99811
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Senate

Committee on Resources

MINUTES

March 30, 1984
3:55 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice Chairman
Senator Paul Fischer
Senator Mulcahy
Senator Sturgulewski

CALENDAR

SB 225, Creating the Matanuska Valley Moose Range.

2dSSSB 45, Establishing an agricultural land sale payment moratorium.

SB 369, An Act relating to the planning, designing, and construction of agriculture and forestry facilities by the Department of Natural Resources.

SCR 42, Relating to sport fishing of salmon and underutilized species.

SB 225

Ned Farquhar, Special Assistant to the Commissioner of the Department of Natural Resources, testified in support of the Committee Substitute, and proposed an amendment that would clarify that coal and mineral entry and development would be allowed within the Range.

Deborah Heidecker, Aide to Senator Kerttula, explained that the Committee Substitute, a result of negotiations with the Department of Natural Resources and the Department of Fish and Game, contains specifics on management responsibility, multiple use definitions, and boundaries.

Senator Kerttula explained why the proposed Chickaloon Bench subdivision should remain within the Moose Range and not be disposed.

John Clark, Habitat Division, Department of Fish and Game, spoke in support of the Committee Substitute.

Senator Mulcahy moved to adopt DNR's proposed amendment. There was no objection.

Ron Sommerville, Alaska Outdoor Council, spoke in support of the Committee Substitute.

Jay Nelson, Alaska Environmental Lobby, spoke in support of the Committee Substitute and recommended that a timetable for implementing the management plan be included in the bill.

Senator Sturqulewski moved to adopt the proposed amendment regarding the timetable for a management plan. There was no objection.

Senator Mulcahy moved CS SB 225 from Committee with individual recommendations. There was no objection.

2dSSSB 45

Senator Moss explained that this bill would authorize the Department of Natural Resources to declare a moratorium of up to five years on agricultural land purchase payments if certain conditions are met.

Senator Mulcahy moved 2dSSSB 45 from Committee with individual recommendations. There was no objection.

SB 369

Senator Kerttula reviewed the history of construction cost overruns at the Department of Natural Resources plant materials center. SB 369 would begin to solve those problems by transferring construction responsibilities from the Department of Transportation and Public Facilities to DNR.

Senator Mulcahy moved SB 369 from Committee with individual recommendations. There was no objection.

SCR 42

Phil Daniel, United Fishermen of Alaska (UFA), spoke in support of the resolution, recommending aquaculture as a way of guaranteeing sportsfishermen an adequate supply of fish, and resolving user group conflicts.

Ron Sommerville, Alaska Outdoor Council offered no formal position on the bill, but supported enhancement of sportfishing stocks as a way of resolving user group conflicts.

Senator Mulcahy moved SCR 42 from Committee with individual recommendations. There was no objection.

The meeting adjourned at 4:40 pm.

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SENATE RESOURCES COMMITTEE
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: *SB 371*

BILL NAME: *Minor amendments to Title 58*

SPONSOR(S): *Fabian*

RELATED BILLS PENDING:

DATE INTRODUCED: *1-24-84*

REFERRALS: *Finance*

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:

SUMMARY BY LEGAL DIVISION:

SPONSOR CONTACTED FOR
BACKUP MATERIALS:

DEPT. OF LAW SUMMARY:

FISCAL NOTE:

AGENCY RESPONSE:

OTHER INTERESTED SENATORS OR
REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELECONFERENCE:

BACKGROUND MATERIAL DISTRIBUTED:

PSA/PRESS RELEASE:

LIST OF WITNESSES:

SUGGESTED AMENDMENTS/COMMITTEE
SUBSTITUTES DRAFTED:

Rose; Stan Rybacker 198-6453 ✓
Roger Burgoyne 479-2169; 2596 ✓
Del Ackels 452-4971 ✓
Don Steen 452-7642; 452-5395 ✓
Phil Holdsworth - James Turner 586-1383

ONR - call Ned

Environ. Lobby

February 10, 1984

EXPRESS MAIL B-53272257

The Honorable Bettye Fahrenkamp
Pouch B
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

First of all, thank you for your support of the mining industry. We greatly appreciate your efforts.

With regard to Senate Bill 371, your attention to the following items concerning TIDAL AND SUBMERGED LANDS would be greatly appreciated:

OPP Term: The term of an OPP should be for ten years rather than seven. Searching for offshore deposits in hostile environments is expensive, time-consuming and weather (and season) sensitive. We need adequate time to carry a program through. Often we must resort to remote sensing exploration techniques followed by difficult drilling and sampling procedures.

Rental: The initial rental of \$3/acre should be due on the second anniversary of issuance of the permit and not on the first anniversary. Once a permit is issued, the following is necessary: (1) adequate time to prepare, process and approve exploration budgets, (2) weather factors will determine when exploration can be done, and (3) exploration permits must be obtained from the Corps of Engineers and other state and federal agencies. Therefore, rentals should commence on the second anniversary.

Prospecting Acreage Limitation: Exploration for offshore mineral deposits usually requires the examination of large areas. In order to encourage exploration, the State should allow any one person or firm to hold up to 300,000 acres under prospecting permit, not 100,000 as suggested. The rental of \$3/acre after two years, or equivalent expenditures, should adequately provide relinquishment of land by explorationists.

Lease Acreage Limitation: Again, the suggested amount of 46,080 acres is not adequate for many operations and should be increased to 100,000 acres. Many of the offshore deposits are likely to be thin, lenticular bodies. An acreage limitation which is too small is a serious detriment

Aspen Exploration Corporation

Suite 350 3525 South Tamarac Street Denver, Colorado 80237 (303) 741-5366



REC 2-14-84

Page Two

Hon. Bettye Fahrenkamp

to anyone attempting financing for offshore production equipment and facilities. Let's encourage exploration and mining in Alaska.

Lease Term: The primary term for a mining lease should be 20 years and so long thereafter as minerals are produced. Again, it is very difficult to obtain financing from banking institutions for equipment to be used in operations on a relatively short-termed lease. A twenty-year term is not unreasonable when dredges for offshore mining may cost \$20 to \$40 million dollars.

If the above suggested changes can be incorporated into Senate Bill 371, all of us engaged in offshore exploration and mining will be very pleased and able to carry out our work in Alaska under better regulations.

My thanks to Sandra Schubert, who has been very good at handling communications while you have been involved in meetings and hearings.

A copy of our latest annual report is enclosed. Most of our field activities last year were in offshore Alaska projects.

Best regards,

ASPEN EXPLORATION CORPORATION

A handwritten signature in cursive script, appearing to read "R. V. Bailey", with a long horizontal line extending to the right.

R. V. Bailey, President

RVB:qk

Enclosure

MEMORANDUM

TO: House Resources Committee

FROM: Ronald C. Sheardown, President
Greatland Exploration, Ltd.

DATE: April 10, 1984

SUBJECT: Additional Amendments to CSSB 371 (Resources)

On behalf of Greatland Exploration, Ltd. and other mining companies interested in exploring and developing the offshore mineral deposits of Alaska, I urge you to make the below-described two additional revisions to CSSB 371 (Resources):

1. The rental payment for the first two-year period of an offshore prospecting permit should be changed from \$6.00 to \$3.00. Prior to the amendments to the offshore mining statute in 1982, the rental payment for the first two-year period of an offshore prospecting permit was \$1.00 per acre. AS 38.05.250(a) was amended in 1982 to change the rental payment to \$3.00 per acre commencing with the first year, which amounted to a 600% increase from the prior statute. As you are aware, once an offshore prospecting permit is issued there are a great number of environmental permits which must be obtained before any operations may be undertaken. In all likelihood, this will prevent the permittee from conducting any substantial operations during the first year of the permit. It is therefore unreasonable to require the permittee to try to make a \$3.00 per acre expenditure during the first year, or in the alternative to require him to make a \$6.00 per acre expenditure during the second year. The purpose of the offshore mining statute is to encourage the exploration and development of offshore minerals. The setting of an arbitrarily high rental payment during the initial two years of an offshore prospecting permit will have the opposite effect and discourage such exploration and development.

2. The initial lease term of an offshore mining lease should be changed from 10 years to 20 years. Prior to the 1982 amendments to the offshore mining statute, an offshore mining lease could be issued for a term of up to 55 years. In 1982 this term was reduced to 10 years. The capital expenditures required to engage in offshore mining operations are quite large, and therefore substantial financing must be arranged in order to undertake such operations. The rule of

thumb in the mining industry is that a major project must have at least 20 years of ore reserves and land tenure before financing will be available. The short 10 year term now provided for in AS 38.05.250(c) will preclude the financing of most offshore mining projects which have the potential to add to the employment base and diversify the resource economy of Alaska. This problem can be solved by changing the lease term to 20 years.

ASPEN EXPLORATION CORPORATION
Suite 350
3525 South Tamarac Street
Denver, Colorado 80237

February 21, 1984

HAND DELIVERED

The Honorable
Senator Bettye Fahrenkamp
Chairperson
Senate Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

So there are no misunderstandings concerning Senate Bill 371 and Aspen's request concerning implementation of certain amendments thereto, on behalf of Aspen, I request that any OPP's issued in 1984 contain the terms of the new amendments. We estimate receiving from DNR OPP's for between 50,000 and 100,000 acres in the coming months, and the new terms will be very beneficial in finding high-risk explorations dollars for the project.

Also, it is my understanding that the January 1, 1985, date for acreage limitations to take effect was selected by DNR to allow orderly progression to the new statutes.

Hope you enjoy the book.

Sincerely,

ASPEN EXPLORATION CORPORATION

R. V. Bailey
R. V. Bailey by Patricia Manwirth
President

RVB/pm

MEB 21 1984

for Kingstad on floor

HCS CSSB 371 (Rules) AN ACT RELATING TO MINING

Effective January 1, 1985, Section 9 increases the acreage that may be held under an offshore prospecting permit from 100,000 to 300,000 acres, and under a lease from 46,080 to 100,000 acres.

Prior to 1981, there was no statutory limit for the number of acres that could be staked under an offshore prospecting permit, or the acreage that could be held under lease. In 1981, acreage limitations were established at 100,000 acres under permit and 46,080 under lease. The permits currently being issued are the first to be done under these reduced acreage limitations.

The miners requested the revised acreage limitations. Exploration for offshore mineral deposits requires examination of large areas. The capital expenditures required to engage in offshore prospecting operations are quite large; having a larger acreage to explore increases the opportunity of finding a workable deposit.

Note that AS 38.05.250(b) limits the lease to the amount of acreage shown to the satisfaction of the director to contain workable mineral deposits. The acreages in statute are maximums.

-Amendment proposed by James Saxon (Hesper Corp.)

-DMEM, DNR opposed:

Program was "tightened" in 1982 to require higher level of diligence on part of permit holder. Prior to '82, 8000 permits were issued (no rental charge for 1st year) - only 8 or 9 went to lease. Are currently no successful working offshore mines. 100,000 acres is enough for any 1 company to handle. Can apply for new acreage after 7-yr. term. Rental on upland lease is \$5/yr.

1 THE 90 DAY PERIOD]. The locator of a prospecting site has the exclu-
2 sive right to stake mining claims or leasehold lo tions within the
3 boundaries of the [HIS] site.

4 * Sec. 7. AS 38.05.245(c) is amended to read:

5 (c) A [NO] person may not hold [LOCATE] more than eight [SIX]
6 prospecting sites in one township at one time [CALENDAR YEAR IN ONE
7 RECORDING DISTRICT]. A prospecting site remains in effect for one
8 year after the notice of location is posted and may, at the discretion
9 of the director, be extended for one year periods. During each year,
10 work of a type compatible with the purpose of this section and accept-
11 able to the director shall be done. The minimum expenditure for the
12 work shall be established by the commissioner uniformly for all pros-
13 pecting sites. Where adjacent prospecting sites are held in common
14 the expenditure may be made on any one or more locations. If a pros-
15 pecting site expires, neither the locator nor a [HIS] successor in
16 interest of the locator may again hold [LOCATE] the same prospecting
17 site or any portion of it, as a prospecting site, for a period of one
18 year [TWO YEARS] following the date of expiration or abandonment; nor
19 may the locator [HE], during the year [TWO YEARS], either directly or
20 indirectly, obtain a beneficial interest in the same prospecting site
21 or a portion of it.

22 * Sec. 8. AS 38.05.250(a) is amended to read:

OFFSHORE PROSPECTING-
PERMITS

23 (a) The exclusive right to prospect for deposits of minerals
24 subject to AS 38.05.185 - 38.05.275 in or on tide and submerged state
25 land [LANDS] may be granted by a permit issued by the director. Per-
26 mits shall be granted to the first qualified applicant. No permit may
27 include an area larger than 2,560 acres, subject to the rule of ap-
28 proximation. Land [LANDS] subject to a prospecting permit shall be as
29 compact in form as possible taking into consideration the area

1 involved. The term of the permit shall be [seven] years. Prospecting
 2 permits shall be conditioned upon payment of rental against which
 3 credit shall be given for useful expenditures on land covered by the
 4 permit or group of contiguous permits under common ownership or assign-
 5 ment. Excess expenditures may be applied against rentals due for the
 6 following two years. The rental shall be \$3 per acre for each year,
 7 payable annually on the anniversary date of the permit [AT THE END OF
 8 ~~EACH YEAR]~~ except that no rental will be charged for the first year the permit is held.
 9 No minerals from land [LANDS] under a prospecting permit
 10 may be mined and marketed or used, except for limited amounts neces-
 11 sary for sampling or testing. No person may take or hold prospecting
 12 permits for minerals on state land under this section exceeding in the
 13 aggregate [100,000] ^{300,000} acres. No person may take or hold leases for miner-
 14 als on state land under this section exceeding in the aggregate [46,080] ^{100,000}
 15 acres.

* Sec. . AS 38.05.250(C) is amended to read:

(c) Leases for submerged lands shall be conditioned upon
 payment of an annual rental of \$3 an acre. Expenditures on or
 for the benefit of the leasehold may be credited against the
 rental. Rent shall be paid or a statement of annual labor shall
 be filed within 90 days after each anniversary date of the lease.
 20 All submerged land mining leases shall be for a period of up to
 21 [10] years, and for so long as there is production in paying
 22 quantities from the leased area. The commissioner may make
 23 reasonable adjustments of the rental rate at the end of each 10
 24 year period, based upon changed conditions in production costs
 25 and market.

Provide Ned w/ amendments in context

11

AS 38.05.275

This amendment allows mining locations to be made on state land or selected land on shorelands, tidelands, or submerged lands. There was some confusion on this amendment earlier, as an early draft of SB 371 did modify long accepted practice. This section returns the statute to nearly its original and acceptable form.

Substantial changes were suggested for sections dealing with offshore prospecting rights:

8

AS 38.05.250(a)

1. Suggest change in term of permit from 7-10 years, as in old statute. Dept. OK

2. Suggest delay on first payment. Language: "The rental shall be \$3/acre for the first 2-year period of the permit, payable at the end of the first 2-year period, and \$3/acre for each year thereafter, payable at the end of each year." Comment: Old language except \$1/acre raised to \$3. Dept. OK. *prefer current lang. - encourages diligence.*

3. Change acreage limitation on PP to 300,000 and for leases to 100,000. Comment: Old statute had no limit. Phil: 'cause ~~if~~ major investment need to find minerals. End up w/ much reduced acreage that actually convert to lease. Dept. O.K.

NOTE:

"old" statute means prior to 1981. Current statute is

- 1) 7 years
- 2) \$3/acre per year
- 3) [300,000] 100,000 OPP
- [100,000] 46,080 lease

Committee Staff

The Committee also proposes to suggest a modification for AS 38.05.250(c) to change term of lease from 10-20 years; also, period of lease adjustment from 10-20 years. Comment: Old lease term was 55 years.

Phil: effects financing

Check Hawley Report by Subcommittee
C. C. Hawley

Dept: up to 20 years

Want to Negotiate term.

Hedderly-Smith ^{with provide language} - to allow language miner to hold lease w/out developing each yr. Shouldn't terminate lease if don't see work deposit 1 yr. because of drop in gold price, etc.

OFFSHORE PROSPECTING

OFFSHORE PROSPECTING

Proposed by Miners Association

Status

Change term of prospecting permit from 7 to 10 years.

Adopted in CS

Change rental from \$3/year from issuance to \$3 for the first two years then \$3 per year thereafter.

Deferred first year's payment till end of second year, so \$6 due at end of second year and \$3/year thereafter.

Increase acreage limitations for permits from 100,000 to 300,000 acres.

Adopted in CS

Increase acreage limitations under lease from 46,080 to 100,000 acres.

Adopted in CS

+ Increase term of lease from 10 to 20 years.

NOT ADOPTED

⊖ Change rent adjustment period from 10 to 20 years.

NOT ADOPTED

Change carry-forward of expenditures against rentals from 2 years to 4 years.

Adopted in CS

FEEL THE COMMITTEE SUBSTITUTE IS A FAIR COMPROMISE BETWEEN THE MINERS' DESIRE FOR LONG-TERM EXPLORATION RIGHTS OVER LARGE ACREAGES AND THE DEPARTMENT'S INTEREST IN ENCOURAGING DILIGENT DEVELOPMENT OF THE STATE'S MINERAL RESOURCES.

AMA TITLE 38 COMMITTEE MEETING

February 8, 1984

The Ad Hoc Title 38 Committee met at 4:00 p.m. on February 8, 1984 to consider Senate Bill No. 371 introduced by Senator Fahrenkamp on January 28, 1984 and make further recommendations as needed.

In attendance were Roy McMichael, Chuck Hutchens, Ron Sheardown, Jenny Hawley, and Chuck Hawley. Committee member Jay Hammitt was excused absent. During the meeting, the Committee consulted by telephone on one item with attorney Harris Saxon. The procedure adopted was to consider each of 12 main sections in order and accept or suggest modifications of each section as drafted.

The following sections were agreed by Committee to be O.K. as drafted:

Section No.	Statute	Content
1	AS 38.05.150(c)	Amends coal prospecting permit procedures for lands not known to have commercial quantities of coal. Extends initial permit to a 3-year term with possible three 2-year extensions.
2	AS 38.05.190(a)	Amends qualifications for acquiring mining rights lowering the age from 19 to 18 years.
5	AS 38.05.240	Amends geological, geophysical and geo-chemical surveys done for assessment work to exclude the need for basic survey finds to be submitted.
6	AS 38.05.245(a)	Amends filing of prospect site certificate of location to eliminate duplicate filing with both the state recording office and DMEM. Filing need only be made at the recording office.
7	AS 38.05.245(c)	Amends prospecting sites raising the allowable number held at one time from six in each recording district per year to eight in one township at one time. Some arguments can be made to expand; some to decrease this amount. Fair compromise as proposed.
9	AS 38.05.250(b)	Sets out that a non-competitive lease will be granted to the holder of a state OPP, but that the state can lease competitively known offshore mineral lands. Some debate, but OK'd.

This amendment allows mining locations to be made on state land or selected land on shorelands, tidelands, or submerged lands. There was some confusion on this amendment earlier, as an early draft of SB 371 did modify long accepted practice. This section returns the statute to nearly its original and acceptable form.

Substantial changes were suggested for sections dealing with offshore prospecting rights:

8

AS 38.05.250(a)

1. Suggest change in term of permit from 7-10 years, as in old statute.

2. Suggest delay on first payment. Language: "The rental shall be \$3/acre for the first 2-year period of the permit, payable at the end of the first 2-year period, and \$3/acre for each year thereafter, payable at the end of each year." Comment: Old language except \$1/acre raised to \$3.

3. Change acreage limitation on PP to 300,000 and for leases to 100,000. Comment: Old statute had no limit.

NOTE:

"old" statute means prior to 1981.

Current statute is

1) 7 years

2) \$3/acre per year

3) $\frac{[300,000]}{[100,000]} = \frac{100,000}{46,080}$

$\frac{100,000}{46,080}$

Committee staff

The Committee also proposes to suggest a modification for AS 38.05.250(c) to change term of lease from 10-20 years; also, period of lease adjustment from 10-20 years. Comment: Old lease term was 55 years.

Chuck Hawley, Republic Staff
C. C. Hawley

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) 465-3834
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Senate

Committee on Resources

April 18, 1984

SUMMARY OF MAJOR PROVISIONS OF ECS CSSB 371 (FINAL VERSION)

CURRENT STATUTE

SB 371

Coal Prospecting Permits

AS 38.05.150(c) establishes the term of a coal prospecting permit as 2 years with one 2-year extension. (An extension is granted if the Commissioner determines that diligent exploration activities have been conducted. Prior to expiration of a permit, a lease will be granted if the permittee shows that the land contains coal in commercial quantities and submits a mining plan.)

Section 1 would extend the coal prospecting permit term to 3 years with three 2-year extensions.

Statements of Annual Labor

AS 38.05.210-.240 governs the performance of annual labor on mining claims on State land. A report of labor performed must be filed annually with DNR.

Section 4 would allow affidavits of annual labor to be corrected by amendment.

Survey Finds

Under AS 38.05.240, to satisfy annual labor requirements, geological, geochemical, geophysical, and airborne surveys conducted on mining claims are reported to DNR. Basic survey finds must also be filed with DNR, and are kept confidential and released only if the claim lapses.

Section 5 would delete the provision that basic survey finds be filed with DNR.

Prospecting Sites

Under AS 38.05.245, the locator of a prospecting site has the exclusive right to stake mining claims of leasehold locations within the boundaries of his site. No person may locate more than 6 prospecting sites in one calendar year in one recording district.

Section 7 amends the number of prospecting sites allowed to 8 held in one township at one time.

AS 38.05.265 establishes the waiting period for relocation of mining locations and prospecting sites following abandonment as one year for mining locations and two years for prospecting sites. (Abandonment is defined as failure to pay rental; to file a certificate of location, a statement of annual labor, or a prospecting site certificate; or to keep boundaries marked.)

Section 10 would shorten the waiting period following abandonment of a prospecting site from 2 years to 1 year.

Offshore Prospecting

The exclusive right to prospect for minerals in or on tide and submerged lands may be granted under AS 38.05.250. .250(a) governs offshore prospecting permits. The permit term is set at 7 years; the annual rental is set at \$3/acre, with expenditures applying against rentals for the following 2 years. The acreage limitation is established at 100,000 acres.

Upon discovery, a non-competitive lease may be acquired under AS 38.05.250(b). The lease term is set at 10 years; the acreage limitation is established at 46,080 acres.

AS 38.05.250(c) specifies that a submerged land mining lease is valid only as long as there is production in paying quantities from the leased area.

Section 8 increases the permit term to ten years, delays rental payments for the first year, and allows expenditures to be applied against the following 4 years. The acreage limitation is increased to 300,000 acres.

Section 11 increases the lease term to 20 years; Section 8 increases the acreage limitation to 100,000 acres.

Section 11 authorizes the commissioner to assent to suspension of operations and production without affecting the validity of the lease if certain conditions are present.

Alaska State Legislature

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



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

Senate

Committee on Resources

April 18, 1984

AN ACT RELATING TO MINING HCS CSSB 371 (FINAL VERSION)

Sec. 1 Because of the lengthy time involved for coal exploration, extends the coal prospecting permit term from 2 years with one 2-year extension to 3 years with three 2-year extensions.

Sec. 2 Lowers the minimum age of eligibility for acquiring exploratory and mining rights from 19 to 18 to be consistent with the current age of majority for most activities in Alaska.

Sec. 3 Amends the requirement that mining claims be staked in the four cardinal directions to not apply to fractional claims or where the commissioner determines such staking is impractical.

Sec. 4 Allows affidavits of annual labor to be corrected by amendment, thus providing a legal mechanism for correcting errors.

Sec. 5 Deletes the provision that basic survey finds be filed with DNR as it can result in the "leaking" of proprietary information, and the information is often of mixed quality.

Sec. 6 Deletes the requirement to file a certificate of mining location with DNR. This is duplicative language, as the certificate must be filed with the District Recorder's Office, which is within DNR.

Sec. 7 Increases the number of prospecting sites allowed from "six located in one calendar year in one recording district" to "eight held in one township at one time". This will encourage the use of prospecting sites where discovery hasn't been made, and address a loophole whereby employees of large companies locate sites and quitclaim deed them to the company.

Sec. 8 Increases the term of an offshore prospecting permit from 7 to 10 years. Eliminates the acreage rental for the first year to allow time to become operational. Increases the time during which excess expenditures may be applied against rentals from 2 to 4 years. Clarifies that the rental year for a prospecting permit on tide or submerged lands expires on the anniversary of issuance, not the end of the calendar year.

Sec. 9 Effective 1/1/85, increases the acreage that may be held under an offshore prospecting permit from 100,000 to 300,000 acres, and under a lease from 46,080 to 100,000 acres.

Sec. 10 Clarifies that a prospecting permit is required before a noncompetitive lease can be issued for mineral extraction on submerged lands.

Sec. 11 Extends the term of a submerged lands lease from 10 to 20 years.

Sec. 12 Authorizes the Commissioner to assent to the suspension of operations and production on submerged lands without affecting the integrity of the lease if certain conditions are present.

Sec. 13 Changes the length of time following the abandonment of a prospecting site that the former owner must wait before acquiring any beneficial interest in the site from 2 years to 1. This is consistent with the waiting period for claims that have been staked or located.

Sec. 14 Deletes the requirement to file a certificate of mining location on shorelands, tidelands, or submerged lands with the DNR, as this is duplicative language (see Sec. 6). Clarifies that claims on state land must be staked according to state, not federal methods.

Sec. 15 The state maintains only one assay lab (on the U.A.F. campus). Deletes the requirement that a public assay office be located in each of the 4 judicial districts, to reflect the reality of the situation.

Sec. 16 Repeals the mineral prospecting equipment loan program. DNR no longer conducts such a program. Repeals the requirement that "grubstaking" contracts be in writing. This is the only provision in Title 27 dealing specifically with mining on state-owned lands, and is not necessary as most people realize that contracts should be in writing.

Sec. 17 Effective dates are intended to lessen disruption of field operations and DNR's ongoing offshore prospecting permitting process.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
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POUCH V
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(907) 465-3834
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Senate

Committee on Resources

MEMORANDUM

TO: Representative Ringstad
House Resources Committee

FROM: Senator Fahrenkamp, Chairman 
Senate Resources Committee

RE: SB 371, An Act relating to mining

DATE: May 15, 1984

Both Sections 8 and 9 of SB 371, An Act relating to mining, amend 38.05.250(a), which deals with offshore prospecting. Sec. 8 extends the term of a permit and revises acreage rental fees under permit. Sec. 9 revises the amount of acreage which may be staked.

The general amendments to the offshore prospecting program take effect at the end of this fiscal year. However, to facilitate the permitting process underway this spring, the Department of Natural Resources requested that the revised acreage limitations not take effect until January 1, 1985.

To technically accommodate two effective dates in one subsection of the statute, the bill drafter placed the subsection extending the permit term and revising the acreage rental fees into the bill as Sec. 8, effective July 1, 1984. Effective January 1, 1985, Section 8 will be "replaced" with Section 9 which incorporates the revised fees per Section 8 and revises the acreage limitations.

1 A COPY OF THE CERTIFICATE SHALL ALSO BE MAILED TO THE DIRECTOR WITHIN
2 THE 90 DAY PERIOD]. The locator of a prospecting site has the exclu-
3 sive right to stake mining claims or leasehold locations within the
4 boundaries of the [HIS] site.

5 * Sec. 7. AS 38.05.245(c) is amended to read:

6 (c) A [NO] person may not hold [LOCATE] more than eight [SIX]
7 prospecting sites in one township at one time [CALENDAR YEAR IN ONE
8 RECORDING DISTRICT]. A prospecting site remains in effect for one
9 year after the notice of location is posted and may, at the discretion
10 of the director, be extended for one year periods. During each year,
11 work of a type compatible with the purpose of this section and accept-
12 able to the director shall be done. The minimum expenditure for the
13 work shall be established by the commissioner uniformly for all pros-
14 pecting sites. Where adjacent prospecting sites are held in common
15 the expenditure may be made on any one or more locations. If a pros-
16 pecting site expires, neither the locator nor a [HIS] successor in
17 interest of the locator may again hold [LOCATE] the same prospecting
18 site or any portion of it, as a prospecting site, for a period of one
19 year [TWO YEARS] following the date of expiration or abandonment; nor
20 may the locator or a successor in interest of the locator [HE], during
21 the year [TWO YEARS], either directly or indirectly, obtain a benefi-
22 cial interest in the same prospecting site or a portion of it.

23 * Sec. 8. AS 38.05.250(a) is amended to read:

24 (a) The exclusive right to prospect for deposits of minerals
25 subject to AS 38.05.185 - 38.05.275 in or on tide and submerged state
26 land [LANDS] may be granted by a permit issued by the director. Per-
mits shall be granted to the first qualified applicant. No permit may
28 include an area larger than 2,560 acres, subject to the rule of ap-
proximation. Land [LANDS] subject to a prospecting permit shall be as

Effective
7/1/84:

- lengthen permit term
- revise acreage rental fee
- extend "carry-forward" period

1 compact in form as possible taking into consideration the area in-
2 volved. The term of the permit shall be 10 [SEVEN] years. Prospect-
3 ing permits shall be conditioned upon payment of rental against which
4 credit shall be given for useful expenditures on land covered by the
5 permit or group of contiguous permits under common ownership or
6 assignment. Excess expenditures may be applied against rentals due
7 for the following four [TWO] years. The rental shall be \$3 per acre
8 for the first two-year period of the permit, payable on the second
9 anniversary of the permit and \$3 per acre for each following year,
10 payable annually on the anniversary date of the permit [AT THE END OF
11 EACH YEAR]. No minerals from land [LANDS] under a prospecting permit
12 may be mined and marketed or used, except for limited amounts neces-
13 sary for sampling or testing. No person may take or hold prospecting
14 permits for minerals on state land under this section exceeding in the
15 aggregate 100,000 acres. No person may take or hold leases for miner-
16 als on state land under this section exceeding in the aggregate 46,080
17 acres.

18 * Sec. 9. AS 38.05.250(a) is amended to read:

19 (a) The exclusive right to prospect for deposits of minerals
20 subject to AS 38.05.185 - 38.05.275 in or on tide and submerged state
land may be granted by a permit issued by the director. Permits shall
be granted to the first qualified applicant. No permit may include an
area larger than 2,560 acres, subject to the rule of approximation.
Lands subject to a prospecting permit shall be as compact in form as
possible taking into consideration the area involved. The term of the
permit shall be 10 years. Prospecting permits shall be conditioned
upon payment of rental against which credit shall be given for useful
expenditures on land covered by the permit or group of contiguous
permits under common ownership or assignment. Excess expenditures may

Effective
11/1/85:
incorporates
those changes
that became
effective
7/1/84 per
section 8.
-revises
acreage
limitations

became effective 7-1-84

became effective
7/1/84

1 be applied against rentals due for the following four years. The
2 rental shall be \$3 per acre for the first two-year period of the
3 permit, payable on the second anniversary of the permit and \$3 per
4 acre for each following year, payable annually on the anniversary date
5 of the permit. No minerals from land under a prospecting permit may
6 be mined and marketed or used, except for limited amounts necessary
7 for sampling or testing. No person may take or hold prospecting
8 permits for minerals on state land under this section exceeding in the
9 aggregate 300,000 [100,000] acres. No person may take or hold leases
10 for minerals on state land under this section exceeding in the aggre-
11 gate 100,000 [46,080] acres.

12 * Sec. 10. AS 38.05.250(b) is amended to read:

13 (b) [UPON DISCOVERY, THE RIGHT TO POSSESS AND EXTRACT THE MINER-
14 ALS MAY BE ACQUIRED BY NONCOMPETITIVE LEASE.] A noncompetitive lease
15 shall be granted to a holder of a prospecting permit for so much of
16 the land subject to the permit as is shown to the satisfaction of the
17 director to contain workable mineral deposits. Submerged land [LANDS]
18 containing known deposits of minerals subject to AS 38.05.185 - 38.-
19 05.275 may, in the discretion of the director, be offered by com-
20 petitive bid. The land [THESE LANDS] shall be leased to the [RESPONS-
21 IBLE] qualified person offering the highest amount of cash bonus.

22 * Sec. 11. AS 38.05.250(c) is amended to read:

23 (c) Leases for submerged land [LANDS] shall be conditioned upon
24 payment of an annual rental of \$3 an acre. Expenditures on or for the
25 benefit of the leasehold may be credited against the rental. Rent
26 shall be paid or a statement of annual labor shall be filed within 90
27 days after each anniversary date of the lease. All submerged land
28 mining leases shall be for a period of up to 20 [10] years, and for so
29 long as there is production in paying quantities from the leased area.

1 The commissioner may make reasonable adjustments of the rental rate at
2 the end of each 10-year period, based upon changed conditions in
3 production costs and market.

4 * Sec. 12. AS 38.05.250 is amended by adding a new subsection to read:

5 (d) The commissioner may, on the request of the lessee, assent
6 to the suspension of operation and production under a lease whenever
7 in the judgment of the commissioner the suspension is necessary to
8 promote development of the lease or the lease cannot be successfully
9 operated under its terms. The payment of acreage rental may be sus-
10 pended during the period of suspension of operation and production.
11 The suspension of the lease shall extend the term of the lease by
12 adding the period of suspension to the lease. The commissioner may
13 extend the term of a nonproducing lease on an application by the
14 lessee accompanied by a showing that the lessee is reasonably close to
15 attaining production and that, despite diligent good faith efforts by
16 the lessee, the lessee is not able to produce due to force majeure,
17 depressed market conditions, or other situations beyond the reasonable
18 control of the lessee.

19 * Sec. 13. AS 38.05.265 is amended to read:

20 Sec. 38.05.265. ABANDONMENT. Failure to (1) properly file for
21 record a certificate of location or a statement of annual labor, or
22 (2) file with the director within the time prescribed a lease applica-
23 tion [OR A COPY OF A PROSPECTING SITE LOCATION CERTIFICATE], or (3)
24 pay rental or receive credit for rental, or (4) keep location bound-
25 aries clearly marked, all as required by AS 38.05.185 - 38.05.280 and
26 by regulations adopted under these sections, constitutes abandonment
27 of all rights acquired under the mining lease, location, or site in-
28 volved, and it is subject to relocation by others. If a location is
29 not relocated by another person within [WITH] one year after the

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Senate

Committee on Resources

April 18, 1984

AN ACT RELATING TO MINING HCS CSSB 371 (Rules)

Sec. 1 Because of the lengthy time involved for coal exploration, extends the coal prospecting permit term from 2 years with one 2-year extension to 3 years with three 2-year extensions.

Sec. 2 Lowers the minimum age of eligibility for acquiring exploratory and mining rights from 19 to 18 to be consistent with the current age of majority for most activities in Alaska.

Sec. 3 Amends the requirement that mining claims be staked in the four cardinal directions to not apply to fractional claims or where the commissioner determines such staking is impractical.

Sec. 4 Allows affidavits of annual labor to be corrected by amendment, thus providing a legal mechanism for correcting errors.

Sec. 5 Deletes the provision that basic survey finds be filed with DNR as it can result in the "leaking" of proprietary information, and the information is often of mixed quality.

Sec. 6 Deletes the requirement to file a certificate of mining location with DNF. This is duplicative language, as the certificate must be filed with the District Recorder's Office, which is within DNR.

Sec. 7 Increases the number of prospecting sites allowed from "six located in one calendar year in one recording district" to "eight held in one township at one time". This will encourage the use of prospecting sites where discovery hasn't been made, and address a loophole whereby employees of large companies locate sites and quitclaim deed them to the company.

Sec. 8 Increases the term of an offshore prospecting permit from 7 to 10 years. Eliminates the acreage rental for the first year to allow time to become operational. Increases the time during which excess expenditures may be applied against rentals from 2 to 4 years. Clarifies that the rental year for a prospecting permit on tide or submerged lands expires on the anniversary of issuance, not the end of the calendar year.

Sec. 9 Effective 1/1/85, increases the acreage that may be held under an offshore prospecting permit from 100,000 to 300,000 acres, and under a lease from 46,080 to 100,000 acres.

Sec. 10 Clarifies that a prospecting permit is required before a noncompetitive lease can be issued for mineral extraction on submerged lands.

Sec. 11 Extends the term of a submerged lands lease from 10 to 20 years.

Sec. 12 Authorizes the Commissioner to assent to the suspension of operations and production on submerged lands without affecting the integrity of the lease if certain conditions are present.

Sec. 13 Changes the length of time following the abandonment of a prospecting site that the former owner must wait before acquiring any beneficial interest in the site from 2 years to 1. This is consistent with the waiting period for claims that have been staked or located.

Sec. 14 Deletes the requirement to file a certificate of mining location on shorelands, tidelands, or submerged lands with the DNR, as this is duplicative language (see Sec. 6). Clarifies that claims on state land must be staked according to state, not federal methods.

Sec. 15 The state maintains only one assay lab (on the U.A.F. campus). Deletes the requirement that a public assay office be located in each of the 4 judicial districts, to reflect the reality of the situation.

Sec. 16 Repeals the mineral prospecting equipment loan program. DNR no longer conducts such a program. Repeals the requirement that "grubstaking" contracts be in writing. This is the only provision in Title 27 dealing specifically with mining on state-owned lands, and is not necessary as most people realize that contracts should be in writing.

Sec. 17 Effective dates are intended to lessen disruption of field operations and DNR's ongoing offshore prospecting permitting process.