ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 8672

2857 SRES SB 371 - SB 375

2857

Alaska State Legislature

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Senate

Committee on Resources

March 1, 1984

SUMMARY OF MAJOR PROVISIONS OF SB 371

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 permitee 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. -substantial start-up time needed for projects in Alaska -relative inaccessibility of areas being explored - relatively high risk involved in Alaska development
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. -currently no mechanism for correction.

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.
- none have ever been released + no mechanism to do so

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

- statute + regs. do not provide clear understanding of acceptable basic survey finds.
- miners resistant to submit confidential technical data under such poorly defined guidelines.

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.

- intended to encourage use

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 acreage limitation under lease 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.

- searching for offshore deposits in hostile environments is expensive, time-consuming, & weather sensitive. Need adequate time to carry a program through.

Section 8 increases the acreage limitation to 100,000 acres.

- exploration for offshore mineral deposits requires examination of large areas

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.

- must be reasonably close to attaining production
- must be good faith effort
- but force majeure, or depressed market

SB

375

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

MINERALS AND ENERGY MANAGEMENT

Pouch 7-034
Anchorage, Alaska 99510

Pat Pourchot
Senate Resources Committee
Legislative Information Office
1024 W. 6th Ave.
Anchorage, AK 99501

Dear Pat:

You requested additional information on two of the mining-related AS 38 amendments the Department of Natural Resources is recommending.

You asked whether the department's suggested changes to AS 38.05.275 would have any impact on the staking of claims on lands beneath navigable rivers and lakes. These proposed changes would 1) eliminate the special exception that currently allows mining claims to be staked on submerged lands (lands seaward of the mean low tide line, AS 38.05.365(17)), which are ordinarily available only under the offshore leasing system (AS 38.05.250); 2) limit claimstaking on tidelands (lands between the mean high and mean low tide lines) to situations where the claim includes some state-owned uplands that are open to mineral entry; and 3) eliminate the dual filing requirement for claims on both shorelands (that is, lands beneath navigable rivers and lakes) and tidelands. The first two changes would not affect the staking of claims on navigable rivers and lakes in any way, while the last change would make it easier to stake such claims by reducing paperwork. Filing location notices with the Division of Minerals and Energy Management would no longer be necessary; recordation alone would suffice.

You questioned whether our proposed amendment to AS 38.05.127(a) would have an adverse impact on the public interest. The change we have suggested would not result in any lessening of the State's legal right and duty to ensure access to and along public waters. It would apply only to leases of the mineral estate, which are inherently different from surface disposals in their effect on access. A person who receives a subdivision lot, homesite entry permit, homestead, commercial lease, etc., gains exclusive possession of the surface (including the right to prohibit public use) unless access rights are specifically withheld or "reserved" by the State in the terms of the conveyance. Thus any decision to retain a public right-of-way must be made before the surface disposal occurs.

In contrast, a mineral lease does not include the surface estate. It gives the lessee only the right to explore for, produce and process a certain class of minerals (such as oil and gas or locatable minerals). Although exploration and development necessarily entail using some of the surface, the State

explicitly retains the surface estate and associated rights to manage, lease, sell, or issue rights-of-way on it.

A mineral lessee is required to submit a plan of operations for state approval before beginning activities on the lease. This gives the department an excellent opportunity to see precisely how lease development plans would affect access (along with other state concerns). If production facilities, mine operations, etc., are proposed to be located where they could interfere with access to public waters, either the lessee is asked to alter its plans slightly, or an easement is reserved to allow the public to move past or around the obstruction. It is much more practical and timely to analyze and correct access problems at the plan of operations phase (and the State has the legal right to do so at that time) than to try to identify all public waters on several thousand or hundred thousand acres of proposed leases in advance and plat easements to and along each one. The great majority of those access routes will remain vacant public lands throughout the duration of the leases and no easement will ever be necessary.

I hope that this information satisfactorily explains the department's rationale for its proposed changes. If you have further questions, please let me know.

Sincerely,

Mary Kaye Hession

Mary Kaye Hession
Natural Resource Manager II

cc: John Ringstad

4261a

Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-4801

PLANNING DEPARTMENT

LAND MANAGEMENT - PLATTING - PLANNING

January 16, 1984

The Honorable Bettye Fahrenkamp, Chairman
Senate Committee on Resources
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

We have reviewed your draft bill relating to land disposal and management. We support this effort and offer a few comments regarding some of its contents. Comments made will be preceded by the section number to which it applies.

AS 38.04.010 (b) (2) We support this policy. however, if intended private use is included to mean being capable of self sufficiency heating year round and perpetually, a 100 acre lot would be required for proper forest regeneration to supply the fuelwood needed by a family year-round.

AS 38.04.035 (4) The administration of a cabin leasing system should allow reasonable terminations of those leases when resource limitations have been reached. Perpetual appeals from lessees should be disallowed.

AS 38.05.118 (a) The term "local manufacturer" should be defined to differentiate between negotiated sales in this section and those referred to in AS 38.05.115 (a) above it. At what point does a purchaser become a manufacturer, allowing him to exceed the limits previously established.

AS 38.05.205 (c) According to this section perpetual renewals of leases are automatic. A limit should be set such that no more than a one term automatic renewal can be made.

AS 38.050.020 - The $100,000 value limit is rather low even relative to agricultural rights values. This would mean that probably most exchanges would be subject to legislative review. If in fact most exchanges would have to receive legislative review, and given the fact that the governmental processes are already fairly slow, then appraisals done in the beginning of the process would most likely have to be redone before the exchange was completed.

JAN 19 1984

AS 38.95.080 (a) should be amended to read the director shall..... rather than the commissioner may. The Borough supports subsistence and recreational trapping and the current language (shall) supports our position. Permissive language to inappropriate if the applicant meets the condition set up in the statutes.

The authority for actions bounces between the director and commissioner throughout this bill and is confusing. Most of the decision addressed in this bill should be made by the director with the concurrance of the commissioner. This gives a check and balance system to the decision making process, and would allow for consistency throughout the bill. The director level is a professional level, while the commissioner is a political entity (even if the incumbent is a profession). Therefore, all actions relating to administration of this law become political instead of professional.

We would recommend the establishment of a revolving fund to cover the costs of road construction for state subdivision. After an initial appropriation the revenue from land sales could be used to keep the account at a certain level. This ensures the ability of the Department to fund the capital projects associated with subdivisions.

Thanks once again for this opportunity to take part in the redraft of Title 38.

Please do not hesitate to contact me if you have any further questions concerning this.

Sincerely,

Robert J. Stickles

Robert J. Stickles
Planning Director

Sponsor T-38 OK

KENAI PENINSULA BOROUGH

BOX 850 • SOLDOTNA, ALASKA 99669
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STAN THOMPSON
MAYOR

January 10, 1984

The Honorable Bettye Fahrenkamp
Chairman, Senate Resources Committee
Pouch V
Juneau, AK 99811

Dear Senator Fahrenkamp:

Reference your letter concerning your draft bill regarding development of state land.

I personally have a couple of problems with the bill in the third round as it now stands. One was your number (26) - 005.035(B), and as this stands now, I believe that inaction by the state could extinguish a preference right. Perhaps I am reading that incorrectly. I'm not quite certain what the interpretation of that statute would be. I do feel that inaction by the state should not limit preference right to "three years from date of error or state action". In other words, if the state does not take action and the three years pass, I hope that wouldn't cut out the preference right. NO

application filed w/in 3 yrs. of error or state action being taken

I have a personal example. Back in the early 1960's, thirty years plus or minus ago, I filed for a preference right on an 80 acre parcel. This had been a T & M site under the federal government on which I built roads, and rental cabins, etc. With the state take over of the properties, I was transferred to the state. To date, however, I have never yet had this resolved by the state - absolutely no state action (I had brown hair then and have gray hair now.)

For the foregoing reason, and example, I also question that preference rights should be limited to five acres as in your senate bill. This was an 80 acre parcel and 30 years ago I did the prove-up required and was hoping for state action. I think it should be limited only to the property that should receive preference right no matter what the acreage. NO

In number (31) - 05.050 I believe your language should stay with the municipality rather than community. "Community" is a vague term and could create confusion "at least in the organized boroughs".

Under Section 45, AS 39.95.080(A)(1) states "the person must have an established trapline with proof of regular use". I have a question current statute we didn't amend

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about this one. It's not a major point of course, but this would definitely cut out any new traplines or at least any person building a cabin site on a new trapline. Traplines change from time to time - change areas, change directions, etc., and it's certainly necessary for a trapper to have a trapper's cabin up or down his trapline. I would think that we should cut out Section 1 which says the person must have an established trapline with proof of regular use.

Senator Fahrenkamp, I appreciate the work you and your committee have done on this. I think it's really a great piece of legislation and I only have the few minor points that I have mentioned. We appreciate your work.

Thank you,

Stan Thompson
Kenai Peninsula Borough Mayor

ST:lc

Bristol Bay Native Corporation

445 E. 5TH AVENUE / P.O. BOX 100220 / ANCHORAGE, ALASKA 99510 / (907) 278-3602

DEC 2 1983

November 23, 1983

The Honorable Bettye Fahrenkamp
Alaska State Senate
State Capitol, Pouch V
Juneau, Alaska 99811

SUBJ: Title 28 State Land Disposals.

Dear Senator Fahrenkamp:

The Bristol Bay Native Corporation's position on State land disposals was previously expressed in the attached letters which were prepared for the Bristol Bay Cooperative Management Plan.

This past summer, four subdivisions were surveyed on Bristol Bay and are scheduled to go on the market in 1984.

PIKE LAKE SUBDIVISION

This subdivision, under development by Paug-Vik, Inc, Limited, consists of 26 lots on a 70 acre tract adjacent to Pike Lake between King Salmon and Naknek Lake.

BRISTOL BAY BOROUGH SUBDIVISION

This subdivision has been developed by the Bristol Bay Borough and is scheduled to go on the market on November 26, 1983. The subdivision consists of 85 five acre lots located adjacent to the Naknek/King Salmon Road.

TOGIAK HEIGHTS SUBDIVISION

The Togiak Heights subdivision has been developed by Togiak Natives Limited two miles northwest of Togiak. The subdivision consists of 49 two acre lots and was placed on the market this past summer.

KEYES POINT SUBDIVISION

The Keyes Point Subdivision is under development by Nondalton Native Corporation on Lake Clark and consists of 266 two and one half acre lots and is scheduled to go on the market in 1984.

BRISTOL BAY HOUSING AUTHORITY

The Bristol Bay Housing Authority has scheduled to construct 82 houses in 1984: Chignik (10); Manokotak (32); New Stuyahok (30); and Twin Hills (10). At Twin Hills, the houses will be placed on townsite lots. New subdivisions with access roads, sewer and water systems will be required at Chignik, Manokotak, and New Stuyahok.

CONCLUSION

With the exception of the Keyes Point Subdivision on Lake Clark, all of the above subdivisions are located in close proximity and have access to existing roads, airports and schools.

Any State land disposal program should take into consideration the availability of private lands for residences or recreation. The sale and development of village corporation's subdivision lots is critical to the economic well being of these corporations as well as any taxing authority.

RECOMMENDATIONS

1. The BBNC supports State land disposals close in to existing villages with transportation, education and other support systems in place.

2. The BBNC supports the substitution of local land disposal programs for State disposals since the need for placing State land in private hands has been substantially reduced.

3. The BBNC does not support the sweat equity concept since the State can not afford to continue the State land disposal program without recovering the cost of the program. To do otherwise will unfairly compete with village corporation land disposal programs throughout the State.

4. Any State land disposal program should require local participation and be based on ground truth before the sites are nominated for disposal.

5. After disposal, evaluations should be made at regular intervals to determine the actual use and the impact of development on the natural resources.

6. The quota concept based on State land ownership by region without regard to the land character and the potential impact on natural resources is unconscionable.

Sincerely,

John C. Moores
Engineer Geologist/Land Planner

Encl: a/s

KENAI PENINSULA BOROUGH

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STAN THOMPSON
MAYOR

December 7, 1983

Senator Bettye Fahrenkamp
Alaska State Legislature
Pouch V
Juneau, AK 99811

RE: Title 38 Review

Dear Senator Fahrenkamp:

The Kenai Peninsula Borough has reviewed the comments received and compiled by the Resources Committee concerning Title 38 and offers the following:

38.04.005	Agree with comments
38.04.020(e)	Agree with comments
38.04.020(f)	The annual assessment for demand for state lands does not seem to be effective.
38.04.020	Subdivisions in remote areas should consider access, type of access and topography.
38.04.021	Agree with comments
38.04.025	Agree-it is redundant
38.04.035(4)	Agree cabin lease system should be more broadly used.
38.04.040	Agree with comments
38.04.045 & .050	Although the state received the land using the rectangular survey system, it's no longer necessary to convey land using cadastral survey grid. Control monuments could be set in area which would eliminate a full cadastral survey for

	subdivisions. Cadastral grid does not take into consideration land patterns and topography. Subdivisions should be based on proper design taking into consideration topography and uses and not cadastral survey boundaries. The state, in all cases, should provide access to all subdivisions and should dedicate rights-of-way over the most feasible route rather than relying on section line easements. This would alleviate the burden on municipalities to obtain rights-of-way at a future date.
38.04.050	Agree with comments
38.04.055	Agree with comments
38.05.045	The state should sell a percentage of timber lands.
38.05.050	Agree with comments
38.05.057	Agree with comments
38.05.065(a)	Agree with comments
38.05.065(c)	Disagree - Suggest the real estate contracts be turned over to private companies or local banks for collection.
38.05.067	Sales to veterans should be left in.
38.05.069 (a)&(b)	Agree with comments
38.05.070 (b)&(c)	Agree with comments
38.05.079	More remote cabin sites should be offered on a lease system.
38.05.127	Agree with all comments
38.05.150(c)	Permits should be granted for 5 years with no extensions.
38.05.185-.275	Disagree with comments
38.05.190 (a)(1)	Agree with comments

38.05.195	Agree with comments
38.05.200-.210	Agree with comments
38.05.245	Agree - should be filed in District Recorder's Office.
38.05.250(b)	Agree as stated
38.05.310	Agree with statement
38.05.350	Agree with comment
38.05.365	Agree with comment, "public waters" should be clarified.
38.09.080(b)	Agree with comments
38.35.050(a)	Agree with comments
38.35.140(b)	Agree with comment
38.50.020(a)	Agree with comments. The administration should handle exchanges of land smaller than a certain size, but give the legislature 30 days when in regular session to review or 30 days from the start of a regular session. If legislature makes no comment within time frame, the exchange would be automatically accepted.
38.50.020(b)	Agree with comments
38.50.110-.130	Agree with comments
38.50.120	Recommend the minimum tract size be under 160 acres.

We appreciate the opportunity to review and comment on Title 38.

Sincerely

Stan Thompson
Mayor

:cm

Bear Creek Mining Company
Exploration Division of Kennecott Corporation

Anchorage Office

November 14, 1983

The Honorable Bettye Fahrenkamp, Chairman
Senate Committee on Resources
Pouch V, State Capitol
Juneau, AK 99811

Re: Comments and Suggested Changes - Title 38 (and 27)

Dear Senator Fahrenkamp:

We appreciate this opportunity to comment on proposed changes in the Title 38 statutes. We whole-heartedly support your efforts to get these statutes reprinted and updated, especially with regard to organizational and grammatical changes. However, we are less enthusiastic about proposing technical and substantive legislative changes where they are not needed. With regard to the statutes and regulations governing mineral entry, we currently have a workable system and, therefore, hesitate to propose legislative changes for fear of getting unwanted legislation. Opening the door for changes in these statutes will most likely result in an industry versus environmental debate on proposed changes, and potentially harmful legislation. The environmental community has already proposed that the current location system for mineral entry be changed to a leasing and royalty system similar to that governing the oil and gas industry. Such a system would be disastrous to the mining industry. Thus, we urge you to proceed carefully in proposing changes in these statutes.

Following are our general comments on the suggested changes made to the Resources Committee on Title 38 (and 27) statutes per your October 31, 1983 compilation. Our comments are primarily restricted to only those suggested changes in sections that will directly affect the mining industry.

38.04.005 - We agree that you may want to consider strengthening this section with more specific goals and policies. This may be the place to establish a strong State minerals policy to encourage mineral resource development on State lands. Sec. 38.05.350 should be incorporated into this section. All State statutes should be consistent with this policy.

38.04.065 - Land use planning is a good tool when conducted in a scientific and timely manner. However, these plans are often prepared by special interest groups and, thus, the plans are biased and often stress the conservation and/or use

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of one resource over all others (i.e. Bristol Bay Plan). Land use planning should not be used as a tool (by environmentalists) to delay or prevent development that is in the best interest of the State or its citizens. Ideally, land use planning should involve a plan for managing the land, not establishing a series of once and for all special use classifications.

This section might be strengthened by requiring DNR to assume land management responsibilties of State lands immediately upon selection. All lands should be immediately classified for multiple purpose use unless specifically selected for a specific use not consistent with multiple use management. You may want to incorporate Sec. 38.05.300 in this section. Under the present system, a person can locate State mining claims on State-selected land prior to tentative approval and land classification. However, the claimant stakes at his own risk pending tentative approval and a favorable classification. The State could eliminate part of this risk by classifying lands at the time of their selection as either open to mineral entry or closed pending further classification. The latter should of course be kept to a minimum.

38.05.150(c) - We agree that coal prospecting permits should be granted for longer terms with one or more extensions if diligence is demonstrated.

38.05.185 - .275 - We strongly oppose substantive changes in this section. The current system governing mineral location and leasing is workable. The environmental community is proposing that this system be replaced with a leasing and royalty system similar to that for oil and gas. Such a system would be disastrous to the State mining industry and would provide no incentive for exploration. It would virtually eliminate the small miner and would discourage all development. The proposed 10-12% gross profits royalty would even make world-class deposits such as Red Dog and Quartz Hill uneconomic to mine. Leasing under such a system has the potential of being discretionary and will most certainly result in a drastic slowdown in mineral exploration and development due to administrative bottlenecks.

38.05.185 - We strongly oppose expanding lands available only for location leasehold mineral acquisition to include most, if not all, State land as proposed.

38.05.190(9)(1) - We have no objections to this proposed change.

38.05.195 - We have no objections to this proposed change.

38.05.200 or .210 - We support this proposed change to allow

affidavits of annual labor to be corrected by amendment.

38.05.205 - We have no objections to this proposed change.

38.05.240 - This statute requires "basic survey finds" for assessment work to be filed with DNR. "Basic survey finds" is presently interpreted by DNR/DMEM to mean all factual data such as geological maps, geochemical analyses assays, geophysical readings, etc. Such information is considered proprietary and filing such data can result in the "leaking" of sensitive company data to the competition. The initial intent of the legislature at the time this statute was written was to require that only a statement of the type and location of the survey work be filed with DNR along with a statement of how the work benefited the claim. Thus, we suggest that the regulations (11 AAC 86.220) for this statute be modified to better define the meaning of "basic survey find" and that the statute be unchanged.

38.05.245 (a) and (c) - We have no objections to these proposed changes.

38.05.250 (a) and (b) - We have no objections to these proposed changes.

38.05.265 - The "essential facts" that must be included in annual labor affidavits should be defined in Sec. 38.05.240 and not in this section. Otherwise we have no objections with the proposed changes.

38.05.275 - We have no objections to this proposed change.

38.05.300 - This statute should be incorporated in Sec. 38.04.065.

38.05.301 - "Boards" should not be given veto authority over proposed land sales or disposals.

38.05.350 - This statute should be incorporated in Sec. 38.04.005.

Title 38 -- General Comments - We are opposed to the State participating in the land bank program established under Section 907 of the ANILCA. The primary purpose of such a program is to discourage development.

Title 27 -- Mining - We strongly oppose the suggestion that reclamation requirements pertaining to coal be applied to all mining operations. Mining methods for placer and hard rock mineral deposits are generally unlike those for coal mining and, thus, require different reclamation practices. Existing reclamation statutes and regulations are more than adequate

and no new statutes need to be adopted under Title 27. Other than this, we have no major objections to the changes being proposed for Title 27; many of these statutes are outdated as pointed out and, thus, either need to be amended and/or repealed.

We hope these comments are useful to the Resources Committee in their deliberations. Should you have any questions or need elaboration on any of the issues commented on herein, let me know.

Again, we urge you to proceed cautiously with any changes in the Title 38 statutes that have the potential for adversely affecting the mining industry.

Sincerely,

Jan W. Hammitt for Russ Babcock

R. C. Babcock, Jr.
Vice President and Manager, Alaska

RCB:dk

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

P.O.BOX 3-2000
JUNEAU, ALASKA 99802
PHONE: (907) 465-4100

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November 21, 1983

NOV 2 1 1983

The Honorable Bettye Fahrenkamp
Senator
Alaska State Legislature
4016 Evergreen Street
Fairbanks, AK 99701

Dear Senator Fahrenkamp:

My Department has reviewed the list of recommendations contained in your November 2, 1983, letter to me. In reviewing the list, I have categorized the recommendations concerning Title 38 within groups that generally reflect the following considerations: 1) public interest, 2) public access, 3) remote cabin permits, 4) leasing of mineral lands, and 5) fiscal administration. Our comments regarding each of the categories follow. I also refer you to the written testimony that we presented at your recent Fairbanks hearing for our Department's specific recommendations for changes in the statute.

1) Public Interest: 38.04.005, 38.04.010, 38.04.020, 38.04.820(e), 38.04.020, 38.04.020(g), 38.04.020(h), 38.04.021, 38.04.065, 38.05.035(a), 38.05.035(b)(5), 38.05.070(b), 38.05.070(c), 38.05.110, 38.05.301, 38.05.345, 38.50.020(a), 38.50.020(b), 38.50.110-130., 38.05.205, 38.09.050(d), 38.09.080, 38-35.140(b).

It is our belief, relative to the above citations, that a land management decision making process is needed in which the maximum amount of public input is incorporated into a land management decision while not causing unnecessary delays in arriving at such a decision. We also believe that for land management decisions to be responsible, all available lands (municipal, private, State and federal) must be included in an evaluation of demand for the use of these lands. An acceptable decision making process should provide for an evaluation and comparison of all natural resource values in an area and should also include consideration of the capability of the area to support local use of fish and wildlife resources.

2) Public Access: 38:04.050, 38:04.055, 38.05.127, 38.05.365

Trespass conflicts between public users and landowners are increasing dramatically in the State, particularly near urban centers. The Department has requested and received appropriations over the past few years for over 6.5 million dollars for acquiring

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land for public access and recreational purposes. It is the Department's view that fee simple retention of select, key recreational access lands provides a highly cost effective means of providing maximum opportunities for public use of fish and wildlife resources and will, in the long run, provide a substantial economic benefit to the people of the State.

The Department has recommended that the statutory language of AS 38.04.055 and AS 38.05.127 be amended to express a policy directive that "To the greatest extent feasible, the director shall reserve, in State ownership, sufficient land to maintain present and future public access across private use areas, and land along public waters to ensure present and future public uses of those waters. In the absence of preferred State ownership, the director shall reserve easements and rights-of-way on and across land which is made available for free public use..." These easements and rights-of-way should include language delineating a statutorily defined "free public use" which includes a reservation of sufficient public interest in lands to and along navigable and public waters, and tidal and submerged lands to accommodate recognized public uses of water resources such as access, fishing, hunting, viewing and other activities. AS 38.04.055 implies that such uses may be allowed for in making reservations of land for access purposes. A statutory clarification would be helpful.

3) Remote Cabin Permits: 38.04.035(4), 38.05.079.

The State has an interest in providing the public an opportunity to acquire a permit for the construction of recreational cabins on remote State lands. The Department has recommended a public use cabin program wherein the State, Borough, or possibly a private concessionaire would build and maintain recreational cabins which would be available on a first come basis. Please refer to our testimony for safeguards which were recommended to ensure that potential problems associated with the program would be minimized. The Department views remote cabin programs as potentially accommodating a major portion of the current demand for private recreational land while retaining future options for land management and development of public lands.

4) Leasing of Mineral Lands: 38.05.150, 38.05.185-275.

The Department suggests that a unified body of law should be considered for locatable and leasable minerals similar in structure to the Alaska Surface Coal Mining and Reclamation Act. A comprehensive mineral development program would address land use allocation, administration, environmental protection, and enforcement. By designing the program through close interagency coordination, the exercise of overlapping authorities could be minimized while at the same time allowing for more control over allocation and environmental impact problems.

5) Land and Fiscal Administration

The remaining comments or proposed changes deal primarily with the fiscal aspects of administering land disposals or surveys. The Department has no comment to make in this regard. These sections of the title do not directly affect the public interests for which the Department has been given responsibility.

Thank you for an opportunity to review the progress being made by your Committee on its review of the State's land management and disposal statutes. I will be happy to continue to assist you with this evaluation. Please do not hesitate to contact me in the future.

Sincerely,

Don W. Collinsworth
Commissioner

Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chairman • 1024 W. 6th Ave., Suite 204 C,
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Official Business

(14)

November 22, 1983

Senator Bettye Fahrenkamp
Senate Resources Committee
1024 W. 6th Ave.
Anchorage, Ak. 99501

Dear Bettye:

I must commend you for the excellent work you and your staff have done in compiling the Title 38 comments and suggested changes. I am impressed with both the "boiling down" of so much material into substance and the quality product that resulted.

After reading through the list of possible changes, I marked those that I particularly favored or disfavored. I used a "+" to indicate approval and a "-" for disapproval. As you will note, my marks are generally favorable and there are few proposed changes that I do not support. Those not marked one way or the other are those that are either of less concern to me or that I am not sufficiently knowledgeable about. I remain most interested in land planning, management, and disposal issues.

And I do appreciate the way in which my comments and suggestions submitted in the two previous letters have been incorporated into the proposed changes.

By the way, I'm struck by the generally consistency of the the comments and the fact that there are few areas where there are opposing suggestions. For the most part, there seems to be a consensus on needed changes.

It's good also that the committee report will include recommendations for administrative changes and DNR's budget.

I look forward to the compilation of a draft bill including agreed-upon changes and believe that the legislation will go a long way towards correcting problems with the management of state land, including disposals.

Best personal regards,

Vic Fischer

Senator Vic Fischer (cj)

Attachment

Alaska State Legislature

SENATE RESOURCES COMMITTEE

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

October 31, 1983

COMMENTS AND SUGGESTED CHANGES--TITLE 38

Chapter 04--Policy for Use and Classification of State Land Surface

38.04.005 More specific goals and policies need to be spelled out for managing and disposing of state land which take into better account the whole range of resource values and uses.

.04.010 This section articulates the policy of making year-round residential use near existing services and seasonal, recreational use disposals where future services will not be needed. Many emphasized the need for either applying this goal more strictly in the disposal program or strengthening the statutes to include such language in the specific disposal authorizations. See also 38.04.020 and 38.09.

.04.020(e) Despite the statute requirement that a budget for disposals be submitted to the Legislature, it was argued that insufficient monies are appropriated to ensure a stable, continuous program over several years. Also, some costs such as possible local services incurred by disposals are not accounted for nor the costs of enforcement of sale provisions. See also 38.08 and 38.09. Although the statute requires estimating costs of complying with local platting and subdivision ordinances, AS 29.33 exempts the state from having to provide capital improvements, such as roads, as part of its compliance with local platting requirements in the disposal of state land. See also 29.33.

.04.020(e)(4) allows DNR to submit a schedule for obtaining cost estimates of municipal regulation conformance in disposals if not available. This "loophole" should be deleted and estimates annually required.

.04.020(f) The statute requires an annual assessment of the demand for state land taking into account supplies of private and local lands. Some felt this is either not being done administratively or that the statute should be strengthened to require accurate market demand/supply/need for disposal

.04.020(g)(2) requires certain percentages of subdivision land be made available for homesites by particular disposal methods. One of these methods, by length of residency has been ruled unconstitutional. The arbitrary percentages to be disposed as homesites should be repealed as well as disposal methods to better reflect specific market demand and public policy.

.04.020(h) limits subdivision parcels to five acres unless local zoning ordinances, topography, sewer and water requirements dictate larger parcel. Remove limitation to enable larger parcels to reflect public desires, other resources in specific areas.

.04.020 Include new provision precluding subdivision disposals in "remote" areas or make such disposals take into account carrying capacities of local resources.

.04.020 The DNR administrative procedure currently calls for public hearings prior to land disposals. Public hearings should be required in the statutes.

.04.020 Although some disposal programs generally refer to making land available throughout the state, specific quotas or percentages of land by region should be required to ensure land disposal in all areas without disposing of a preponderance of land in a few regions as is the case currently.

.04.021 provides for grants to municipalities for the disposal of municipal entitlement lands. Much more money should be appropriated for this program and the statutory restrictions on the ratio of money from the state vis a vis municipal disposal money should be repealed (5 to 1 or 7 to 1). Grants should not be limited for entitlement land disposals, but any local lands. Some statutory provision should be made to encourage the joint participation of state and locals in the disposal of both state and municipal lands.

.04.025 requires DNR to assess the supply and demand for land in making lands available for private use. This section is redundant to a large degree to the assessment required in .04.020(f) and should be repealed or integrated and made more specific.

.04.035(4) prescribes a lease system for cabins in remote areas where survey and conveyance is impractical. Cabin lease system should be more broadly used instead of disposals when dealing with "trespass" cabins, recreational uses, resource conflicts and other factors. See also .05.079.

.04.040 authorizes the sale of University lands. With the passage of SB 41 last session removing University lands from "state" or public lands, this and other references to University lands should be repealed.

.04.045(a) permits the disposition of land in parcel sizes reflecting individual use needs or market supplies. This conflicts in part to the subdivision 5-acre limitation in .020(h) and should be either consolidated or made consistent with this section.

.04.045(b) requires surveying and platting prior to land disposal. Specifies land not to be conveyed unless within two miles of control monument. Requires state disposal plats to comply with local ordinances similar to private lands. This should be adhered to administratively and the exception for the state in complying with capital improvement requirements by locals in Title 29 should be repealed. See 29.33. See also .09, homestead survey requirements.

There is debate on the definition of "cadastral survey". Some want definition to include survey monumentation every section and quarter section, others prefer broader definition to expedite disposals in remote areas.

.04.050 provides for the reservation of easements and rights-of-way when lands are surveyed for disposal for access to each parcel of land. Surface access is to be developed where "necessary and appropriate" with costs to be borne by land recipients. Statutory changes recommended specifying that legal and feasible access be provided to and within subdivisions (not necessarily section-line easements, for example) and that access meeting local ordinances for subdivisions be required of the state. See also 29.33

.04.055 mandates the reservation of public use easements and rights-of-way in the disposition of private lands. This provision is very similar to the provisions of 38.05.127. More public easements and rights-of-way should be reserved administratively under this authority and state land reservations in fee simple should also be made to ensure access to public lands and waters. See also .05.127

.04.065 requires the development of regional or area plans to guide land classifications. Although land classifications must follow such plans, until they are completed (only a few are currently completed) localized "land planning reports" are the only plans currently required prior to disposals under current administrative regulations. Area or regional plans should be completed and required prior to land disposals to ensure that all resources are considered in a particular area or region.

This section also requires local government and public involvement in the planning process. The statutes should specifically mandate the holding of public hearings as part of the plan development and prior to any classification or disposal. See also .04.020 and .05.301 and .05.345.

.04.070 sets out several classifications for retaining land in public ownership. One or more of these such as "public reserve lands" should be further defined statutorially and lands included to more permanently retain them for a variety of public uses in contrast to more specific management systems such as state parks or state forests.

.04.910 is the definition section for .04. The definitions for "official cadastral survey" and "official control survey" should be reviewed in light of federal and state policies and most current applications. See also 04.045(b).

CHAPTER 05--ALASKA LAND ACT

.05.030(c) provides for the notification to DNR by other state agencies of any land acquisition, lease or exchange. Notification should include disposals also.

.05.035(a) requires DNR to make a "best interest" finding prior to sales, leases, or other land disposals, except for revocable permits, shore fishery sites leases, and certain negotiated contracts. All disposals, including permits and leases, should require "best interest" written findings. Such a finding should be further clarified in the statutes and include social and economic impacts and benefits of disposals.

.05.035(b) authorizes the granting of preference rights to land and property to persons adversely affected by state or federal errors or omissions. Limit rights to preferences to three years from date of error or state action in order to avoid long-standing claims with difficult record reconstruction.

(b)(5) authorizes direct negotiation with users or improvers of state land prior to statehood to convey title when in "best interest" of state. Provision of dubious legality and should be repealed

.05.045 authorizes the sale of all state land except tide, submerged, shorelands, timber and grazing lands. Timber lands should be allowed to be sold to enhance timber harvesting and reduce administrative costs.

.05.050 mandates that land disposals, including homesites under .04.020(g)(2)(C),

be held in the "municipality" closest to the land and in which regular sessions of a state court are held. Some feel that this requirement is unfair to residents from other areas of the state while others favor retention of the requirement as a form of resident preference. One suggestion is to permit teleconference participation at auctions or lotteries.

The reference to .04.020(g) should be deleted as part of the suggested repeal of that section.

Change "municipality" to "community" to take into account unincorporated locations.

.05.057 requires the consultation by DNR with the local assessor in the determination of purchase prices prior to disposal. This requirement should be eliminated as unnecessary.

.05.058 established a discount program for the purchase of land based on the number of years of residency. Discounts up to 50% of the purchase price were available. This provision was ruled unconstitutional and was repealed in the last legislative session. Some felt the resulting policy of disposing of land at fair market value will result in a more accurate picture of demand for state land, will enhance private land developments, and effect a better return for state resources. Others have recommended a replacement discount program not based on residency to continue to provide lower cost alternatives to state land acquisition. One suggestion is to give a "rebate" or a discount off a fair market value purchase price if certain specified improvements are completed. The value of the improvements up to a certain percentage of the purchase price could be permitted. Another suggestion is to establish a forgiveness system towards the purchase price in which payment are removed from the end of the payment schedule for each year of payments paid on a year-to-year basis. This concept is included in SB 280 currently pending before the Legislature.

.05.065(a) sets the interest rate to be paid on land disposal contracts to real estate mortgage loans made by the federal land bank for the farm credit district for Alaska. These rates have currently been more than 12%. A more appropriate guideline should be established which would more closely reflect rates for prevailing state programs such as housing, ag and fishery loans.

.05.065(c) provides a general action for contract violations. An appeal process should be enacted followed by the prerogative of the commissioner to foreclose and sell interest to a third party as if it were a deed of trust.

.05.067 provides for special sales of land for veterans. This provision is currently not being utilized by the DNR, nor has it been used to any extent in the past. It should be repealed.

.05.069(a)and (b) provide for a 60-day first option to adjacent landowners for ag land sales or leases and a method based on a "greatest need" or veterans preference to determine which of several adjacent landowners should be granted an option. To facilitate efficient administration and simplify the selection procedure ag land options for adjacent landowners should be exercised at the time of disposal and a single recipient selected by simple drawing of lots.

.05.070(b) authorizes the DNR to negotiate a land lease without advertisement if it involves less than $250/year. This limitation should be raised to $5000/year to expedite processing leases.

.05.070(c) authorizes DNR to grant land leases for up to 55 years if in best interest of the state. Limit should be raised to 99 years to be compatible with federal leases and to facilitate financing of development.

.05.077-.078 establishes the remote parcel leasing and conveyance program. The legislature repealed this program effective July 1, 1984 and substituted many of the provisions with the homestead program (see 38.09). The remote parcel program should be reenacted or extended another year or so to permit smoother transition to homestead program, ensure maximum land availability for remote recreational use and to permit stakers a 5 to 10 year lease prior to purchase of land.

.05.079 authorizes a remote cabin permit program. Although cabin permits are to be issued only for lands classified for this purpose, current classifications are too permissive in where remote cabins may be located. Others have felt that this program is underutilized and more remote cabins should be offered and encouraged in lieu of land disposals in many remote areas. The permit system should be replaced with a lease system to ensure that a "best interest" finding was required (see .05.035(a)). Also a public use cabin should either replace or supplement the remote cabin permit program to further reduce the need for land disposals.

.05.110 provides for the assessment of timber on state lands and recommendations for the sale of timber and other materials. This assessment and recommendations should take into account the availability and current markets for nearby private timber supplies.

.05.125 mandates the reservation of the mineral estate (subsurface) from all lands conveyed by the state. In the references to various disposal programs covered by this provision should be added 38.09 establishing the homestead program.

.05.127 requires the determination of "public waters" or "navigable waters" prior to the disposal of state land and the reservation of easements or rights-of-way to ensure public access to and along such waters. Regulations implementing this section have not been issued. Current applications of easement reservations for entitlement lands conveyed to municipalities have been too broad resulting in many unnecessary and burdensome easements in land titles. Statutes need further clarification on what "public waters" are and perhaps special provisions for municipal lands when it can be demonstrated that reasonable public access will be ensured. (The statute does provide for vacating of easements on municipal application "if consistent with the public interest".)

Oil and gas and mineral leases should be excepted from the application of the provision. As such leases only permit limited surface uses and do not bar public access, commonly are held for years without ever going to development or production stage, and involve time-consuming administrative work to identify public waters and easements, it is recommended that such easements and rights-of-way not be identified until a development or production plan is submitted for approval.

In addition to easements and rights-of-way, fee simple state land should be reserved in cases (see .04.055).

.05.140-.181 Authorizes leasing for coal, phosphates, oil shale, sodium, sulphur and other minerals on state lands. The terms for such leases vary somewhat including acreages and length of leases. These terms should be reviewed and made consistent if appropriate.

.05.150(c) authorizes a two-year coal prospecting permit with one two-year extension if diligence is demonstrated. Because of the lengthy prospecting time necessary for coal exploration, permits should be granted for longer terms (e.g. 3-5 years with one or more extensions).

.05.150 In the determination by the DNR to lease coal lands, nearby coal reserves on private lands should be taken into account.

.05.185-.275 governs the procedures for locating and administering mining claims on state land. Procedures are also contained in Title 27. Rather than a location, or claim-staking, system of establishing rights to mineral and possibly surface estates, all minerals should be leased under programs similar to those for oil and gas. Rather than the current Mining License Tax levied on net profits on a sliding scale up to 7% , a royalty system similar to oil and gas should be enacted (10-12% of gross profits). Such a system would discourage marginally economic operations , protect other resource values , and generate a fairer return on state-owned resources. (The current tax took in $158,000 in 1982--90% of the money from coal, sand and gravel and other non-locatable mineral production.)

.05.185 authorizes the leasing of minerals when DNR finds that potential use conflicts on state land would exist or that the land was mineral in character at the time of state selection. Such lease determininations must be consistent with the land classification procedures. Regulations for implementing a location leasehold system for conflict or mineralized state land areas are currently proposed. Lands available only for location leasehold mineral acquisition should be expanded to include most, if not all, state lands. This could be accomplished either through a broad administrative determination of "use conflicts" or through additional statutory language directing additional considerations in the classification of leasehold lands.

.05.190(a)(1) grants exploratory and mining rights to those at least 19 years of age. The current age of majority for most activities in Alaska is 18 years old, and this statute should be correspondingly changed.

.05.195 requires that mining claims be staked in the four cardinal directions (north, south, east, west). Amend provision to not apply to fractional claims or when the commissioner determines that such staking is impractical.

.05.200 or .210 Amend the requirements for amending claim locations or filing annual assessment work to allow affidavits of annual labor to be corrected by amendment thus providing a legal mechanism for correcting errors.

.05.205 directs the DNR to publish a notice of a mineral lease no later than two weeks before sending lease application. This publishing requirement should be deleted so that mining leases are treated like other noncompetitive mineral leases whereby the notice is published only when the finding mandated by 38.05.035(a)(14) is ready and no subsequent notice is required. See also .05. 345(e).

.05.240 provides for basic mineral survey finds for annual labor to be filed and kept confidential by DNR. Delete the provision as it can result in the "leaking" of proprietary information, the information is often of mixed quality, the date submitted serves no particular public benefit, and the requirement poses an administrative burden for claimants and DNR.

.05.0245(a) requires the filing of a certificate of mining location in both the recording district and also the DNR. Delete the requirement to file the certificate of location with the DNR as the District Recorders' Office is currently within the DNR.

.05.245(c) limits the number of prospecting sites that a person may locate in one calendar year in one recording district to six. It also prohibits the relocating of an expired prospecting site within two years. Change the number of prospecting site locations from six sites "located" in one year in one district to eight sites "held" at any one time in each township. This increase in the number of sites permitted will encourage the use of prospecting sites where a discovery has not been made yet and address a current loophole whereby employees of large companies locate sites and quitclaim deed them to company. Also change the waiting period for restaking sites from two years to one.

.05.250(a) provides for the issuance of prospecting permits for tide and submerged lands. Amend to clarify that the rental year for an offshore prospecting permit ends on the anniversary date of the permit, not at the end of the calendar year. This change would allow the rental year for permits and offshore leases to be computed in the same way.

.05.250(b) Provides for the obtaining of a noncompetitive lease to holders of prospecting permits. Amend to delete the first sentence of the provision which states that the "right to possess and extract the mineral may be acquired by noncompetitive lease." This sentence is redundant of the next sentence in the provision and may mislead people to believe that they can get a noncompetitive lease without first obtaining a prospecting permit.

.05.265 prescribes the basis for "abandonment" of a mining claim, location, or permit. Amend to define the "essential facts" that must be included in annual labor affidavits. Amend so the former owner of an abandoned mining location cannot acquire any direct or indirect beneficial interest in the location site during the one-year waiting period. Change the waiting period for prospecting site locations from two to one year consistent with .05.245(c). Amend to provide that abandonment of a mining lease or location constitutes abandonment of the interest in tailings mined and left on state land, unless the lessee or locator has purchased the materials in the tailings and has received authorization to store tailings on state land.

.05.275 Amend to eliminate the requirement of filing a certificate of location with the DNR as in 38.05.245(a). The district recorders office is in DNR.

.05.300 provides for the classification of state lands and bars the closure of state lands, except by the state legislature, to multiple purpose use if the area involved contains more than 640 acres. This prohibition should be strengthened to prohibit the DNR to administratively close more than 640 total acres by multiple 640-acre closures. See also .04.065. The authority to close lands to mineral entry should be broadened to enable the closure of lands conveyed to municipalities under the entitlement grants.

.05.301 requires an assessment of impacts of any land sale, lease or disposal on population and traditional land uses in the unorganized borough and necessary mitigation plans. Citizen review boards or perhaps the Coastal Resource Service Area Boards should be utilized in the review of all proposed land disposals in rural areas (or any areas). In addition to required input the Boards might be given veto authority over proposed land sales or disposals. See also .04.020.

NO MORE THAN BOROUGH ASSEMBLIES!

.05.310 requires an appraisal within 120 days of the sale or lease of state lands. Because of the delays often encountered in leasing and selling lands, costly reappraisals are often required by law. The 120-day limitation should be extended to one year.

.05.345 establishes the notice requirements for classification, sale, lease and disposal of state lands. (b) requires at least one of several different kinds of notice be given (e.g. newspaper publication, electronic media, posting, notification of affected parties). More than one such method of notification should be required.

(e) provides an exception for mineral leases issued under 38.05.205. This should be deleted to conform with change recommended for .05.205.

Amend to include provision for public hearing upon request subsequent to notification. See also .04.020 and .04.065.

.05.350 is a policy statement for the state to encourage settlement and develop resources consistent with public interest. This policy is incorporated in the policies contained in .04.005-.015 , is statutorially out of place and should be repealed.

.05.362 mandates the classification of at least 650,000 acres of agricultural land or no less than 50% of the lands having Class II or III soils by September 22, 1979. This requirement was met and the provision should be repealed.

.05.365 is the definitions section for chapter .05. Number 23, "public waters" should be reviewed for clarity particularly as it applies to the reservation of easements and rights-of-way for municipal grant lands under .05.127.

.07.030 provides for the clearing of ag lands owned or leased by private parties. A revolving loan fund should be established for clearing projects wherein monies could be continuously available to clear both state and privately owned or leased ag lands.

.08 Establishes the homesite disposal program under which title is obtained through "sweat equity" requirements of residency, dwelling construction and survey. One suggestion is to eliminate the permit system during the proving up period, provide an assumable and assignable contract at fair market value and a schedule of rebates or discounts based on improvements or actions taken on the land. This "carrot" approach would result in better ability to finance improvements and reduce administrative compliance actions.

Another recommendation is to make the requirements conform to the "sweat equity" features of the recently-passed homestead bill--residency from 35 months in 7 years to 25 months in 5 years; dwelling construction from five to three years.

If all requirements except the ones for residency have been met at the end of the permit term, amend the statute to permit the purchase of the parcel at fair market value. This would provide an expedient and equitable way of dealing with forfeiture of parcels with property improvements on them.

See also .04.020(g)(2).

.09.010(b) requires that lands available for homestead entry may not be located more than one mile from a survey control monument. .04.045(b) prohibits the disposal of state land further than two miles from a monument. This provision should either be eliminated in .09.010 or be made subject to an administrative determination that staking could be permitted up to two miles of a monument when geographic conditions warrant and excessive survey costs to stakers will not be incurred. This change would permit a full conversion of lands identified for remote parcel disposal (where monuments are generally located every four miles) to homestead disposal. (The remote parcel program is repealed effective July 1, 1984). This would eliminate the need for additional costly surveying in these areas.

.09.010(e) prescribes the procedures for staking of homestead entries. Staking procedures in remote areas should include a requirement that sufficient spacing between parcels occur to minimize the demand for future services and reduce conflicts with other resources and occupants. See .04.010.

.09.020 prescribes the obtaining of entry permits under which "prove-up" activities are to occur. Eliminate the permit system, provide an assumable and assignable contract at fair market value and a schedule of rebates or discounts based on the value of improvements or actions taken on the land. This approach would result in easier financing for improvements and less administrative compliance expense. See. also .08, homesite program.

.09.050(d) and (e) Prohibits the subdivision of lands obtained through sweat equity for five years and through purchase for ten years and the sale or lease of lands for five years regardless of method of acquisition. These prohibitions should be extended for longer time periods to prevent speculation and to ensure that the goals of the program are being met.

.09.080(b) subjects homestead disposals to local platting, recording and subdivision requirements under 29.33 and 40.15. 29.33 exempts state compliance from having to provide any capital improvements on land disposals. Disposals should be made subject to all local platting and subdivision ordinances, or be forced to negotiate with municipalities on the provision of access and other improvements. See also .104.020(e) and .04.045(b) and 29.33.

.09.090 authorizes the purchase of a homestead entry within two years subject only to the brushing and survey requirements. Purchase at fair market value should also be permitted at the end of the permit term if all but the residency requirements have been met. See .08.

.35.050(a) governs the application process for the construction of an oil and gas pipeline and/or transporation system across state lands. A minimum application fee (perhaps $1000) should be provided in statute to cover the administrative costs of processing a right-of-way application.

.35.140(b) provides that the lessee of a pipeline right-of-way shall reimburse the state for costs in monitoring the construction of the pipeline. Amend to provide for reimbursement for processing application, and for monitoring operation and maintenance of the pipeline.

.50.020(a) provides for the exchange of state land for other lands to be based on equal appraised values, or if not, to be submitted to the legislature for review and possible veto. One recommendation was to require that all proposed exchanges involving state lands be submitted for legislative review. Other recommendations were that the equal-appraised-value requirement is too strict and burdensome and discourages trades, especially small-tract exchanges even when public benefits are clear. The statute should be amended to permit the exchange of land smaller than a certain size (perhaps 640 acres or smaller) administratively regardless of equal appraised values.

.50.020(b) assumes an appraisal to be valid for six months and after such time a new appraisal for a proposed land exchange is required. Amend the statute to lengthen the "validity" of an appraisal to one year to permit the execution of trades which involve considerable administrative work and public review without incurring the costs of additional appraisal

.50.110-.130 dictates substantial requirements for the notice and data needed for a proposed land exchange. Amend the statute to streamline the notice and information requirements for land tracts under a certain size (perhaps 640 acres) to facilitate beneficial exchanges without large administrative costs. Make the notice requirements conform to those for land sales and leases in 38.05.345.

.50.120 requires that at least one public hearing be held on a proposed land exchang Amend to include a minimum tract size before a public hearing is required to minimize administrative costs for small exchanges.

.95.080 mandates the granting of a trapping cabin permit to qualified applicants. Amend language to grant DNR discretion to not issue a permit in consideration of existing land uses and resource values in the specific location.

Amend to apply the provisions to cabins and camps used for hunting, fishing or other guiding activities.

ADDENDUM

.20 This chapter describes the Alaska Coordinate System to be used in land surveying and descriptions. Changes in the federal datum used as a base for this system should be reflected in the state statutes.

.05.275 provides for mineral locations on submerged and tidelands. Amend to limit the staking system of locations to state uplands and to tidelands (between mean high and mean low tides) if part of the claim is on uplands. Staking on submerged lands (below mean low tide) would be disallowed and submerged lands would be available to mineral exploration and production by the state's offshore mineral leasing system.

TITLE 38--GENERAL COMMENTS

---Section 907 of the Alaska National Interest Lands Conservation Act (ANILCA) establishes a land bank program under which Native and other private lands can receive tax and other protections in exchange for non-alienation and non-development of the private lands and management in conformity with adjacent federal and state lands. The State is authorized to participate in the program if it adopts laws of general applicability to section 907. To promote cooperative land management among major landowners in the state, it was recommended to adopt enabling provisions for a land bank program.

---DNR regulations currently limit participation by most Division of Land and Water Management employees in land staking and over-the-counter programs. Such possible conflict-of-interest situations in land disposals should be identified and restricted by statute.

---Presently only the homestead program and the project ag leasing program have restrictions on the sale or subdivision of land after the conveyance of title. To further prevent speculation on state land several provisions were recommended: Increase anti-sale, anti-subdivide restrictions on homesteads and apply similar restrictions to all state land disposals; Strictly retain fair market value sales and/or require substantial residency and improvements of land; Broaden the coverage of the one homesite or homestead per lifetime proviso to all state land disposals.

---SB 41 which settled the University of Alaska/State land lawsuit by awarding the University exclusive ownership and management over certain state lands passed the Legislature last session. The removal of University lands from "public lands" necessitates that the references and treatment of University lands be changed in the statutes throughout Title 38.

COMMENTS ON RELATED SUBJECTS IN OTHER TITLES

Title 29--Municipal Code

29.18.201-.208 Under the municipal land grant entitlements the Municipality of Anchorage received 44,893 acres of state land, but to date has only received patent or tentatively approved title to 21,000 acres with virtually no additional state land for selection available. The statute contains a formula based on population and lands conveyed to compensate in cash municipalities who are unable to fulfill their entitlement. Under this formula Anchorage would be entitled to $35 million except that another provision limits the total any municipality can receive to $9 million. Anchorage has received $4 million to date of this compensation. Recommendations included: 1) payment of the balance of the $9 million; 2) removal of the cap and payment of the otherwise entitlement compensation under the formula; 3) Development of an alternative manner of conveying in-lieu lands to Anchorage from outside the municipal limits or proceeds from the sale or use of such lands.

Muncipal lands conveyed under this section have often remained open to mineral entry and created third-party interests prior to being studied, classified and utilized by the municipalities. Such lands should be closed upon conveyance to municipalities. See 38.05.300.

Conveyance of municipal grant lands has sometimes proceeded slowly and

patent to all municipal lands has not yet been conveyed due to the necessity to survey the lands prior to patent. If the municipality approves the conveyance of lands without a survey or with only partial survey, it should be permitted. Also, the municipalities have had to pay for surveys to expedite conveyance and more state assistance is required. See also 38.04.045(b)

29.33.150 requires the state to submit land disposal plats to local governments having appropriate authorities for approval, but "the platting board may not disapprove the subdivision plat on the basis of regulations which require capital improvements (e.g. roads) on or to state land included in the subdivision plat. Regulations adopted after the platting board is notified by the commissioner of natural resources of a proposed sale of subdivided state land under 38.05.005-38.05.370 or 38.08.010-.120 do not apply to the state land in the proposed sale." Repeal the exception for capital improvement requirements to enable local governments to minimize the future demand for access and services to state subdivisions and to ensure future residents satisfactory access and services. Removal of the exception would also put the state on the same footing with private land developers and ensure local control on community growth and lifestyle.

In an effort to reduce costs to the state of such a change in the statute and to ensure that disposals are not blocked by overly burdensome ordinances, capital improvement requirements could be limited to disposals on or near existing highways and roads; could be limited to some accepted standards, such as primitive road or local road, etc.; or funding could be through revolving fund incoporating receipts from land sales and possibly tied into the municipal grant program for local disposals. See 38.04.020(e), 38.04.021, 38.04.045(b), 38.04.050.

TITLE 27--MINING

---Title 27 also deals with many of the same mining procedures and rights (picked up from federal law) as are contained in Title 38. These apply to mining rights on fed la

---The reclamation statute dealing with coal mining formerly contained in Title 41 is now contained in Title 27. The reclamation requirements pertaining to coal should be applied in law to all mining operations.

---27.05.020 prohibits certain conflicts-of-interest. Recent interpretive problems point out the need for revision to clarify meaning and intent.

---27.05.080-.090 require four public assay offices with assayists in each office statewide. DGGS actually only maintains one assay lab on the UAF campus. The statute should be changed to reflect the realities of the situation. It might be preferable to enact an assay system based on private assaying with rebates to miners for private assaying.

---27.05.180-.210 authorizes the purchase of specific mineral prospecting equipment to be loaned out to private persons for exploration work. DNR no longer, if ever, conducted such an equipment lending program. The 1955 statute should be repealed.

---27.10 embraces the 1872 mining law as it governs mining on federal lands. Changes made in the 1976 Federal Land Policy and Management Act (FLPMA) are not incorporated in these statutes and should be.

---27.15.010 is the only provision in Title 27 dealing specifically with mining on state-owned lands. It requires "grubstaking" contracts be in writing. Should be repea

ADMINISTRATIVE AND BUDGETARY CONSIDERATIONS AND RECOMMENDATIONS

1) Concern was expressed over the amount of land which is currently being disposed. While most recommended that less land be disposed of, some felt more land should be sold or made available for private use. There is currently no statutory level of acreage disposal and annual offerings have ranged from almost nothing in 1976 to 100,000 acres in 1980 to approximately 60,000 acres for 1983.

2) Concern was expressed that land should be made available throughout the state, not just primarily in the Mat-Su Borough or the Tanana Basin. Also it was recommended that high-quality, accessible land be offered to a great extent.

3) While the need for remote recreational and residential lands was recognized, many expressed concern that spacing requirements be enforced to minimize population densities and corresponding impacts on the resources of the areas and to head off future demands for governmental services such as schools, roads and utilities.

4) It was recommended that much more planning preceed disposals. In most cases area or regional plans should be completed prior to land classifications and disposals to ensure protection of other resource values in the larger area.

5) If parcels are not sold or staked in a particular offering they should be retained in over-the-counter offerings.

6) There was considerable concern over the quality and application of market studies in the determination of the amount and locations of land to be disposed of. Althoug the statutes require a market analysis based on the demands for state land relative to the supplies of other public and private lands, such studies have been criticized as being inadequate, superficial or based on limited information. It is recommended that the DNR conduct a more accurate market study prior to disposals, especially in light of removal of the residency discount program.

7) Many felt that the state should fully comply with local platting and subdivision regulations, even if improvements such as roads were required. State subdivisions in the past were felt to create undue burdens on local governments and hardships on land "winners". Also, such subdivisions were blamed for undue competition with private land subdividers who must meet local ordinances.

8) It was felt that the state needs a well-planned, long-range program with consistent land disposal programs. Program changes and frequent amendments by the Legislature contribute to public confusion, false short-term demand, and high administrative costs.

9) Some felt that the DNR classifies too much land as available only to mineral lease-hold location system while others felt most, if not all, land should be so classifie Current law permits classification for leaseholds when resource conflicts are presen or the land was mineral in character at the time of state selection (38.05.185).

10) It was recommended that DNR consider supplies of timber, coal and sand and gravel on nearby private lands prior to sale of these materials and resources on state lands so as to not directly compete with private developments.

11) It was recommended that the remote cabin program authorized in 38.05.079 be utilized to a greater extent, possibly subject to certain classified areas, in lieu of disposal programs.

12) It was felt that the DNR should charge greater fees for the processing of permits and leases to help defray administrative costs.

13) It was recommended that the current work plans for ag lands not be required but that developments could be better effected through some program of monetary incentives. Others felt that improvement requirements reduced the speculative aspects.

14) It was recommended that DNR utilize its authority in 38.05.070(c) to cancel unused grazing leases.

15) The DNR and perhaps the Legislature should develop a trespass policy and procedure for state lands emphasizing priorities for administrative action due to time and manpower constraints.

16) Lands conveyed to municipalities under the entitlement program should be closed to mineral entry.

17) Additional monies are needed for the municipal land disposal fund program to assist the local governments in disposal of entitlement lands and remove pressures for similar state land disposals.

18) Money is needed for a state computerized system for handling land records and land disposal information. A full accounting of costs and revenues from sale and lease programs needs to be undertaken and retrievable information made available.

19) A more abundant and predictable source of money for land surveys is needed if a long-range, consistent program of land disposal is to be obtained. Surveys are needed several years in advance of disposals and also serve additional land planning and use needs.

20) More money is needed for completion of area or regional plans required in Title 38. The current schedule subject to annual appropriation levels will not allow completion of plans for most of the state before the end of the decade.

21) More money is needed for on-the-ground management of state lands, particularly in the area of enforcement and compliance.

22) Title 38 should be published in a larger format booklet for the public similar to the Title 29 publication produced by the Department of Community and Regional Affairs.

rec 11-18-83 (7)

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M November 18,1983

SUBJECT: AS 38

TO: Senator Bettye Fahrenkamp
Chairman, Senate Resources Committee

FROM: Richard A. Bradley
Legislative Counsel

Your November 2 letter asked that I comment on the recommendations for changes in AS 38 developed from your hearing on that title during the interim. As I advised Pat Pourchot, I consider it inappropriate to comment on the policy changes suggested to the legislature unless I consider them legally ineffective or unconstitutional.

AS 38.04.020(e): The section requires the commissioner of natural resources to submit a budget for the costs of "construction of access roads and capital improvements required by municipal subdivision ordinance or regulation of a platting board under AS 29.33.150". AS 29.53.150(b) provides, in part, that "The platting board may not disapprove the subdivision plat on the basis of regulations which require capital improvements on or to state land included in the subdivision plat."

Pat Pourchot invited me to comment on options open to the legislature for a resolution of the difficulty caused by the exemption in AS 29.33.150(b).

The options are endless. The legislature may

(1) Repeal the exemption in AS 29.53.150(b);

(2) Solve the budgetary aspect by eliminating that aspect of AS 38.04.020(e)(4);

(3) Shift in some respect the cost of the capital improvements from the state to purchasers of the state land.

The implementation of the third suggestion, perhaps the most useful, could be done either by the state absorbing the cost of the capital improvements from the sale prices of land sold or by adding those costs on to the sale price, presumably after disclosing to the purchasing public just what the costs would be.

Other alternatives would include abandoning state sales within municipalities, on the untested assumption that either the municipal land grants are generating adequate land for sales within municipalities-- or that there may be no land within the municipality; the municipality would then be implementing the capital improvement requirements as to itself.

Sec. 38.04.020: New language is suggested to make statutory the present DNR regulatory requirement of public hearings before land disposals. I suspect that the regulation was not self-generated but rather resulted from a Alaska Supreme Court decision that noted the requirement of "prior public notice" on "disposals or leases of state lands, or interests therein" in art. VIII, sec. 10, of the Alaska Constitution. See State V. Aleut Corporations, 541 P.2d 730, 736 (Alaska 1975) and compare AS 38,05.345 and former AS 38.05.305.

I agree with the suggestion, of course.

Sec. 38.05.020: A new section requiring quotas or percentages on the disposal of state land throughout the state is suggested. The ideal is desirable but you may recall the difficulties with the development of such a formula during the hearings on the homestead bill before the House Finance Committee.

AS 38.04.040: University land. I do not wish to quibble excessively with the suggestion that "references to University lands should be repealed" but I note that what SB 41 did was simply determine that "university land" was not included within the definition of "state land". The legislature retains the power to instruct the Board of Regents on the management of university land.

AS 38.04.055: This section deals with the reservation of public use easements and rights-of-way. One problem encountered concerns the identification of these ROWs in remote areas, with apparently some locals employing a reverse twist and putting "no trespassing" signs on public land near theirs. I suggest that DNR consider undertaking a marking of these ROWs on disposal to avoid future problems. I acknowledge that what is involved in "marking" has lots of options.

Sec. 38.05.035(a): The section requires a "best interests of the state" determination. I suggest that this determination finds its basis in art. VIII, sec. 10 of the Alaska Constitution; the latter section requires "prior public notice and other safeguards of the public interest as may be prescribed by law." While the Constitution leaves to the legislature the determination as to what the "other safeguards" might be, the mandate is found there.

AS 38.05.069: The section is somewhat garbled, confusing the statutory option of a holder of agriculture land to remove restrictions with the entirely separate concern of people using agricultural land to obtain additional agricultural land that is adjacent or approximately located. I expect such a reconciliation to appear in a bill introduced next session. In considering sec. 69, consider also AS 38.05.321(a).

AS 38.05.070(b): In raising the threshold for leases without negotiation, consider the problem of art. VIII, sec. 10, alluded to above. I do not suggest that $5,000 leases are not above the de minimis threshold but the question is close.

AS 38.50.120: The concern is for public hearings on a proposed land exchange. Again because of art. VIII, sec. 10 of the Constitution, I suggest that the notice aspects be dealt with by a published notice if the requirement of a public hearing is repealed.

If I may be of further assistance, please advise.

RAB:ojb
J1/035

(6)

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M

November 7, 1983

SUBJECT: Title 38

TO: Senator Bettye Fahrenkamp
Chairman, Senate Resources

FROM: David R. Dierdorff
Revisor of Statutes

Thank you for giving me the opportunity to comment on the recommendations for change in AS 38 received by your committee during the interim. Most of the recommendations involve policy or substantive changes and it would be inappropriate for me to comment on those. I do, however, have a few comments of a technical nature.

AS 38.04.020(g)(2). If you choose to bring this provision up to date to reflect the unconstitutional residency requirements, be sure to concentrate your efforts on the statutes that create the unconstitutional requirements and make sure that any changes in this section are accompanied by and consistent with changes in the operative sections relating to particular disposal methods.

AS 38.04.020 and 38.04.065. If you decide to include public hearing requirements, it might be best to do so in a section generally applicable to specific activities of the department, rather than to add individualized requirements in the sections relating to the activity that you desire to subject to the public hearing process. Also, it would be better to describe the activities than to refer to them as activities under a particular section or sections of the Alaska Statutes. In other words, decide which activities should include a public hearing before final decision and list those activities. The danger of referring to specific statutes is that the referenced statutes may change, and the danger of trying to find each section and adding a requirement is that you may miss a section.

AS 38.04.025. I recommend that you integrate the requirements of this section into AS 38.04.020(f) and repeal this section. Under the new style of the statutes, the repeal line will carry a cross-reference to the location of the current similar provisions.

AS 38.04.040. The other sections in the title that need to be amended to reflect the change in status of university lands are AS 38.05.030, 38.05.365 and AS 38.50.040.

AS 38.04.045(a). It appears that the simplest answer to the problem here is to add the considerations set forth in this section to the items listed in AS 38.04.020(h) allowing the commissioner, upon an appropriate finding, to increase the lot size above the statutory maximum.

AS 38.04.045(b) and 38.04.910. I am somewhat troubled by the use of the term "cadastral survey" in the statutes, as that term has a dictionary meaning that is quite different specific than the meaning it has been given here. Perhaps the best way around this problem is to talk in terms of a minimum acceptable survey for the purpose intended. In other words, in an activity where section corner locations are adequate, require that; in an activity requiring a metes and bounds survey, require that; and in the situations where something between the two extremes is adequate, require that. In any event, be very careful about the use of definitions that give a term a meaning that is very different than its ordinary meaning.

AS 38.05.077 and 38.05.078. If you decide to reenact the remote parcel program as recommended, do so by temporary law rather than by reenactment of the sections repealed.

With respect to the "administrative" suggestion that AS 38 be published in a booklet for the public, I would urge the consideration of including relevant regulations in the same booklet. Giving the public only the statutory provisions is giving them only some of the law relating to public lands.

In my work on the title, I discovered something that you may want to add to your list of necessary changes. In AS 38.04.030, the term "this section" is used. It occurs to me that this should be changed to"this chapter" or perhaps to"AS 38.04.020" rather than "this section." The present wording is that of the 1978 Act, but that doesn't necessarily make it right!

I applaud your committee's efforts to improve AS 38 and would be happy to add appropriate sections to the revisor's bill to assist you in your efforts. Those would include the repeal or amendment of obsolete provisions where the repeal or amendment does not create or change policy in any manner. It might expedite your work to do so, as the revisor's bill is in House Judiciary and we have been asked to provide an updated committee substitute for action early in the second session. While I want to minimize changes in order to maximize the chances for Senate concurrence in any amendments, as long as the changes made in the House reflect the wishes of your committee that should not be a major problem.

Please let me know if I can be of further assistance.

DRD:ojb
J1/017

(16)

LIVENGOOD/TOLOVANA MINING DISTRICT

P. O. BOX 73069 - FAIRBANKS, ALASKA 99705

November 17, 1983

Senate Resources Committee
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Bettye and Committee:

We have reviewed your document dated October 31 that requested comments and suggested changes to Title 38.

First of all, I would like to point out that many parts of this document do not pertain to the Mining Industry, and as such, we do not feel we can comment on them at this time.

Our main concern falls on any section where it leans toward or suggests that all mineral locations be turned into a leasing arrangement. At this time we should have leasing only where the surface has been reconveyed. We believe the "location system" is vital to the free-enterprise way of life. It is conceivable that the locatable mineral industry, under a leasing system, could evolve into seven large companies or consortiums as did the petroleum industry, with virtually no opportunity for new blood in the business.

One of the most important things that you could do is to insert a definition of the term "disposal", and how it pertains to the mining industry, into the new document. Hopefully, mining claims do not fall within the perimeters of "disposal", but if they do, or if there is a chance they might at a later date, it would throw a whole different light on Title 38.

In response to the questions that do pertain to mining, I would like to suggest that all except the most mondane housekeeping matters be delayed until we have our new Division of Mines and Minerals functioning; until we have a new Director and he has had time to give these changes his consideration; and until more information is available regarding the definition of "disposal". We fear that jumping into this in too hasty a manner could have far reaching and detrimental effects on the future well-being of the State of Alaska.

The Livengood/Tolovana Mining District would like to be included on your list of miners to be polled when items of such importance come up.

Thank you

Rose Rybachek

Rose Rybachek, President

(15)

L AND S OUTFITTERS

ALASKAN BIG GAME OUTFITTING
AND GUIDE SERVICE

NOV 2 2 1983

P.O. Box 1616
Fairbanks, Alaska 99707

November 18, 1983

Senator Bettye Fahrenkamp
Alaska State Senate
Juneau, Alaska 99811

Dear Senator Fahrenkamp,

I'm writing in response to your letter of November 2nd soliciting comments about the proposed land management and disposal statutes. I would like to specifically address .95.080 as president of the Alaska Professional Hunters Association (I do not have any association stationary with me at this time).

Comments concerning .95.080 -

Perhaps the biggest problem facing Alaska's wildlife resources today that has anything to do with the guiding industry is illegal and unlicensed guide activities. I refer to the unregulated commercial guiding activities which annually account for MORE animals being taken each year illegally than the legal harvest associated with legal and ethical guiding activities, under the guise of 'transporting' or 'outfitting' without benefit of a registered guide license nor any responsibility to adhering to the laws and regulations governing guiding in the State of Alaska.

Our association, and the industry, urges your committee to take the above situation into consideration when considering issuing cabin permits. We would support any protective measures you may be able to build into such legislation which would require proof of the permitee holding a valid registered or master guide license BEFORE any such permit were granted to erect or maintain a cabin to be used for the purpose of 'hunting,' and that reissuance of such a permit be dependent upon one's keeping his registered or master guide license current.

If something on this order cannot be accomplished, any permit system allowing non-licensed guides or persons acting as guides will greatly compound an already serious situation for in many cases the major deterent for a non-resident hunting client to not book a hunt with one of these illegal guides is that individual's lack of facilities and credentials. They currently advertise as 'licensed transporters and outfitters,' and if they can also advertise as having a camp or 'lodge' permit (which is exactely what the cabin permit will be called in advertising and presentations to potential clients) granted by the State of Alaska many potential clients will assume that the associated guiding activity is also sanctioned by the state.

Thank you very much for your consideration.

Sincerely,

Lynn M. Castle, President
Alaska Prof. Hunters Assoc.

cc: all APHA members
Guide Board

(3)

Bristol Bay Native Corporation
445 E. 5TH AVENUE / P.O. BOX 100220 / ANCHORAGE, ALASKA 99510 / (907) 278-3602

November 2, 1983

NOV 8 1983

Honorable Bettye Fahrenkamp
Alaska State Senate
Chairman,
Senate Resources Committee
Pouch V
State Capitol
Juneau, Alaska 99811

Re: Amendment of Title 38 of Alaska Statutes

Dear Senator Fahrenkamp:

Last month, Bristol Bay Native Corporation sent you written comments regarding your Committee's review of Title 38 and the State's land management and disposal practices. (See enclosed letter.) At this time, I would like to bring to your attention an additional matter which relates to your Committee's Title 38 review.

The State Commissioner of Natural Resources, Esther Wunnicke, recently announced that the State is formulating a new State land disposal policy: (1) in future land disposals the State will comply with local subdivision regulations and land use plans; and (2) future State subdivisions, except recreational subdivisions, will not be located in areas which lack existing road access and other property services. (See, Anchorage Daily News 10/5/83.) This proposed new policy raises serious questions regarding future land disposals in the Unorganized Borough. These new restrictions on State land disposals in boroughs may significantly increase pressure for inappropriate State land disposals in the Unorganized Borough -- land disposals of a type which would not be allowed in organized boroughs under the State's new policy.

Boroughs objected that local governments and local citizens should not be forced to bear the costs (roads, services, etc.) associated with inappropriate State land disposals. This argument applies with equal force to the Unorganized Borough: the impact of inappropriate State subdivisions will eventually fall on local citizens, whether

borough government is formed before or after such inappropriate State land disposals. Accordingly, Title 38 should be amended to include new minimum standards for land disposals in the Unorganized Borough which are equivalent to the standards that will apply to State land disposals in boroughs.

Sincerely,

Donald F. Nielsen

Donald F. Nielsen
Vice President

Enclosures

Joe Della
Stwentna, AK
99607

(9)

Nov. 11, 1983

Bettye Fahrenkamp,

I am no longer an officer in the Stw. Area Inc. but have turned your letter over to the new officers. Unfortunately because of the late freeze-up the corporation has been unable to get the representatives from the outlying areas of Stwentna together for a meeting.

Your letter was recieved on Nov. 10th and our next mail day is Nov. 17th, I'm not sure if they can make it and I can't answer for the corp.

As an individual I strongly oppose any more land disposals as this area has frankly been saturated to the point of severely affecting our life styles. On page 6 in Letters, Notes and Comments in Alaska Magazine for November 1983 there is a letter from Darrell Lee that well expresses the feelings of most older settlers outside of the big urban centers of the State.

. In my own area local residents can hardly find a place to fish because of the high concentration of fishing lodges on every stream. It's hard to find a lake of any size that's not all private land. State subsidized speculation is driving taxes up so high, many of us that came into this wilderness area and hacked out homes and raised a family are finding them hard to handle on our incomes.

Many residents no longer attend meetings because the state has just rolled right on over us regardless of what we have said. Way too little room has been left for wildlife and the values it offers Anch. residents. Some of the homestead areas that are supposedly to be opened south of Skwentna are the best moose range in the valley.

For my own part I didn't come to this country to make a pile of $ then move to Oregon, I came to make a home for life. "A Northern suburb" was not in my idea of a quality of ~~life~~ life.

Thank you for sending the information to us and we do understand your position and appreciate your help.

Respectfully,
Joe Delia

NOV 21

(10)

Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-3246

DEPARTMENT OF LAND MANAGEMENT

November 16, 1983

Alaska State Senator,
Bettye Fahrenkamp
State Capital
Pouch V
Juneau, Alaska 99811

Subject: Review of comments for round two concerning Title 38

Dear Bettye,

Thank you for the opportunity to continue to input our comments into your study of proposed changes to Title 38. We will address each item as listed in your letter to us dated, November 2, 1983.

ALASKA STATUTES TITLE 38 RECOMMENDED CHANGES

Chapter 04--Policy for Use and Classification of State Land Surface

38.04.005 The Borough supports more specific goals and policies which take into account the total range of resource values and uses concerning State lands.

.04.010 The Borough supports full compliance with the goal concerning year-round residential use, and recreational use in varying locations and the strengthening of statutes to include such language.

.04.020(e)The Borough feels that the State should not be exempt from having to provide capital improvements, such as roads, as a part of its compliance with local platting requirements in disposal of State lands.

.04.020(e)(4) The "loophole" should be deleted and estimates annually required.

.04.020(f)Accurate market demand should always be a necessity required by State Statutes prior to disposals. Its typical in the Mat-Su Borough that land is pretty much always in demand from any disposal source. This may result in continued more disposals at the State levels.

.04.020(g)(2) We agree that arbitrary percentages for disposal programs whether it be homesites or any other purpose should be repealed. Disposal methods should be able to take into account the economics and supply and demands of the time. The demand analysed should include the demand on services and the ability of the local municipality to supply those services.

.04.020(h) Should be allowed to exceed five acres; specifically in disposals which may be considered somewhat remote to remote the parcels should be larger than five acres in many cases; perhaps even ranging to the forty acre size.

.04.020 Subdivision disposals in remote areas should be precluded, unless road access or lake access is provided.

.04.020 While its beneficial to have public hearings in many disposal programs many times they are attended mainly by those who are against future disposals in there area. This is no surprise to anyone, but such local input which would prevent others from receiving benefits the same as those that are now living or owning property in those areas should be tempered with State wide demands and desires.

.04.020 The disposal of State land should definitely be done in an equitable basis throughout the State without being concentrated within one area.

.04.021 The appropriation of funds for disposal programs through the Municipal Entitlement Program should be continued and substantially increased. Additionally, the provisions concerning what the money may be spent for should be expanded and clarified substantially.

In many cases good and proper planning, prior to disposal, should be considered as proper expenditure of Municipal Entitlement Grant Funds.

.04.025 Any redundant statutes should be repealed.

.04.035(4) Any lease system should be a short term lease only. The leases for recreational uses are probably a good idea. The problem with the poorly thought out system here lends itself to an administration nightmare.

.04.040 No comment.

.04.045(a) This section should be made more consistent with the overall results of these studies and other statutes.

.04.045(b) Surveying and platting should definitely be required prior to land disposals, at least to the extent local municipalities are required to meet their own platting regulations. The Mat-Su Borough prefers survey monumentation every section and quarter section in the definition of cadastral survey.

.04.050 The Mat-Su Borough strongly favors the provision for the reservation of easements and rights-of-way when lands are surveyed for disposal for access to each parcel of land. In instances where section line easements do not allow feasible access, other feasible access should be provided to and within the subdivisions. These requirements should meet local ordinances.

.04.055 When appropriate and applicable easements insuring access to public lands and water should be reserved in fee simple; although this is a good approach it is also very expensive.

.04.065 The development of regional and area plans for providing guidance in land classification and subsequently land disposal should be encouraged. However, the plans should be kept at a level of guidance and not at a level such that future appropriate land disposal programs can not be accomplished. The major problem in doing too much planning is that it does not allow for the natural progression of required and demanded settlement by the residents of the State. Many times our plan today cannot forsee changes occurring in five to six years down the road.

.04.070 A word of caution; the concept of classification lands is good and proper but trying to define statutorily all conditions and needs for retaining public lands and uses at this time can also cripple future efforts at land disposal.

.04.910 Review of definitions for official cadastral survey and official control survey should be reviewed at this time.

CHAPTER 05--ALASKA LAND ACT

.05.030(c) DNR should be notified by other State agencies of land acquistions, leases or exchanges.

.05.035(a) The best interest concept if relative to highest and best use of the lands, deserves continued support.

.05.035(b) & (b)(5) No comment

.05.045 You will probably find continued disagreement here. On the one hand many people believe the timber only should be sold and the lands retained in State ownership. This approach has substantial merits in that an area which may be designated as forestry lands for timber management and forest management can be retained in State ownership, thus, providing an ongoing continued revenue to the State and controlled management of the States' natural resources. If timber lands and grazing lands are to be sold to private developers such sales should follow the same concept as previous Agricultural Rights Only Sales and developmental rights be specifically defined in such disposal.

.05.050 Leave this section as it is.
Retain the reference to .04.020(g) and the change to "community" in the statute seems appropriate.

.05.057 If the State is going to pursue a policy of obtaining market value for the lands and market value is considered equitable with assessed value then the consultation with local assessors in the determination of purchase prices is appropriate. However, if these two values are not to be related and appraisals are to be required to ascertain price levels of State disposed lands then the necessity to consult with local assessors is questionable.

.05.058 The Mat-Su Borough has no comment concerning a discount schedule for prices for State land disposals. However, it appears that if the State and the Borough are going to subsidize sales of lands to agricultural interests, the question arises as to whether or not we have the same responsibility to the other publics to allow obtaining land for a different purpose under the same philosophy. It appears only equitable to do so.

.05.065(a) Again, the interest rates to be paid on land disposal contracts should reflect equability with other State supported programs such as housing, ag and fishery.

.05.065(c) Actions on land sold by the State in which contract violations have occurred should be more clearly specified and upon proper foreclosure of previous disposed lands the commissioner should be able to sell the interest to a third party.

.05.067 No comment on the repeal of special sales for veterans.

.05.069(a) and (b) The concept of preference rights in "greatest need" is full of administrative complications. The "greatest need" is extremely difficult to determine and this could create delayed sales in substantial quantity. In disposing of State lands it appears that all persons should be on an equal footing in applying for State land.

.05.070(b) The public must have an opportunity to comment on all public land sales.

.05.070(c) In the Mat-Su Borough any lease exceeding ten years on parcels which have not been subdivided and been approved through the local platting authority are illegal. The Borough would support the State following the same process. Another thought, if lands are leased for ninety nine years they have in effect been disposed of. With this type of concept it makes more sense to go ahead and sell the land. It is hard to believe that ninety nine years allows any more financing than a fifty five year lease.

.05.077-.078 The remote parcel leasing and conveyance program should be phased out over a period of years as opposed to the swiftness of the repeal effective July 1, 1984. While the homestead program is intended to supplement that remote parcel program it is questionable whether it will do an effective job as quickly as deemed possible.

.05.079 While the remote cabin lease program makes sense for recreational needs it does not necessarily make sense as a replacement for a remote cabin permit program. It appears that in reality this program allows this person to locate and construct on State owned lands and if allowed to do so for many years may feel they have an unalienable right to the purchase of the land at a substantially discounted amount. This should definitely be accounted for in some way.
Short term leases not to exceed their years is recommended.

.05.110 The assessment of timber on State lands which are to be disposed of provides a difficult situation. If the assessment of the timber is for the purpose of adding to the value of the land this must be tempered with the likelihood of the timber being saleable and a paying market. It has been found that in many cases that the timber is not saleable and therefore the land sale should not be assessed by any additional value.

.05.125 The mineral estate should be defined as to whether or not it includes gravel extraction.

.05.127 See 11 AAC 53, which contains regulations implementing the determination of public waters or navigable waters prior to disposal of State lands. The statutes should clarify public waters, etc. Easements and rights-of-way crossing oil and gas mineral leases could well be held off concerning there specific identification until development or production plans are submitted for approval.

.05.140-.181 Consistent lease terms should be stipulated for all leases of coal, minerals, etc.

.05.150(c) Prospecting permits should not be extended for more than two years and no more than one extention should be allowed.

.05.150 In leasing coal lands, nearby coal reserves on private lands should be considered.

.05.185-.275 Changing the lease terms and tax levies on mining licenses, etc., may substantially end small mining developments and favor only larger companies. In many cases a small mining company is a viable entity unless tax and lease burdens are such that they can not operate profitably.

.05.185 Lands available for location or leasehold mineral acquisition should not be expanded to include most, or all State lands arbitrarily.

.05.190 No comment.

.05.195 Do not amend the provision for staking requirements for mining claims.

.05.200 or .210 No comment.

.05.205 The notices of mineral leases no later than two weeks before sending the lease applications should be continued.

.05.240 Retain provision for basic mineral survey finds for annual labor to be filed and kept confidential by DNR.

.05.0245(a) Continue the filing of certificate of mining locations in the recording district and DNR.

.05.0245(c) No comment.

.05.250(a) No comment.

.05.250(b) No comment.

.05.265 No comment.

.05.275 Because the district recorders office may be in a different location than DNR, at some future date, the filing certificate requirements should be retained.

.05.300 The authority to close lands to mineral entry should be broadened to enable closure of lands conveyed to municipalities under the entitlement grants program.

.05.301 Do not give Resource Service Area Boards the right to veto State sales or disposals. However, impacts of land sales should be required.

.05.310 Since appraisals are as of a specific date and disposal programs are approved as of a specific date, then the sales or leases should be based on that specific date and the 120 day limit should be extended to one year.

.05.345 Notice requirements for classifications, sale, lease and disposal of State lands should continue to be through one or more kinds of notice.

(b) no comment
(e) no comment
Provisions for public hearings upon request should be required.

.05.350 No comment

.05.362 No comment

.05.365 The Borough agrees with the clarity and further definition of public waters concerning reservations of easements and rights-of-way.

.07.030 Clearing of ag lands owned or leased by private parties which are previously owned by the State should only be required if subsequent tilling, planting, fertilizing follows such clearing requirements. Otherwise, substantial waste may be made upon the land. The ag revolving loan funds should be continued to provide funds for clearing projects. Other private financing sources are vertually nonexistent for this purpose.

.08. If residency requirements are met through "sweat equity" and fee simple title is transferred because of "sweat equity" then such homesite in a disposal program should be platted in accordance with local municipal requirements. Because of the nature of the homestead and remote parcels where many people have to work for the time period in which there attempting to obtain land under this program, the construction requirements should be moderated as opposed to being more stringent. Instead of allowing the purchase of a parcel at fair market

value, if the residency requirements have not been met, it may be more appropriate to allow for an extention of residency requirements. Otherwise, you don't have a homestead program, you have a remote parcel program; the homestead program should require residency, the remote parcel program should not. Perhaps in this light, it would be more beneficial to keep both programs for varying needs and demands of the public.

.09.010(b) Do not eliminate revision for homestead land one mile from a survey control monument. At least, do not leave it open to administration determination; Make it statute one way or another.

.09.010(e) What is sufficient spacing? In many case contiguous parcels may make it more feasible for an individual to obtain land through a homestead entry.

.09.020 The concept of a fair market value assumable and signable contract with scheduled rebates for actions taken on the land is attractive in that incentive is provided to get it accomplished. A cost is existing in case of non-compliance. This approach would result in financing capabilities and is a good concept to pursue. Such contracts though, would have to describe a platted subdivided parcel in accordance with local municipal codes.

.09.050(d) and (e) While it is understood that a prohibition against subdividing of land obtained through "sweat equity" or through purchase for five or ten years may prevent improper speculation such periods do not need to be extended beyond a reasonable time. Natural time constraints and barriers will prevent undue speculation occurring in remote areas. On the other hand, if an area begins to grow in population, ill perceived regulations which do not allow for the foresight of growth patterns could substantially impair reasonable growth at a future date.

.09.080(b) The Borough strongly supports the compliance to local platting, recording and subdivision requirements.

.09.090 Some residential requirements should be met even if they have been met through a granted extension of time to meet the residency.

.35.050(a) No comment.

.35.140(b) No comment.

.50.020(a) If all proposed exchanges involving State lands must receive legislative review this could substantially increase workload and delayed time in otherwise time consuming situations anyway. Property should be exchanged on value for value basis.

.50.020(b) It is realistic that the "validity" of an appraisal can be extended to one year in cases of exchanges involving substantially large amounts of land or substantially remote parcels where changes in value may occur in only two or three years increments.

.50.110-.130 The public should be continued the opportunity to review land exchanges.

.50.120 Retain the requirement for a least one public hearing concerning a proposed land exchange.

.95.080 The provisions for cabin permits should be extended to hunting, fishing and guiding activities.

ADDENDUM

.20 Changes in federal datum used as a base for the Alaska Coordinate System should be reflected in the State statutes.

.05.275 No comment.

TITLE 38--GENERAL COMMENTS

--Land bank program may be a good concept to pursue.

--Conflicts-of-interest situations in land disposals should be identified and restricted by statute.

--If sales of State owned land by private persons are by fair market value prices there should be no concern as to whether the person buying it is speculating or not. In most cases because the location of State owned lands somewhat removed from access, speculation or undue speculation will be prevented naturally. One of the freedoms and rights of a fee simple estate buyer is the right to sell that land or transfer it and this policy attempts to conflict with the State policy of getting the lands out to the ownership of the residents of the State. If the purpose is specific use purpose then write into the contract those specific uses but anti-sale, anti-subdivide restrictions appear to be unwarranted at this time.

--SB 41 reference: University lands/ treatment of University lands need to be changed in accordance with that senate bill.

COMMENTS ON RELATED SUBJECTS IN OTHER TITLES

Title 29-- Municipal Code

29.18.201.-.208 1) The payment of the balance of the $9 million to Anchorage should be accomplished as soon as possible.

Municipal lands conveyed under this section should be closed to mineral entry. The municipalities should not have to pay for surveys to expedite conveyance of land from the state.

29.33.150 Repeal the exception for capital improvements requirements to enable local governments to minimize future demand for access and services to state subdivisions. This repeal is supported by the Matanuska-Susitna Borough.

The Mat-Su Borough supports the concept of funding through a revolving fund which is to be built from the receipts from land sales in order to pay for the costs of meeting local ordinances for platting requirements.

TITLE 27-MINING

--Repeal the 1955 Statute 27.05.080-.210
--Do not repeal the title 27.15.010 which requires even "grubstaking" contracts to be in writing.

ADMINISTRATIVE AND BUDGETARY CONSIDERATIONS AND RECOMMENDATIONS

1) There should not be any automatic statuatory level of acreage quantity disposals. Such disposals should be based upon demand assessments each year.
2) Good quality land should be made available throughout the State without primary concentration in the Mat-Su Borough and the Tanana Basin.
3) The concentration of disposals in grouped areas would facilitate more efficient application of governmental services such as schools, roads and utilities.
4) Proper planning is needed proceeding disposals. At the same time a caveat is that planning for planning sake only gets in the way of appropriate state disposals of land.
5) Over the counter offerings should be retained.
6) In all cases an accurate market study prior to disposal is recommended.
7) Compliance with the local platting and subdivision regulations is definitely supported by the Matanuska-Susitna Borough.
8) Well-planned, long-range disposal program designed by the state administration could dissipate much confusion. However, if to much of this has to go through the legislative processes, it will contribute to public confusion and, as has been in the past, continue to contribute to poor disposal programs.
9) We agree that too much land is available only to mineral leasehold location. We do not agree that most land should be so classified.
10) The supplies of timber, coal and sand and gravel sources on nearby private lands should be considered relative to State disposals.
11) The remote cabin program as opposed to disposal programs may be a good idea if it is administrated adequately.
12) Within reason greater fees should be charged to help defray administrative costs for permits and leases.
13) The Borough has a system which provides good incentive for developmenting agricultural lands. That system is a lease with an option to purchase if certain conditions are met; those conditions include placing lands into specified productivity, proper payment of annual lease payments and no tax delinquent status. The State could develop a similar system which prevents the speculative nature of land disposals and provides substantial incentive to use the lands for the agriculture purpose.

14) Unused grazing leases should be cancelled. Any unused lease should be cancelled.
15) Trepass policies and procedures are fine if you can enforce them. The State should define them properly and enforce them.
16) Land conveyed to municipalities under the entitlement program should be closed to mineral entry.
17) Additional monies should be funded to assist the local governments in disposal of entitlement lands.
18) A good computerized system for land records and land disposal information by the State would probably cause much greater efficiency of operation.
19) While more monies are definitely needed for land surveys perhaps the placement of those monies should be divided between municipalities in their entitlement grant program and the State such that the municipalities would have monies to meet their own platting and subdivision requirements for disposal and the State would have monies to complete the surveys to transfer title to the municipalities.
20) Seems like always more money will help the situation; if area regional plans are in the process of being completed monies should be funded to make sure that they are completed properly.
21) Compliance and enforcement is becoming more and more important to reasonable land disposal program. It appears that more money is needed in this area.
22) Title 38 is as easily read in the Alaska Statute as it is outside of them.

We hope these comments prove beneficial to you in your endeavor to update the redraft of Title 38 such that many goals and objectives can easily be met and be met in a timely manner.

Thank you again, for this opportunity to provide input to your resource committee. Please do not hesitate to contact us if you have any further questions regarding this.

Sincerely,

Robert J. Stickles

Robert J. Stickles
Planning Director

cc: Gary Thurlow
Borough Manager

Tom R. Pitman
Land Management Officer

(8)

Resource Development Council
for Alaska, Inc.

444 West 7th Avenue, Anchorage, Alaska 99501-3512
Box 100516, Anchorage, Alaska 99510-0516 – 907/278-9615

November 21, 1983

Mr. Pat Pourchot
Senate Resources Committee
1024 West 6th Avenue
Room 201 F
Anchorage, Alaska 99501

Dear Pat:

Please find enclosed the Resource Development Council comments regarding changes in Title 38.

Due to time contraints we were not able to provide indepth analysis as we normally like to do. However, we appreciate the opportunity to offer the comments we have and trust they will find support in making improvements to Title 38.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL
for Alaska, Inc.

James Jinks
Deputy Director

Resource Development Council
for Alaska, Inc.

444 West 7th Avenue, Anchorage, Alaska 99501-3512
Box 100516, Anchorage, Alaska 99510-0516 - 907/278-9615

Resource Development Council
comments on
Title 38 Changes
November, 1983

The comments and suggested changes to Title 38 represent the thoughts and desires of a mixed review group. They do not provide enough direction to determine what is going to be done to fix the problem. **RDC's earlier comments recommended removing the over-involvement of government and provide for a less regulated and administratively involved land administration.** This would fix the problem.

The present Title 38 has been patched so much that the continued application of "quick fixes" will still result in a contradiction of intent and wide range of interpretation. The legislature must insure the existing law determines how each step of the land mangement process will be addressed. What arethe goals? Is the intent to dispose of land to the private sector? What lands will be retained and for what purpose? How much planning is going to be required and to what level?

RDC's recommendation is to simplify the law and provide congruity. The only new section recommended is a uniform appeal procedure.

The federal homestead act was an effective land disposal procedure. It had interpretive problems but it workd. Additionally, the states disposal of large parcels through the competitive bid process was very successful. In 1980-81, Alaska identified state interest lands with the idea the remaining lands would be placed in the land disposal bank. We should dispose of those lands. Flood the market instead of starving it.

State land mangement problems coincide with land ownership. Legislation must clearly define the state's land management goals to prevent game playing by the administrative body.

The definitions in A.S. 38.05.365 should be applicable to all the chapters in Title 38. Title 38 should be rearranged to provide more logical sequence of the chapters. Additionally, make land classification, locatable minerals, leasable

minerals, permits, etc., separate chapters. As more resource divisions are created, there must be statutory direction for their activities.

Time constraints do not allow all the comments that the Council finds could be made on Title 38. This is a monumental task similar to the proposed revision of Title 29. It is more than a one-session project.

Alaska State Legislature

Senate

Office of the President

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

October 14, 1983

Senator Bettye Fahrenkamp
4016 Evergreen
Fairbanks, Alaska 99701

Dear Bettye:

I understand that your hearings on Title 38 have been well attended and you have received many comments. I really appreciated having Wasilla hooked into your Anchorage hearing so that people in the valley could attend without having to drive to town. I know that Judith appreciated it and she said that there were about 15 people present at the hearing.

I have a comment to make that may or may not have been made at one of these hearings, but it is one of my concerns in regard to the state land disposal programs which I wish there were a way to address.

One of my staff members just staked land in a remote parcel disposal. She will be paying the state between $600 and $1,000 an acre after it is appraised. While she was out doing her staking, she noticed a realtor's sign on a tree in the remote parcel area. (There were a number of open to entry sites from previous land disposals in the area.) There were no improvements in the area at all nor anything to show that anyone had even been out there. Just out of curiosity she called the realtor to find out what the asking price was on the land. She was told by the realtor that the owner wanted approximately $51,000 for 15 acres. That is 3 to 6 times what the state is selling land for in the area at the present time. In addition, the open to entry programs were years ago and the land was practically given away at the time.

I support the land disposal program. I feel that the state should be getting land into the hands of the people. But I do not feel that people should be making money off the state, by speculating on the land. I feel that there should be steps taken to correct this situation. There have been over 70 land disposals held in the Mat-Su Borough since the

late 1970s. Many of these lots are not yet li d on by the owners. I daresay that much of the land is held by people who are speculating on it. Now, I also recognize that people are not living in some of the areas because there are no roads which is another problem, with which the Mat-Su Borough and its legislators are contending. But that does not negate the fact that speculation at the expense of the state and its citizens is going on.

I wanted to bring this to your attention because I feel that it is an issue related to Title 38 and the land disposal programs which should be addressed.

Sincerely,

Senator Jay Kerttula
Senate President

JK/jla

cc Governor Bill Sheffield
Commissioner Esther Wunnicke

(13)

John Strasenburgh
P.O.Box 100171
Anchorage, AK 99510
November 20, 1983

Bettye Fahrenkamp, Chairman
Senate Resources Committee
Pouch V
Juneau, AK 99811

Dear Sen. Fahrenkamp and members of Senate Resources Committee:

Thank you for giving me this opportunity to respond to "COMMENTS AND SUGGESTED CHANGES--TITLE 38" dated October 31, 1983.

38.04.020(f) We need an objective, comprehensive annual demand assessment with land priced at fair market value. An accurate demand assessment cannot be obtained unless land is priced at fair market value. Prices which reflect state subsidies will result in an artificially high demand which will include such motivating factors as speculation.

38.04.020(g)(2) Concur with the statement "arbitrary percentages to be disposed as homesites should be repealed as well as disposal methods to better reflect specific market demand and poblic policy."

38.04.020.(h) Agree, provided that larger parcels (or the 5 acre size as well) cannot themselves be further subdivided.

38.04.020 Agree, subdivision disposals should not be allowed in remote areas. But subdivisions are just one cause of density problems in remote areas. Other causes include allowing too many entrants in a remote parcel area and repeated offerings of the same disposal area. DNR has done all of these: urban style subdivisions in remote areas, high density remote offerings, and superimposing one disposal on top of another. Neither statues nor DNR has adequately addressed the density issue. Past disposals have demonstrated little concern for density and the carrying capacity of the land. What must be addressed are fish and wildlife impacts, availability of firewood and house logs, availability of drinking water, sewage and waste disposal, and, of course, consideration for the entrant who is investing time, effort, money and emotion in a remote recreational experience which could be ruined the next time the State has another disposal in the area. All of these problems can be solved, in fact they are not even problems if the density is kept low. Another important issue which should be addressed is the density time bomb of allowing entrants to subdivide their land after a specified period of time. No subdividing should be allowed, ever, and this should be specified by statute. The objective of a remote disposal is for a personal recreational experience, not to make a buck.

38.04.020 Agree, public hearings should be required by statute, with plenty of advance warning and a diligent effort (which could include radio messages such as KYAK's Bush Pipeline or KHAR's Northwind) to reach the local communities as well as the urban areas.

John Strasenburgh
P.O.Box 100171
Anchorage, AK 99510
November 20, 1983

38.04.020 Should not have quotas, regional or otherwise. Quotas can lock the state in to inappropriate or bad disposals.

38.04.035(4) Generally oppose remote cabin leases (strongly oppose remote cabin permits) unless density is strictly controlled.

38.04.045(b) Land disposal should not be tied to surveys or monuments. Disposals should occur where they are appropriate.

38.04.065 Agree, assuming that the plans are comprehensive in scope and depth and that all areas have such plans. I would like to see the land disposal program suspended until this is done.

38.04.070 Agree

38.05.030(c) Agree

38.05.045 I don't understand this. Does this authorize the sale of state parks, forests, recreation areas, etc.? Obviously there are many classifications which should remain closed to disposals.

38.05.057 There should be no discount program and no development credits. Land should be sold at fair market value with no exceptions. Public lands are a valueable resource and the State should not give it away or subsidize its disposal or encourage sporadic, unplanned development which could have lasting detrimental impacts and preclude other uses of the land. Any time improvements are required or there is an incentive to "improve" the land at least two things should be kept in mind: 1. improvements may not be compatible with the appropriate use of the land, whether it be fish and wildlife or the wishes or asthetic values of fellow entrants and 2. people often start something that they don't finish, for example the "clear cut" mentality seems to prevail when cutting house logs and the result is wasted wood and scars left on the land. People do enough damage on thier own without providing an incentive for them to do more. Instead of giving money away through discounts or credits, you should use the money to provide a class in basic woodsmanship and environmental sensitivity which all prospective entrants should be required to take.

38.05.065(a) Don't subsidize loans. That is like giving money away to specific people and is not fair to those not involved in the disposal program.

Sincerely,

John Strasenburgh

Alaska State Legislature

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

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STATE CAPITAL
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Senate

Committee on Resources

June 4, 1984

SUMMARY OF MAJOR PROVISIONS OF FINAL VERSION OF SB 375
(HCS CS SB 375 2nd Res am H)

Access

EXISTING LAW	SB 375
AS 38.04.050 requires that wherever state land is surveyed for private use, adequate rights-of-way and easements be reserved to each parcel. Further, the director is required to arrange for the development of surface access "where necessary and appropriate."	Would specify that legal and feasible access be provided within subdivisions, and that surface access must meet local ordinances for subdivisions.
AS 29.33.150 exempts the state from compliance with local subdivision ordinances which require capital improvements.	This exemption would be removed.

Costs

EXISTING LAW	SB 375
Funds for implementation of land disposal programs and for grants to municipalities are provided through annual legislative appropriation, based on a request pursuant to AS 38.04.020(e).	Proposed AS 38.04.022 establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of state land.

AS 38.05.310(a) limits the length of time an appraisal is valid to 120 days.	Extends the length of time an appraisal is valid to one year.

Land Exchanges

EXISTING LAW	SB 375
AS 38.50.020(a) provides for legislative review of exchanges for other than equal appraised fair market value.	Legislative approval would also be required for any land exchange valued at more than $5 million.
AS 38.50.120(a) gives the commissioner discretion in holding public hearings on proposed land exchanges.	At least three public hearings would be required for exchanges valued at $5 million or more.
AS 38.05.110 establishes notice procedures (in addition to those required under AS 38.05.345) for land exchanges: provide notice to legislators, municipalities and Native Corporations in the area of the proposed exchange, the Governor's Office, and all state departments.	Notice requirements for land exchanges involving less than 500 acres or appraised at less than $100,000 would be only as required under AS 38.05.345 (electronic media, newspaper, posting, personal contact).

Notice

EXISTING LAW	SB 375
Under AS 38.05.345, public notice for classification, sale, lease, or disposal of state lands must be provided by one of the following methods: newspaper, electronic media, posting, or personal contact. See also "Land Exchanges."	Notice must be given by newspaper plus one other method.

Preference Rights

EXISTING LAW	SB 375
AS 38.05.035(b)(2) allows for granting of preference rights to correct errors or ommissions of a state of federal agency.	Would limit the right to apply for a preference to 3 years from the time of error.
AS 38.05.035(b)(3) allows for granting of preference rights to correct errors or omissions of others.	Would limit the right to apply for a preference to 3 years from the time of error. Adds a new preference, to be granted to long-term landholders who have derived business income from the land.
AS 38.05.069(a) grants owners or lessees of agricultural land a first option to purchase or lease unoccupied adjacent land and establishes a procedure for determining priority if more than one applicant is eligible for the option. This option must be exercised within 60 days after the auction.	Options must be exercised at the time of the auction. A single recipient would be selected by the drawing of lots.

Program Features

EXISTING LAW	SB 375
AS 38.04.020(h) establishes subdivision parcel size at five acres unless topographical features or water and sewage considerations suggest otherwise.	Would allow for consideration of resource values and land uses in determining parcel size.

AS 38.04.020(g)(2) requires that 20% of subdivision parcels be disposed of as homesites.	The number of subdivision parcels disposed of as homesites would be left to the discretion of the commissioner.
AS 38.04.035(4) limits issuance of remote cabin permits to areas where survey and conveyance is impractical.	Permits could also be issued in areas where resource and use conflicts, or a long-range interest in public ownership, exist.
Under AS 38.08.060, the following conditions must be met before a homesite patent can be obtained: Occupancy for 35 months within seven years, erection of a dwelling within five years, payment to the state for survey and platting.	Patent could be obtained prior to expiration of the entry permit through purchase at fair market value if all but the occupancy requirements have been met. In addition, the commissioner is authorized to extend the permit term if occupancy or dwelling requirements have not been met.
Under AS 38.09, the following conditions must be met before a homestead patent can be obtained: Occupancy for 25 months within five years, survey within two years, erction of a dwelling within three years.	AS 38.09.090 would allow the purchase of a homestead parcel at fair market value prior to expiration of the ertry permit if all but the occupancy requirements have been met.
AS 38.09.030(c) allows holders of homestead entry permits to transfer rights to another individual in the event of incapacitating illness or injury.	Grants homesite permit holders the same right to transfer.
Under AS 38.45.080(a), a trapping cabin permit must be issued if the applicant meets certain conditions.	The commissioner would have discretion in issuance of trapping cabin permits.

AS 29.18.210 authorizes the state to contract with a municipality to conduct an auction of state lands, and allows the municipality to retain expenses from the proceeds of the auction.	Clarifies that capital expenses may also be retained from auction proceeds. This will allow for joint disposals, whereby the municipality would construct the roads on state land and recoup its costs through auction proceeds.

Price of Land

EXISTING LAW	SB 375
AS 38.04.035 requires that, unless otherwise provided, lands be sold at fair market value.	AS 38.05.055 would allow bidding at auctions to begin at 70% of the appraised value of the land.
No general land discounts are currently offered.	AS 38.05.940 would grant a 25% discount on land sales to veterans.

Survey

EXISTING LAW	SB 375
AS 38.04.045(b) requires that all land disposed of must be within two miles of a survey monument. AS 38.09.010(b) requires that land made available for homestead entry be within one mile of a survey monument.	Eliminates the requirement that land made available for homestead entry be within one mile of a survey monument, and allows DNR to waive the 2-mile requirement.

Leasing Procedures

EXISTING LAW	SB 375
AS 38.05.070(b) establishes the conditions of a negotiated lease at a 15 year maximum term, and with a maximum appraised value of $250/year.	Increases the value of a lease that may be negotiated to $5000/year, and the term to 10 years.

AS 38.05.070 establishes 55 years as the maximum term of a lease.	In setting the term of a lease, requires the Commissioner to consider the useful life of any approved activities.
AS 38.05.075 establishes surface leasing procedures. Leasing is made at auction to the highest qualified bidder.	AS 38.05.075(c) provides a mechanism for DNR to negotiate leases for tide and submerged lands with upland owners without competitive biddings. AS 38.05.075(e)-(h) authorizes DNR to require prequalification of bidders for surface leases. Such a procedure is currently required administratively to ensure that applicants can meet the terms of the lease.

Agriculture

EXISTING LAW	SB 375
AS 38.05.020(b)(6) authorizes DNR to require development plans of participants in agricultural development projects.	Would allow DNR to waive, postpone, or modify agricultural development requirements if certain conditions are present.

Alaska State Legislature

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

Committee on Resources

June 4, 1984

Final version of SB 375 (HCS CSSB 375 2nd Resources am H), An Act relating to land disposal and management

Sec. 1 Spells out a policy for managing and disposing of state land which takes into account a range of resource values and uses.

Sec. 2 Spells out the policy of soliciting the views, including the holding of local public hearings when appropriate, of the residents of communities most affected by land classifications and disposals.

Sec. 3 Passage by the 1983 legislature of SB 41, which awarded the University of Alaska ownership and management of certain state lands, has rendered this provision obsolete.

Sec. 4 Requires that in determining sufficient separation between residences in "remote" areas, the resources in the area shall be considered.

Sec. 5 Requires that a cost estimate for access roads and capital improvements within disposal areas (as may be required by municipal ordinance) be submitted annually. This deletes the "loophole" which allowed for submittal of a schedule for obtaining cost estimates.

Sec. 6 Clarifies that DNR's budget request must include an assessment of the market demand for the land proposed for disposal. No annual, statewide demand assessment would be required, as this type of analysis is difficult and has had little impact on legislative appropriations for disposal programs.

Sec. 7 Repeals the arbitrary requirement that certain percentages of subdivision land be made available through the homesite method. This will allow disposal methods to better reflect market demand and public policy.

Sec. 8 Allows flexibility in subdivision parcel size to

better reflect resources and uses in the area.

Sec. 9 Establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of state land. Funds would be used for implementation of land disposal programs and for grants to municipalities for their disposal programs.

Sec. 10 Expands the authority in issuing remote cabin permits to allow their use where potential resource and use conflicts exist, or where a long-range interest in public ownership exists. Currently, these permits may be issued only where survey and conveyance is impractical.

Sec. 11 Clarifies that all land to be conveyed must have been surveyed, either through monumentation of section corners or monumentation of control points, with no land to be conveyed if it is more than two miles from a survey monument, unless this condition is waived by the commissioner.

Sec. 12 Specifies that legal and feasible access must be provided within subdivisions, and that access meeting local ordinances for subdivisions is required of the state.

Sec. 13 Clarifies that trails with an established history of use may be reserved as easements or rights of way across private land.

Sec. 14 Allows the Department to grant a lessee the right to restrict the use of an easement in order to protect public safety or property.

Sec. 15 Allows for a waiver or modification of agricultural development requirements if certain conditions are present.

Sec. 16 Requires that other state agencies notify DNR of any land disposals. This is currently required only for acquisitions, leases, and exchanges.

Sec. 17 Clarifies that lands assigned by DNR to DOT may be transferred to DNR when they are no longer needed.

Sec. 18 Conforming amendment per University settlement agreement. (see Section 3)

Sec. 19 Limits the right to apply for a preference to three years from the date of error or state action in order to avoid long-standing claims with difficult record reconstruction.

Sec. 19 Cont. Gives DNR the authority to convey to an adjoining landowner unmanageable remnants of land. Such remnants may be unusable and expensive to maintain in state ownership.

Provides a mechanism for correcting defects in the state's title to land by authorizing DNR to quitclaim land to the federal government on a determination that the land was wrongly or erroneously conveyed to the state.

Sec. 20 Clarifies the procedure for issuing a best interest finding, and clarfies that no finding is needed for mining claims and leases, and production licenses. Grants a preference right to long-term landholders who have derived business income from the land.

Sec. 21 Amends to require that disposals be held in the community, rather than the municipality, nearest the land to be disposed of, to take into account unincorporated locations.

Sec. 22 Authorizes bidding at auctions to begin at 70% of the current appraised fair market value of the land, rather than the current 100%.

Sec. 23 and 24 Establishes a notice of breach procedure for contract violations, followed by the prerogative of the commissioner to foreclose the interest of the purchaser.

Sec. 25 Simplifies the selection procedure for agricultural land options for adjacent landowners, by requiring that options be exercised at the time of the disposal and that a single recipient be selected by drawing of lots.

Sec. 26 Removes language regarding disposal of other interests on agricultural land.

Sec. 27 Increases from $250/year to $5,000/year the value of a lease that may be negotiated, which reflects the increase in land values since this statute was enacted in 1962. Increases the maximum term of a negotiated lease from 5 years to 10 years. Requires that reasonable and traditional access to public land be maintained as a term of the lease.

Sec. 28 Specifies that the term of a lease, while not exceeding 55 years, be for the useful life of the approved activity.

Sec. 29 Amends the surface leasing procedure to require

applicants to deposit with DNR a sum equal to any survey or appraisal costs incurred by another bidder. The successful applicant's deposit would be credited against lease rental payments. Survey and appraisal are required prior to leasing. In the interest of time, lease applicants will often conduct survey and appraisal at their own expense.

Sec. 30 Provides a mechanism for DNR to negotiate leases for tide and submerged lands with upland land owners without competitive bidding.

Authorizes DNR to require prequalification of bidders for surface leases. Such a procedure is currently required administratively to ensure that applicants can meet the terms of the lease.

Sec. 31 Requires that the assessment of timber and other materials on state lands, and the recommendation for the sale of materials, take into account the supplies of and markets for materials on nearby private land.

Sec. 32 thru 35 Technical: Substitute "commissioner" for "director".

Sec. 36 Clarifies that land quitclaimed back to the federal government (see section 18) and land transferred to the University in its settlement agreement (see Sec. 3) is not subject to the reservation of mineral rights to the state.

Sec. 37 Technical: substitute "commissioner" for "department", "ensure" for "insure".

Sec. 38 Provides that easements of rights-of-way to navigable and public waters for oil and gas and mineral leases need not be made until the leases are ready to be developed.

Sec. 39 and 40 Technical: substitute "commissioner" for"director" and "land" for "lands".

Sec. 41 Extends the length of time that an appraisal is valid from 120 days to one year, to avoid costly reappraisals in the event of a delay in selling or leasing lands.

Sec. 42 Conforming amendment per University settlement agreement (see Sec. 3)

Sec. 43 Exempts land quitclaimed back to the federal government (see Sec. 19) from the restriction on sale of agricultural land.

Sec. 44 Conforming amendment per relocation in statute of the best interest finding requirement.

Sec. 45 Amends the public notice requirements for classification, sale, lease, and disposal of state lands to require that notice be placed in the newspaper and that one of the following methods also be used: electronic media, posting, notification of interested parties. Current statute requires use of only one of the above methods.

Sec. 46 Clarifies that no notice need be given of negotiated sales of timber and materials.

Sec. 47 Adds the definition of "multiple use" and "university lands" as used in AS 38.04 to AS 38.05.

Sec. 48 Grants a 25% discount on the purchase price of state land to veterans.

Sec. 49 Conforming amendment per University settlement agreement. (see Section 3)

Sec. 50 Allows holders of homesite parcels to transfer rights to another individual in the event incapacitating illness or injury prevents the landholder from fulfilling residency requirements. This conforms with current homestead provisions.

Sec. 51 Allows the purchase of a homesite parcel at fair market value within 7 years of issuance of the permit if all requirements except the ones for occupancy have been met.

Sec. 52 Eliminates the requirement that land available for homestead entry be within one mile of a survey monument. This will allow for conversion of remote parcel lands to the homestead program. Authorizes DNR to waive the cadastral survey requirement if certain conditions are present.

Sec. 53 Provides that the amount of land to be cleared under agricultural homesteading requirements be based on soil classifications.

Sec. 54 Allows the purchase of a homestead parcel at fair market value within five years of issuance of the permit if all requirements except the ones for occupancy have been met.

Sec. 55 thru 66 Amends the Alaska Coordinate System to reflect changes in the federal datum used as a base for this system.

Sec. 67 Provides that the lessee of a pipeline right-of-way shall reimburse the state for costs not only in monitoring pipeline construction, but also for processing an application.

Sec. 68 Requires legislative approval of land exchanges valued at more than $5 million. Current statute requires legislative action on unequal value exchanges; this provision is maintained.

Sec. 69 Extends the length of time that an appraisal for a land exchange is valid from six months to one year to permit the execution of trades which involve considerable administrative work and public review.

Sec. 70 and 71 Conforming amendments per University settlement agreement. (see Section 3)

Sec. 72 and 73 Streamlines the notice requirements for land exchanges involving less than 500 acres of land or appraised at less than $100,000.

Sec. 74 Three public hearings would be required for land exchanges valued at more than $5,000,000. The Commissioner maintains discretion to hold hearings for other exchanges.

Sec. 75 Clarifies which land exchanges require legislative approval (see Section 68).

Sec. 76 Gives the Commissioner discretion in issuing trapping cabin permits.

Sec. 77 thru 80 Conforming amendments per University settlement agreement. (see Section 3)

Sec. 81 Clarifies that when the state contracts with a municipality to conduct an auction of state lands, the municipality may retain from the proceeds of the auction capital and other expenses. This will allow for joint disposals, whereby the municipality would construct the roads on state land and recoup its costs through auction proceeds.

Sec. 82 Amends the definition section in Title 29 to clarify that the University has management responsibility for certain state lands. (see Section 3)

Sec. 83 and 84 Requires compliance with local subdivision ordinances which require capital improvements.

Sec. 85 Specifies that the contract foreclosure procedure added in Sections 23 and 24 applies only to contracts entered into after the effective date of this act.

Sec. 86 Exempts from compliance with local subdivision ordinances those plats submitted to the platting board before the effective date of the Act. (see Sec. 84)

Sec. 87 Provides for extension of the time in which occupancy and dwelling construction requirements must be met under a homesite entry permit.

Sec. 88 Repealers:

AS 29.33.150(e) Conforming amendment requiring compliance with local subdivision ordinances.
AS 38.04.025 Requires demand assessment, reduntant to .04.020(f)
AS 38.04.040 Authorizes sale of University lands. Obsolete with passage of SB 41 in 1983.
AS 38.04.045(a) Conflicts with subdivision parcel size limitations in .04.020(h).
AS 38.05.030(a) Sale of University lands - obsolete per passage of SB 41 AS 38.05.035(a)(14) Embodied in .05.035 (best interest finding).
AS 38.05.069(b) Agricultural preference option - embodied in 05.069(a).
AS 38.05.362 Classification of 650,000 acres of agricultural land by 9/79 completed.

Sec. 89 Immediate effective date for Sections 19, 36 and 43.

Sec. 90 July 1, 1984 effective date for remainder of bill.

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Memo

To: Bettye

From: Pat

Subject: DNR Briefing on Land Disposal Program, Feb. 14, 1983 (House Comt.Rm.)

Title 38 requires that DNR have at least 500,000 acres classified for land disposal in a "bank" at all times. In DNR's yearly report on the bank they reported the following acreages in the bank:

Categories	Classified Acreage	Suitable
Remote Parcels	1,510,379	276,500
Subdivision Disposals	38,080 (lot acres)	same (surveyed lots)
Agricultural	423,624	393,000
Commercial/Industrial	1,000	1,000

The major questions involving the land disposal program have centered around: 1) The acreage actually put up annually for disposal; 2) The categories of this acreage (e.g. remote parcels, ag, etc.); 3) The locations of the disposal areas; 4) The quality of the lands being offered (e.g. access, high and dry vs. swamp, etc.); and 5) The conditions of disposal (over-the-counter sale, lottery, resident rebates, survey costs, appraisals, etc.).

GENERAL QUESTIONS

With the above in mind the following information should be brought out:

1) How much acreage in what categories is DNR anticipating to dispose of annually, and/or for the coming year?

2) With the increased opposition to disposals in rural areas of the state, how much acreage is intended to be disposed of west of the Alaska Range and north of the Yukon River (considered "rural")?

3) What changes, if any, are anticipated for the conditions or methods of sale? Specifically, with recent court cases what changes might have to be made in the residency discount program (5% discount in sale price for each year of residence up to 50% or 75% for veterans)?

   Also, what is DNR's position on the proposed legislation to permit potential buyers to participate in sales or lotteries via teleconferencing (as opposed to being there in person as now required)?

continued .

--Also, subdivision homesites now require a three-year residency; what changes are anticipated in this requirement?

4) There is currently no "homestead" classification; both the Administration and a House member have introduced legislation to establish a new homestead category to provide small agricultural tracts and which would allow some "sweat equity"; What are the DNR's views on the needs and objectives for this program?

SPECIFIC QUESTIONS

1) Persons who obtain homesites have been unable to obtain financing for house construction because they do not have title to the land prior to construction of a habitable dwelling; Does DNR have any plans or thoughts on how to overcome this Catch-22?

2) Potlatch Ponds. This ag lottery is still being challenged in court. The recipients have not obtained the land and can not participate in another lottery until this is resolved. What does DNR propose to do to ensure fairness to the lottery "winners" in this case?

3) There has been a problem with the construction of roads in subdivisions. What is DNR currently doing about providing access in subdivisions and what are the current budget limitations? (You are sponsoring SB 7 which appropriates $10 million for local roads and trails).

4) There has been complaints that local people are not getting sufficient input into the DNR's proposed disposal plans. What steps does DNR currently take to ensure local input? Would creation of local advisory committees or similar formalized mechanism assist this process?

5) There have been complaints that the disposals have typically taken place in advance of completion of regional or area plans and may have precluded certain other potential land uses; Although AS 38.04.065 provides that land classifications be in accord with regional or area plans <u>after</u> their completion, most plans have not yet been completed; What are the DNR's thoughts on more closely aligning disposal plans with overall resource planning efforts?

FOREST RELATED QUESTIONS

You may want to reserve these questions for our hearing on State Forests on Friday, February 25.

1) Fairbanks State Forest. There are currently plans for land disposals in the Hutlitakwa Creek area near Manley Hot Springs. The local people there strongly support inclusion of the area in the proposed State Forest to ensure continued local wood uses. What is DNR's position on this?

2) The Chase III Agricultural Land Disposal is scheduled for March. Much of this disposal area is in a potential Chunilna State Forest area favored by many local residents. Senator Kerttula has written DNR urging them to delay the sale, although he has serious reservations about the Forest. What is DNR's position?

Alaska State Legislature

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Senate

Committee on Resources

September 19, 1983

Memo

To: Senate Resources Committee Members

From: Senate Resources Committee Staff

Subject: Overview of Preliminary Comments Received on State Land Management and Disposal Laws and Programs

Land Disposal Policy, Planning and Demand Assessment

AS 38.04.005--.015 and .025-.045 describe the broad policy of the state's land management and disposal programs. AS 38.04.020 requires DNR to place lands in a land disposal bank. DNR is to submit a annual budget for the disposal of lands in the bank by various programs based on an annual assessment of demand for land (.020(f)). AS 38.04.020(g)(2) prescribes certain percentages of lands to be disposed of in various programs and by various methods.

AS 38.04.060 and .065 require resource inventories and land use plans for state lands. Land classifications are to be based on these plans.

Comments:

Several persons commented that more specific goals and policies needed to be spelled out for managing and disposing of land and that these needed to be better integrated into the whole range of resource uses and values.

The demand assessment was criticized as being incomplete and misleading in both assessment of supply and demand. Information difficult to obtain.

Some felt arbitrary figures for disposal of certain lands (e.g. homesites) should be deleted as unrelated to specific needs and resources.

Policies of disposing land primarily in Fairbanks and Mat-Su areas and not west of Alaska Range or north of Yukon criticized as not balanced and reflective of demand and land supply.

Although land must be classified prior to disposal, this has sometimes been a quick, site specific process not taking into account regional resources. Some want planning (area or regional plans) to be completed and classification prior to any disposals.

Want more local input and role in disposal decisions.

Land Disposal Record System

The DNR currently maintains records of land sales and leases manually. Retrieval of information by different categories or groupings (e.g. disposals within a particular Borough or sizes of remote parcels) is often difficult. A proposed DNR budget item for FY 84 of $2.6 million for land records automation was deleted by the Legislature.

Comments:

Several commented that a computerized record keeping system was needed for both administrative and public use purposes.

Additionally, some felt additional information on the costs and impacts and revenues from land disposals and subsequent development was needed.

Access, Easements to and within Disposal Areas

AS 38.04.050 requires the reservation of easements and rights-of-way for utilities when state land is surveyed for private use. Where "necessary and appropriate" DNR shall "arrange for" development of surface access as part of land disposals, the cost of which is to be borne by land recipients.

AS 38.04.055 directs DNR to reserve easements and rights-of-way across disposal land for access to public and private lands and waters.

Although the state is required to comply with local platting requirements, it is exempted from local subdivision ordinances except in the recent homestead law where they must comply.

AS 38.04.021 authorizes municipalities to apply for grants from the state for expenses of surveying, platting and installing improvements for disposal programs of entitlement lands. A grant may not exceed five times the expenditures of a first-class city or Borough or seven times a second-class city's expenditures. The FY 84 appropriation for these grants was $700,000.

Comments:

Several commented that inadequate numbers and sizes of easements were being reserved in disposal areas by the state. Also, they felt that corridors of state lands, rather than easements, should be reserved in some situations.

The Boroughs were adamant in their comments that the state should be required to reserve legal and feasible access to and within disposal areas. They suggested that easements and rights-of-way in many past disposal areas was questionable from a legal and practical access standpoint, and that the eventual burden of access was falling heavily on the Borough's shoulders. Some suggested that the state be required to also construct access roads to and within disposal subdivisions and that in all cases be made to comply with local subdivision regulations.