

ALABAMA LEGISLATURE COMMISSIONED PRINTED 1905-1904 0012

2901 SRES HB 509 - HB 576 290

AMENDED TITLE: CSHB 509(JUD)AM

AN ACT RELATING TO AVIATION FUEL SUPPLIERS; AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: HURLBERT

CO-SPONSORS: FRITZ, COWDERY

CURRENT STATUS: 5/19/84 IN (S) RULES

DATE	SEQ	PAGE	LEGISLATIVE ACTION
01/12/84	01	2239	FIRST READING -- COMMITTEE REPORTS
03/29/84	02	3099	L&C -- CS03, NR05
03/29/84	03	3099	L&C F/NOTE EQUALS ZERO
04/11/84	04	3288	JUD -- CS04
05/02/84	05	3597	SECOND READING
05/02/84	06	3597	JUD CS ADOPTED BY UNAN CONSENT
05/02/84	07	3597	ADVANCED TO 3RD READING BY UNAN CONSENT
05/02/84	08	3597	THIRD READING
05/02/84	09	3598	PASSED BY DIV 25-08-07
05/02/84	10	3598	EFFECTIVE DATE PASSED BY DIV 31-02-07
05/02/84	11	3599	NOTICE OF RECONSIDERATION GIVEN
05/03/84	12	3623	RETURNED SECOND READING UNAN CONSENT
05/03/84	13	3623	AM01 ADOPTED BY UNAN CONSENT
05/03/84	14	3623	PASSED ON RECONSIDERATN BY DIV 23-10-07
05/03/84	15	3674	EFFECTIVE DATE PASSED BY DIV 34-00-06

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DATE	SEQ	PAGE	LEGISLATIVE ACTION
05/04/84	16	2919	FIRST READING -- COMMITTEE REPORTS
05/19/84	17	3184	REF -- CS03, NR02
			RULES

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Resources Committee Report:

Do Pass - Fahrenkamp, Ziegler

No Rec - Vic Fischer, Mulcahy

Absent - Sturgulowski, Paul Fischer, Eliason

# Alaska State Legislature

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



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

## Senate

### Committee on Resources

#### MINUTES

May 11, 1984  
3:08 pm

Beltz Room  
Room 211, Capitol

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#### MEMBERS PRESENT

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

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#### CALENDAR

SB 522, An Act specifying how revenues dedicated to the major projects fund shall be expended.

SJR 32, Proposing an amendment to the Constitution of the State of Alaska creating a fund to finance the construction of capital projects.

HB 509, An Act relating to aviation fuel refiners.

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#### HB 509

Bob Rutschman, Chevron, USA, spoke in support of the bill.

Larry Vavra, Union Oil Company, spoke in support of HB 509.

Ray Plummer, Chevron, USA, spoke in support of the bill, and answered questions on the meaning of "mislabeled", and the liability of producers and suppliers if HB 509 were enacted.

SJR 32  
SB 522

Pete McDowell, Director, Office of Management and Budget, spoke in support of both bills, which propose an amendment to the Constitution creating a major projects fund, and set up a corporation to manage and invest the fund's assets. He answered questions on revenue projections, the "major project" definition and review process, and the effect of SJR 32 on the proposed "four-dam pool" legislation.

The meeting adjourned at 4:32 pm.

# Alaska State Legislature

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



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

## Senate Committee on Resources

### MINUTES

May 18, 1984  
3:07 pm

Beltz Room  
Room 211, Capitol

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### MEMBERS PRESENT

Senator Fahrenkamp, Chairman  
Senator Ziegler, Vice-chairman  
Senator Vic Fischer  
Senator Mulcahy

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### CALENDAR

HB 509, An Act relating to aviation fuel suppliers.

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Larry Vavra, Union Oil Company, demonstrated how aviation fuel can be tested to determine if water contamination exists. He recommended that all pilots use a chamois to filter fuel from barrels and use this simple test.

Ray Plummer, Chevron, USA, spoke in support of the bill, explaining that it would enable consumers to obtain fuel at a reasonable cost while accepting the associated risk. It would also relieve Chevron, USA of the costs of frivolous litigation.

Ed Hein, Legislative Legal Council, recommended a technical wording change, and answered questions on the definition of "mislabeled" and whether this bill also applies to new barrels.

Senator Mulcahy moved SCS CSHB 509 (Resources) from committee with individual recommendations. There was no objection.

The meeting adjourned at 3:27 pm.

TESTIMONY OF GEORGE DAY  
OF CHEVRON U.S.A. INC. BEFORE  
THE OUSE LABOR AND COMMERCE COMMITTEE  
CONCERNING HOUSE BILL 509  
FEBRUARY 2, 1984

Good Morning. My name is George Day, I am the Public Affairs Manager for Chevron U.S.A. Inc. in Anchorage. Chevron markets a complete line of petroleum products throughout Alaska and is the largest marketer of aviation fuels in the state. In 1983, Chevron sold a total of 160 million gallons of aviation fuel in Alaska. Jet fuel sales accounted for 147 million gallons, and only 13 million gallons of aviation gas were sold. For this reason, Chevron is vitally interested in the passage of HB 509.

Chevron has developed an extensive distribution system for supplying aviation fuels throughout the State of Alaska. Chevron recognizes that its primary responsibility is to deliver uncontaminated fuel to the next person in the distribution chain. Quality control is an ongoing process that requires constant supervision and the expenditure of much time and money. Nevertheless, inspection of the fuels for contaminants and for water is relatively easy. In order to demonstrate this, we have brought samples of jet fuel, Avgas 80, and Avgas 100.

[Demonstrate inspection process]

A description of our distribution process to the urban areas and to the bush areas of Alaska should help the committee members of understanding the liability problems faced by an aviation fuel refiner.

[Describe Anchorage process]

[Describe Bethel process]

The development of the theory of strict liability in products liability cases has greatly expanded the liability exposure of an aviation fuel refiner to fuel liability. As you may know, the plaintiff in a strict liability lawsuit need only demonstrate that he was sold a "defective product" by the defendant which caused damage to the plaintiff. The plaintiff is not required to demonstrate that the defendant's conduct in manufacturing or maintaining the product was negligent.

The essential distinction between aviation fuel and other products for which strict liability is imposed is that most other products such as automobiles or furniture or even airplanes are static in their quality once they have been manufactured. Generally speaking, barring unforeseen events, other products remain in the same form as they were immediately after their manufacture. However, the quality of aviation fuel is always subject to incremental change depending on the quality of the handling thereof.

At each stage of the distribution process, contamination is a distinct possibility that must carefully be guarded against. Fuel that is clean and dry going into a storage tank can come out wet, dirty, and/or contaminated depending on the quality of the storage and the method of handling. Once a

refiner has placed aviation fuel in the storage tanks of another person not under the refiner's control, we believe that it is unfair to hold the refiner liable for the continued quality and integrity of that fuel.

Nevertheless, because most refiners are large companies, plaintiffs' attorneys tend to join them in actions even where liability may be unlikely. Refiners may at times find it more economical to settle the case than spend thousands in defense, even when they believe there is no liability. In response to this increased exposure to liability, companies have quietly withdrawn from the aviation fuel market in Alaska. Texaco did so in 1980, and Union Oil Company has pulled out of the aviation fuel market in Southeast Alaska.

Barrels pose a particular dilemma for the refiner. Chevron continues to market aviation fuels in new barrels only in Alaska, and only as an accommodation to the unique reliance the state has on general aviation in remote areas where the most practical means of supply is by barrel. In all other states, Chevron does not sell aviation fuel in a barrel.

It is important to realize that there is no such thing as a "sealed barrel." All barrels, whether new or used, are susceptible to moisture contamination particularly when they are stored outside in the widely fluctuating temperatures encountered in Alaska. During such fluctuations, when moisture is present on

the top of the barrel near the bung hole, moisture can be pulled right through the threads on the bung with the expansion and contraction of the barrel. There is thus no guarantee that uncontaminated, clean, dry fuel purchased in a new barrel will remain so when it is stored improperly.

Obviously, used barrels pose additional problems beyond subsequent contamination. No dealer has the facilities to complete an accurate inspection of barrels prior to refilling them. For these reasons, Chevron declines to refill used barrels with aviation fuel.

These problems combine to create strong incentive to discontinue the present marketing system in the state. For example, in the lower 48 states, Chevron will deliver aviation fuel only in 10,000-gallon deliveries and only to its own airport dealers who meet its quality specifications. All other wholesale purchasers must take delivery of such fuels in minimum 10,000-gallon allotments at a Chevron bulk plant after Chevron has certified that the carrying vehicles are appropriate for the transport of aviation fuels.

It is imperative that the State of Alaska take immediate steps to provide a fair economic climate that would allow the continued distribution of aviation fuels to all areas of the state.

The sole purpose of HB 509 is to create a fair and reasonable business climate for aviation fuel refiners by removing unreasonable exposure to liability. This will go a long way toward assuring adequate supplies to remote geographical locations and to individual customers.

The means selected to achieve this objective are carefully tailored to meet the needs that have been stated. Under HB 509, refiners are still subject to liability when they place fuel directly into aircraft. This is as it should be, since the refiners have total control of the quality of the product up to final delivery.

Except for gross negligence, recklessness or intentional conduct, the refiner is not liable where the fuel is delivered other than directly into an aircraft. The important point to note here is that once title and possession have passed from a refiner, the refiner no longer has control over the integrity of the fuel and should not be held liable therefor.

Aviation fuel refiners will not dismantle quality control programs merely because of the passage of this legislation. It should be again emphasized that refiners are still fully exposed to liability where they fuel airplanes directly. Thus, the dismantling of the quality control program which results in the delivery of contaminated fuel into an aircraft by a refiner would still fully expose the refiner to liability.

Furthermore, even where the deliveries are not made directly into an aircraft, quality control programs will remain. The dismantling of a quality control program, and the use thereafter of little or no care in the manufacture of aviation fuel, may be held to be "gross negligence" under the bill. Thus, the refiners' liability would be maintained in such situations.

HB 509 re-establishes the balance that has often been lost in the development of products liability law. Each entity in the distribution chain must take responsibility for its actions in handling aviation fuel, and must be held responsible for failure to do so properly. Aviation fuel refiners must continue to ensure quality control during the manufacture and distribution of the product. Wholesalers and retailers must also take adequate steps to ensure the continued integrity of the product during their part of the distribution chain. Finally, airlines and private pilots must continue to handle fuel in a safe manner and test for quality before and after each transfer. Only by following such procedures for each fuel transfer can the integrity of the aviation fuel be assured. It is for precisely these reasons that Chevron urges the adoption of HB 509.

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: CSHB 509(L&C)  
Title: "An Act relating to  
aviation fuel refiners;..."  
Sponsor: Repr. Hurlbert  
Requestor: House Labor & Commerce  
Date of Request: 3/28/84

FISCAL DETAIL

Agency Affected: Department of Law  
Program Category Affected: General Government  
BRU, Program or Subprogram(s) Affected: Legal Services Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 3-28-84  
 Approved by Commissioner: Norman C. Gorsuch Date: 3-28-84  
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):

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

12/1/83


STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 2, 1984

SUBJECT: Common law liability - CSHB 509  
TO: Representative Don Clocksin  
FROM: Richard C. Folta  
Legislative Counsel 

Your question on HB 509 is whether the aviation fuel suppliers may be still liable if the bill does not specifically repeal common law liability. In my opinion the answer is no.

AS 01.10.010 concerning applicability of common law provides:

Sec. 01.10.010. APPLICABILITY OF COMMON LAW. So much of the common law not inconsistent with the Constitution of the State of Alaska or the Constitution of the United States or with any law passed by the legislature of the State of Alaska is the rule of decision in this state.

The question therefore is of inconsistency with the common law, not whether there is an explicit repeal.

Under Alaska case law statutes providing for a specific inclusion or exclusion of a right or remedy supplant the common law. City of Homer v. Gangl, 650 P.2d 396 (1982), Alaska Airlines v. Lockheed Aircraft Corp., 430 F Supp. 134 (1977) and Prince v. Levan, 486, P.2d 959 (1971)

In sec. 2 of HB 509, liability of fuel suppliers is limited to actions arising out of fuel transfers directly into aircraft tanks or for selling mislabeled fuel. This specific limitation of liability would supplant the common law, in my opinion, under the rationale of the statute and the above cases, which interpreted statutes where common law repealers were not included.

RCF:lmb  
L3/033

AMENDMENT #1

OFFERED IN THE HOUSE:

By: Hurlbert

To: OS

HOUSE BILL No. HB 509

SENATE BILL No. \_\_\_\_\_

PAGE: 2

LINE: 2

Following "Fuel"

add "Placed in containers other than aircraft Fuel Tanks"

H

B

5

2

9

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: HB 529  
 Title: Veterans' discount on state land disposals  
 Sponsor: Uehling et al  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected: Natural Resources  
 Program Category Affected: NRMEC  
 BRU, Program or Subprogram(s) Affected: Land and Water Management

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

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

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		-0-	-0-	-0-	-0-	-0-

**POSITIONS:**

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

**SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:**

**ANALYSIS:** Attach a separate page for analysis

Prepared By: Sharon Barton Phone: 465-2400  
 Division: Commissioner's Office Date: 3-2-84

Approved by Commissioner: [Signature] Date: 3-2-84  
 Agency: Department of Natural Resources

**Distribution (by Agency preparing fiscal note):**

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

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: March 20, 1984

REQUEST

Bill/Resolution No.: CSHB 529 (FIN)  
Title: Veterans Discount on State  
Land Disposals

Sponsor: Uehling  
Requestor: House Finance  
Date of Request:

FISCAL DETAIL

Agency Affected: Natural Resources  
Program Category Affected: NRMEC

BRU, Program or Subprogram(s) Affected:  
Land and Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL		-0-	-0-	-0-	-0-	-0-
REVENUE		(.5)	(.5)	(.5)	(.5)	(.5)

FUNDING: (Thousands of Dollar)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Ned Farquhar Phone: 465-2400  
Division: Commissioner's Office Date: March 20, 1984

Approved by Commissioner: *Ned Farquhar* Date: March 20, 1984  
Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

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

12/1/83

DEPARTMENT OF NATURAL RESOURCES  
FISCAL BACKUP FOR HB 529 (Veterans' preference)  
March 20, 1984

The Department estimates that about 25% of past land sales have been to veterans. With offerings of 850 lots per year at \$10,000 per lot, lost revenues from a 25% discount for veterans would amount to about \$530,000/yr.

Elimination of AS 38.05.067 (veterans' auction preference) would have a positive fiscal impact, by producing more auction bidding and revenue. However, the Department is not able to quantify this impact.

March 30, 1984

The Honorable Rick Uehling  
Alaska State House  
Pouch V  
Juneau, AK 99811

Dear Representative Uehling:

In past hearings on HB 529, you have requested information on the department's administration of AS 38.05.067 (veteran's auction preference). I hope this letter answers your questions.

Before 1979, the department's authority for offering unoccupied land was restricted to competitive sale. AS 38.05.069, originally passed in 1959 and amended in subsequent years, required that the department offer unoccupied residential lands at an auction restricted to veterans before offering the land to the general public.

From an administrative standpoint, it was easy to comply with this requirement. On the day fixed for the auction of residential lands, division personnel collected evidence of a veteran's honorable discharge and would give that person a colored bidder's card, as well as a white card given to all potential bidders. During the first auction, only veterans would be allowed to bid. Any parcels not sold to a veteran would be offered to the general public immediately after the veteran's sale.

In practice, this statute did not have a large impact on State land sales. The major reason was that even at that time, the department had little land considered proximate to major population centers. In addition, because it was rare to have funds available for survey, such lands as the State did have were usually made available in large parcels not immediately suitable for residential use. In the residential auctions we did hold, about 50% of the parcels would be awarded to veterans. It was now common to auction off large parcels to local land developers, who would, in turn, subdivide the land and build roads and other improvements to meet local government requirements.

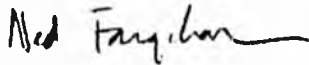
March 30, 1984

Since 1979, the emphasis on State land programs has shifted. The department no longer commonly offers large lots of land at auction. The "residential" classification of land has been incorporated into the "settlement" classification, which also includes the old categories of "private recreation," "industrial," and "commercial." Recent emphasis has been to have the State subdivide the land, and, preferably, to build roads and meet local subdivision ordinances.

Our reason for suggesting repeal of AS 38.05.067 is that the proposed veteran's discount of 25% of the purchase price constitutes an immediate equity in the parcel. Past experience with the discount programs indicates that the "instant" equity serves to inflate the purchase price of land proportionally.

Please feel free to contact me if you have additional questions.

Sincerely,



Ned Farquhar  
Special Assistant  
to the Commissioner

cc: Meg Hayes, SCDO  
Sandra Schubert, Senate Resources

FEB 29 1984

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 29, 1984

SUBJECT: Sectional analysis of HB 529

TO: Representative Rick Uehling

FROM: Edward H. Hein *EHH*  
Legislative Counsel

Section 1 reestablishes a discount on the price of state land purchased by a veteran. Former AS 38.05.058, which was repealed in 1983, provided for a discount of 75 percent or \$37,500, whichever was less. This bill provides a 25 percent discount. To be eligible a veteran must be at least 18 years of age, must have been a state resident for at least one year, must have served in the armed forces for at least 90 days, and must have received a discharge under honorable conditions. A veteran is entitled to only one discount. The discount may be applied to a purchase of surface rights to land, but not to survey costs, road development costs, utility assessments, or other costs specified by the commissioner of natural resources. The discount may be applied to land purchased in a sale restricted to veterans in accordance with AS 38.05.067.

Section 2 provides for an immediate effective date.

EHH:ojb  
J4/021

CHAIRMAN  
HOUSE SPECIAL COMMITTEE  
ON STATE LOANS

VICE-CHAIRMAN

HOUSE RESOURCES COMMITTEE  
HOUSE LABOR AND COMMERCE COMMITTEE

MEMBER

JOINT OIL & GAS COMMITTEE  
HOUSE FINANCE SUBCOMMITTEE ON  
ADMINISTRATION, REVENUE  
AND THE GOVERNOR'S OFFICE

Alaska State Legislature



House of Representatives

Representative  
RICK UEHLING

ANCHORAGE  
DISTRICT 12-SEAT A  
1634 JUNEAU DRIVE  
ANCHORAGE, ALASKA 99501  
(907) 274-4256  
POUCH 'V  
JUNEAU, ALASKA 99811  
(907) 465-4821

MEMORANDUM

DATE: 29 February 1984  
TO: Representative Ringstad *RR*  
FROM: Representative Rick Uehling  
SUBJECT: HB 529

You requested that I provide you with a synopsis of HB 529.

This bill creates a 25 percent discount for veterans, where none now exists, on the purchase price of state lands disposed of under land disposal programs that are not for commercial or industrial uses.

The discount only applies to the acquisition of surface rights to state land and may not be applied to survey costs, road costs, and utility assessments.

The discount also can be applied to the purchase of land from a sale restricted to veterans under AS 28.05.067.

In the Senate, SB 324 has been incorporated into SB 375, the omnibus land bill for the Title 38 rewrite.

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

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

March 2, 1984

Mr. John Geary  
Representative Rick Uehling's Office  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Geary:

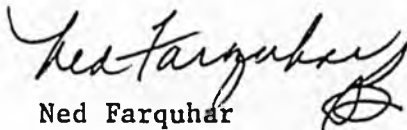
In response to your request for information on HB 529 (veteran's discount on land disposals), here are some comments.

A similar provision (SB 324 by V. Fischer) is being considered on the Senate Resources Committee, for possible inclusion in SB 375 on land disposals and management.

The Department estimates that about 25 percent of past land sales have been to veterans. Assuming we offered 850 lots per year priced at \$10,000 per lot, lost revenues to the State would be about \$400,000.

We suggest that the committee consider repealing the existing veteran's preference right statute, ~~38.05.067~~. This provides for a separate auction restricted to veterans prior to offering the land at competitive sale.

Sincerely,



Ned Farquhar  
Special Assistant  
to the Commissioner

(c) The director shall, for contracts under (a) or (b) of this section, set for each sale the period for the payment of installments and the total purchase price plus interest. The director, with the consent of the commissioner, may also include in contracts under this section conditions, limitations and terms which he considers necessary and proper to protect the interest of the state. Violations of any provision of AS 38.05.005 — 38.05.370 or the terms of the contract of sale subject the purchaser to appropriate administrative and legal action, including but not limited to specific performance, foreclosure, ejectment, or other legal remedies in accordance with applicable state law. (§ 3 art IV ch 169 SLA 1959; am § 5 ch 176 SLA 1978; am §§ 26, 27 ch 85 SLA 1979; am §§ 17, 18 ch 113 SLA 1981)

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

The 1979 amendment substituted the language beginning "prevailing rate for real estate mortgage loans" for "rate of not less than five per cent a year" at the end of the first sentence of subsection (a), and in subsection (b), substituted "under the procedures specified in AS 38.05.057 (lottery disposals)" for "by lottery" in the first sentence and substituted "for real estate mortgage loans made by the federal land bank for the farm credit district for Alaska" for "on similar land transactions" and deleted "as determined by the direc-

tor, but in no case may it be below five per cent a year or above the current usury rate as set by AS 45.45.101(b) and (d)" in the third sentence.

The 1981 amendment added "under AS 38.05.055" following "public auction" and substituted "twenty" for "ten" preceding "years" in the first sentence of subsection (a). In subsection (b), the amendment deleted "the procedures specified in" following "land sold under" and substituted "and under AS 38.05.078" for "(lottery disposals)" preceding "shall require the remainder" in the first sentence.

**Sec. 38.05.066. Preference to persons for fishery purposes.**

Repealed by § 34 ch 94 SLA 1980.

**Editor's notes.** — The repealed section derived from § 1, ch. 158, SLA 1968; § 1, ch. 74, SLA 1970.

*Section of law referred to in D.N.R. letter*

**Sec. 38.05.067. Veterans preference.** (a) Except as provided in (e) of this section, before offering to the general public any unoccupied residential lands, the director shall offer the land at a restricted sale at which only veterans may buy.

(b) The director shall not sell the lands under this section at less than their fair appraised market value. The director shall make regulations necessary to ensure that lands sold under this section are for bona fide residential use and not for speculation.

(c) When not in conflict with this section, other provisions of AS 38.05.045 — 38.05.067 apply to sales under this section.

(d) In this section "veteran" means a person with 90 days or more of active service in the armed forces of the United States who has been honorably discharged.

is section, set and the total consent of the section condition and proper provision of AS be subject the on, including ment, or other § 3 art IV ch 85 SLA 1979;

be below five per cent usury rate and (d)" in the

added "under AS public auction" and "ten" preceding the amendment as specified in "der" and substituted "5.078" for "lot- g" shall require st sentence.

purposes.

provided in (e) ly unoccupied restricted sale

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(e) [Effective July 1, 1984] This section does not apply to the sale of state land under AS 38.04.020(g)(2) and AS 38.09. (§ 4 art IV ch 169 SLA 1959; added by ch 102 SLA 1962; am § 1 ch 28 SLA 1963; am § 1 ch 1 SLA 1968; am §§ 28, 29 ch 85 SLA 1979; am § 35 ch 94 SLA 1980; am §§ 19, 20 ch 113 SLA 1981; am § 6 ch 103 SLA 1983).

**Effect of amendments.** -- The 1979 amendment added "Except as provided in (e) of this section" to the beginning of subsection (a) and added subsection (e).

The 1980 amendment substituted "November 7, 1975" for "a date six months after the termination of hostilities involving forces of the United States in Viet Nam" in paragraph (4) of former subsection (d).

The 1981 amendment rewrote subsection (d) and substituted "AS

38.04.020(g)(2)" for "AS 38.05.047(f)" in subsection (e).

The 1985 amendment, effective July 1, 1984, substituted the reference to AS 38.09 for references to AS 38.05.077 and 38.05.078 in subsection (e).

**Editor's notes.** -- Until July 1, 1984, subsection (e) reads as follows: "(e) This section does not apply to the sale of state land under AS 38.04.020(g)(2), AS 38.05.077, and 38.05.078."

**Sec. 38.05.068. Forest Service permittees' sales preference.**

(a) Before offering to the public any land which is subject to a valid existing United States Forest Service permit in effect on the day before that land is tentatively approved for patent to the state, or which is subject to a lease issued under AS 38.05.087, the director shall offer the land for sale to the permittee or his successor in title, if he can be found.

(b) When not in conflict with this section, other provisions of AS 38.05.045 — 38.05.069 apply to sales under this section.

(c) If the permit described in (a) of this section is for a recreational cabin, recreational residence, nonrecreational residence, or a residence of a community nature and the land is used for noncommercial residential or recreational purposes, the purchase price offered to a permittee or his successor shall be an amount determined by the commissioner which is equal to the state money required to be spent in order to sell the land plus the cost of survey or resurvey, if the survey or resurvey is made by the department or a contractor of the department.

(d) If the permit described in (a) of this section is for a use other than a use listed in (c) of this section, the purchase price offered to a permittee or his successor shall be not less than the appraised fair market value of the land. (§ 1 ch 26 SLA 1963; am § 39 ch 127 SLA 1974; am §§ 1, 2 ch 26 SLA 1979)

**Effect of amendments.** -- The 1979 amendment substituted "on the day before that land is tentatively approved for patent" for "in a state-selected area at the time the area was patented" in subsection

(a), deleted "at not less than its fair appraised market value before offering to the general public" from the end of subsection (a), and added subsections (c) and (d).

**Sec. 38.05.069. Preference to persons for agricultural purposes.** (a) If the director determines that the highest and best use

# State Land Programs\*

LAND PROGRAM	TYPE OF LAND OFFERED	INTEREST GAINED	SIZE OF PARCEL	APPLICANT REQUIREMENTS		METHOD OF DETERMINING WINNER	PRICE TO PURCHASER	TERMS	ON-SITE REQUIREMENTS FOR TITLE	MISCELLANEOUS PROVISIONS	FREQUENCY OF PARTICIPATION	OVER THE COUNTER
				AGE	AK. RESIDENCY							
Lottery	1) Subdivisions 2) Small ag parcels 3) Odd lots	1) Fee title in subdivisions 2) Title to ag interest only 3) Fee title to odd lots	Any	18	1 year	Drawing	Appraised value	Five percent down, maximum 20-year payoff	Complete farm development plan on ag parcels. If required	Purchaser of ag parcels receives ag interest only.	One per eight years (may also purchase one parcel in major ag project every eight years)	Applies to remaining parcels
Homestead	Subdivisions	Entry permit/ fee title	Generally five acres or less	18	1 year	Drawing	Purchaser reimburses state for surveying, platting, and administrative costs	Payments for surveying and platting costs may be constructed for up to 20 years.	Construct dwelling within five years, occupy land 35 months within seven years	Entry permits are non-assignable.	One in a lifetime per household	Applies to remaining parcels
Remote Parcel	Unsurveyed acreage	Lease/fee title	Maximum 40 acres	18	1 year	1) Unlimited entry areas First-come, first-served basis 2) Limited Entry areas Drawing	Lease: \$10 per acre per year Purchaser: Appraised value as of date of lease	Five percent down, maximum 20-year payoff	Stake corners, brush property lines; survey parcel	Lease cannot be assigned, conveyed, or otherwise transferred. Land may not be sold, leased, conveyed, or subdivided for 10 years from date of sale contract. Program will be discontinued as of July 1, 1984.	One per eight years	1) Unlimited entry areas; Not applicable 2) Limited entry areas Applies to remaining entry authorizations
Homestead	Unsurveyed acreage	Entry permit/ fee title	Up to 40 acres of non-ag land or up to 160 acres of ag land	18	1 year	Drawing or Open staking	1) Prove up: \$5 per acre entry fee, surveying, platting, and improvement costs 2) Purchase: \$5 per acre entry fee, surveying and platting costs; appraised value as of date of entry permit	1) Prove up: Not applicable 2) Purchase: Five percent down, maximum 20-year payoff	1) Prove up: Stake corners, brush property lines within 90 days, survey parcel within 2 years, construct dwelling within three years, occupy 25 months within five years. Also clear and prepare for cultivation 25 percent of ag land. 2) Purchase: Stake corners, brush property lines within 90 days, survey parcel within 2 years. Also clear and prepare for cultivation 25 percent of ag land.	1) Prove up: There are restrictions on the sale, lease, conveyance, and subdivision of land for five years after patent. 2) Purchase: There are restrictions on the sale, lease, and conveyance of land for five years after patent, and on the subdivision of land for 10 years after patent.	Once in a lifetime per person	When available
Agricultural Development Project	Ag parcels in large scale projects	Title to ag interest only	Any	18	Residency of up to one year may or may not be required	1) Drawing or 2) High bid at public auction	1) Appraised value or 2) High bid (minimum bid appraised value)	Five percent down, maximum 20 year payoff	File an approved conservation plan, complete farm development plan	Ag. development project sales are not regularly scheduled, as they are funded directly by the legislature. Purchaser receives ag interest only.	One per eight years (may also purchase one parcel in lottery program every eight years)	Applies to remaining parcels
Auction	Any	Fee title	Any	18	None	High bid at public auction	High bid (minimum bid, appraised value)	Five percent down, maximum 20-year payoff	May be some on site requirements		One parcel per auction	Applies to remaining parcels
Lease	Any	Temporary use	Any	18	None	1) High bid at public auction 2) May be negotiated for up to 5 years and \$250 per year rent at full value	Lease rate, 1) High bid or 2) Percentage of appraised value	Lease available up to 55 years	Not applicable	Development plan for commercial/ industrial use may be required.	One parcel per auction	Applies to remaining parcels
Land use Permit	Any	Temporary use	Not applicable	18	None	By application	Use fees required for some activities	All permits, except for grazing purposes, are issued for up to one-year periods, and may be renewed upon application. Grazing permits may be issued for periods up to five years.	Not applicable	Permits are non-transferable. Permanent structures are prohibited. Permits are required for all uses other than generally permitted activities. Permits may be revoked by the state.	Not applicable	Not applicable
Remote Cabin Permit	Any	Temporary use	Not applicable	18	None	By application	Rent \$100 per year	Permits available for 25 years	Not applicable	Assignable by original permit holder	Not applicable	Not applicable



\*This chart outlines general requirements only. It does not list all conditions of entry permits. For details of information about the Department's programs, please contact one of the offices.

**Southcentral District Office**  
Frontier Building, 10th Floor  
3601 C Street  
Pouch 7 003  
Anchorage, Alaska 99510  
(907) 276-2653

**Mid-Su Area Office**  
Century Plaza, Suite 202  
Mile 5 Knik Road  
Pouch 4008  
Wasilla, Alaska 99687  
(907) 376-4593

**Northcentral District Office**  
4420 Alagnak Way  
Fairbanks, Alaska 99701  
(907) 479-2243

**Southeastern District Office**  
Marine View Apartments, Room 407  
230 S. Franklin Street  
Juneau, Alaska 99801  
(907) 465-3100

H B

5 4 2

SENATE RESOURCES COMMITTEE  
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: *HB 542*  
BILL NAME: *Relating to leasing land for refuse disposal*  
SPONSOR(S): *Shultz* RELATED BILLS PENDING:  
DATE INTRODUCED: *1/27/84*  
REFERRALS: *Resources*  
*Finance*

INITIAL RESEARCH:

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

BACKGROUND RESEARCH:

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

HEARING PREPARATION:

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

*DNR - need met in there to testify*  
*Rep Shultz -*  
*John Goddard; AA to Shultz - one or the other will be there to testify.*

# Alaska State Legislature

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



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

## Senate

### Committee on Resources

#### M E M O R A N D U M

TO: Senate Resources Committee Members

FROM: Senate Resources Committee Staff

RE: Committee Meeting, April 2, 1984

DATE: March 29, 1984

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On Monday, April 2nd, at 3:00 pm in the Beltz Room, the Senate Resources Committee will hear the following bills:

HB 542, An Act relating to leasing land for refuse disposal.

Current statute (AS 38.05.315) allows the Department of Natural Resources to lease land for less than its appraised value to a municipality, a federal agency, an electric or telephone co-op, or a registered non-profit entity. HB 542 would amend this provision to include leases to public utilities in unorganized communities for refuse disposal sites.

CSHB 576 (Res), An Act relating to a grant of state land to the City of Whittier.

CSHB 576 (Res) would grant 600 acres of state land to the City of Whittier for sale to the public. Whittier has an extremely limited land base to enable future community growth. All lands in the City core area have been developed or are in the hands of the Alaska Railroad, the U.S. Army, or the State. Whittier received no entitlement from the State under AS 29.18.190, which allowed municipalities to select 10% of all vacant and unappropriated State land within their boundaries, as when this law was enacted there were no State lands within Whittier's boundaries.

An amendment (attached) will be proposed to clarify that Chugach Natives, Inc. is eligible for 100 acres in the Shotgun Cove area per their 1982 Settlement Agreement.

ANALYSIS OF HB 542

1. Section 1---AS 38.05.315 is amended to allow the State of Alaska to lease land not located within the boundary of a municipality to a licensed public utility authorized to collect and dispose of garbage or trash at less than its appraised value.
2. Provides for the Commissioner to determine the annual rental after considering the purpose for which the land will be used.
3. Provides that a licensed public utility may not construct permanent improvements on land leased for refuse unless improvements are directly related to the purpose of the lease.

RURAL COMMUNITIES IN UNORGANIZED BOROUGHS OR COMMUNITIES WITHOUT CENTRAL GOVERNMENT HAVE BEEN AT A DISADVANTAGE IN OBTAINING PROPERTY FOR REFUSE DISPOSAL. UNDER PRESENT STATUTES, THE COST OF STATE LAND FOR THIS PURPOSE IS PROHIBITIVE AND UNIVERSITY OF ALASKA IS ADAMANT ABOUT NOT LEASING<sup>their</sup> LAND FOR ANYMORE REFUSE PURPOSES. THE STATE OF ALASKA CAN DEED LAND TO CO-OPS FOR ELECTRICAL SERVICE OR TRANSMISSION LINES--TO MUNICIPALITIES AND TO NON PROFIT ENTITIES BUT AN UNORGANIZED BOROUGH PAYS FULL PRICE FOR ITS LAND REGARDLESS OF ITS EVENTUAL USE. NON PROFIT ENTITIES ARE RELUCTANT TO SUBLEASE AN LAND THEY MAY HAVE FOR THIS PURPOSE BECAUSE OF THE REDTAPE AND PAPER WORK DEMANDED BY IRS AND THE RESPONSIBILITY OF SUPERVISING THE USE OF THE LAND IN ORDER TO COMPLY WITH DEC REGULATIONS. THEY DO NOT WANT TO BE IN THE BUSINESS OF GARBAGE COLLECTION THEMSELVES BECAUSE THEY ARE NOT EQUIPPED NOR DO THEY HAVE THE EXPERTISE OF MAINTAINING A DUMP AREA OR OF COLLECTION.

THIS BILL SOLVES THIS PROBLEM IN THAT IT CHANGES THE STATUTE TO ALLOW LICENSED PUBLIC UTILITIES TO PURCHASE STATE LAND DESIGNATED FOR REFUSE DISPOSAL BY DEPT. OF NATURAL RESOURCES FOR LESS THAN THE APPRAISED VALUE.

THIS BILL IS IN NO WAY MEANT TO PROVIDE A SUBSIDY FOR AN UNORGANIZED BOROUGH TO CONTINUE INDEFINITELY TO MAINTAIN ITS PRESENT POSITION.

MOST COMMUNITIES ARE NOW SUPPORTING A LICENSED PUBLIC UTILITY (LICENSED GARBAGE COLLECTOR--IF YOU WILL). FOR A UTILITY TO CONTINUE TO PROVIDE A NEEDED SERVICE AND MAINTAIN A DUMP REQUIRES CAPITAL. IF A UTILITY IS REQUIRED TO LEASE LAND AT THE APPRAISED VALUE THEN THEY CANNOT AMORTIZE THIS LEASE THRU CHARGES TO THEIR CUSTOMERS BUT IF THE LAND WERE LEASED TO A UTILITY AT LESS THAN THE APPRAISED VALUE THE UTILITY WOULD BE ABLE TO GIVE SERVICE TO CUSTOMERS, MAINTAIN THE DUMP ACCORDING TO DEC REGULATIONS AND AMORTIZE THE LEASE THRU REASONABLE CHARGES TO CUSTOMERS.

THIS BILL IS ALSO SUPPORTED BY THE DEPARTMENT OF NATURAL RESOURCES AND WHEN PASSED WILL ASSIST MANY RURAL AREAS IN OBTAINING A GARBAGE DUMP AND ALSO PROTECTING OUR ENVIRONMENT.

**Sec. 38.05.315. Public and charitable use.** (a) The lease, sale, or other disposal of state land or resources may be made to ~~any person or corporation, partnership, or subdivision~~, or the lease, sale, or disposal of coal deposits suitable for mining may be made to a utility owned and operated by a government agency or nonprofit cooperative association organized to participate under the Federal Rural Electrification Act for the purpose of generating electric power and energy or the production of process steam, or both, for ~~less than the appraised value~~ as determined by the director and approved by the commissioner to be fair and proper and in the best interests of the public, with due consideration given to the nature of the public services or function rendered by the agency, subdivision, or utility making application, and of the terms of the grant under which the land was acquired by the state.

(b) Notwithstanding AS 38.05.070 — 38.05.080 and 38.05.095, the director, upon application filed by an applicant eligible under (b) — (d) of this section, may, by negotiation and without public auction in the manner prescribed in (b) — (d) of this section, lease state land for a ~~term of not more than 55 years~~. Before leasing, the director shall prepare a ~~lease use plan and a land classification~~ to insure that the proposed use is compatible with area utilization. Before the land may be leased under (b) — (d) of this section, it must be shown to the satisfaction of the director that the land is to be used for an established or definitely proposed project, and that the eligible applicant has the financial ability to carry out the project. The commissioner ~~may establish limitations on the acreage~~ which may be leased under (b) — (d) of this section to an applicant.

(c) Eligible applicants under (b) — (d) of this section are limited to ~~nonprofit~~ corporations, associations, clubs, or societies organized and operated exclusively for charitable, religious, scientific, or educational purposes, or for the promotion of social welfare, if the project for which the land is desired conforms to those objectives and not commercial development. No lease of land may be granted under this section for a project closed to the use and enjoyment of the general public. In every case the applicant shall submit evidence that it is exempt from payment of federal income tax. As a condition of and in consideration of the rights acquired under a lease granted under (b) — (d) of this section, each eligible organization and its parent or subsidiary organizations shall (1) maintain and preserve books, accounts, and records that the director prescribes by regulation as necessary and appropriate; and (2) accord at all reasonable times to the state and its authorized agents and auditors the right of access to those books, accounts and records for the purpose of inspecting, examining and copying them. Any information provided the state in the course of an audit becomes a matter of public record.

(d) The director may lease the land to an eligible applicant at a reasonable annual rental, taking into consideration the purposes for

which the land is to be used and the financial resources of the applicant. The rental may not be less than one percent of the fair market value on lands acquired primarily for development, or less than five percent of the fair market value on university or acquired lands. Rent may not be charged for state land leased for a youth encampment. For the purposes of this subsection, "youth encampment" shall be defined by the commissioner by regulation. Renewal leases may be issued at the discretion of the director upon the expiration of a primary or renewal term. Each lease shall contain a provision for its termination as to all or part of the lands upon a finding by the director that the land or a part of it has not been used by the lessee for the purpose specified in the lease for a period of two years. No lease may be assigned or subleased except with the consent of the director, and in any case may only be transferred to an applicant eligible under (b) — (d) of this section. A lessee may not change the use specified in the lease to another or additional use except with the consent of the director. If, at any time after the land is leased, the lessee attempts to assign the lease or transfer control over the land to another, or if the land is devoted to a use other than that for which the land was leased without the consent of the director, the lease automatically terminates.

(e) The lease, sale, or other disposal of state land at appraised fair market value may be negotiated with a licensed public utility or a licensed common carrier by the director with the approval of the commissioner if the utility or carrier reasonably requires the land for the conduct of its business under its license.

(f) The commissioner shall lease ~~state land for telephone or electric transmission and distribution lines for less than the appraised value of the land if the lessee is a nonprofit cooperative association organized under AS 10.25.010 — 10.25.650. Before he determines the annual rental, the commissioner shall consider the nature of the public service rendered by the nonprofit cooperative association and the terms of the grant under which the land was acquired by the state.~~ A nonprofit cooperative association may not construct improvements other than transmission or distribution lines and substations on land leased under this subsection. (§ 4 art III ch 169 SLA 1959; am § 1 ch 155 SLA 1960; am § 1 ch 137 SLA 1962; am § 1 ch 36 SLA 1976; am § 12 ch 257 SLA 1976; am § 1 ch 76 SLA 1980; am §§ 34, 35 ch 113 SLA 1981)

**Effect of amendments.** — The 1980 amendment added subsection (f).

The 1981 amendment added "and" preceding "38.05.095" and deleted "and AS 38.05.100" preceding "the director" in the first sentence of subsection (b). In subsection (d), the amendment substituted "the"

for "but in no case may the" preceding "rental," added "may not" preceding "be less than one," deleted "school" preceding "university" and deleted "mental health" preceding "or acquired lands" in the second sentence and added the present third and fourth sentences.



Official Business

# Alaska State Legislature

## House of Representatives

Pouch V  
State Capitol  
Juneau, Alaska 99811

### BACKGROUND of HB 542

Rural communities in unorganized boroughs or any community without a central government have been handicapped in obtaining property to be used as a land refuse. This has been due to the inability of the Department of Natural Resources to allow lease of the land for less than the appraised value to any one other than a municipality, a Co-op or a registered non-profit entity. Non-profit entities are discouraged from participating in this lease program due to the amount of paper work involved and the University of Alaska is becoming adamant about not leasing any more of their land for refuse disposal.

Co-ops can not use their leased land for garbage disposal.

THIS BILL will permit DNR to lease State owned land at less than the appraised value to licensed public utilities who are authorized to collect and dispose of garbage and refuse in their area. The public utilities --under this bill--will be able to make a minimal charge to their customers to amortize their release rather than a prohibitive one.

This bill will benefit all residents of an unorganized community and solve a very difficult and impossible situation with regard to obtaining land for garbage disposal.

When this bill is enacted, it is predicted the air pollution problem will be improved in many parts of Alaska.

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF NATURAL RESOURCES

POUCH M  
JUNEAU, ALASKA 99811  
PHONE: 907-485-2400

OFFICE OF THE COMMISSIONER

April 3, 1984

The Honorable Bob Mulcahy  
Alaska State Senate  
Pouch V  
Juneau, AK 99811

Dear Senator Mulcahy:

I am writing in response to questions that you raised at the April 2 Senate Resources Committee hearing on HB 542, Leasing of Refuse Sites.

Your question was whether the bill needed amendment to allow sub-fair-market-value leasing of state land for refuse sites to other than licensed public utilities. Your concern was that second-class cities and communities might be excluded from cost saving.

The authority already exists, in AS 38.05.315(a), to lease state land at reduced rates to "a state or federal agency or political subdivision," which would include second-class cities and, according to the Department of Community and Regional Affairs, tribal governments (IRA's), which are considered federal political subdivisions. In AS 38.05.315(c) there is further authority to lease lands at reduced rates to "nonprofit corporations, associations, clubs, or societies operated exclusively for charitable, religious, scientific, or educational purposes, or for the promotion of social welfare."

These existing authorities, in combination with the proposed legislation before you, permit the Department to lease land at reduced rates for refuse disposal at any community in the state, but only to political subdivisions, nonprofit entities, and licensed utilities. In unchartered communities, one of the latter two would have to exist for the Department to provide lands, unless a willing state agency were designated and funded to take care of solid waste management.

Thank you for your interest in the bill. Please contact me if you need any further information.

Sincerely,

*Bob Arnold*

*E* Esther C. Wunnicke  
Commissioner

cc: Representative Dick Schultz  
Senator Bettye Fahrenkamp  
Tom Hawkins, Director,  
Division of Land and Water Management

APR 6 1984

# 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  
JUNEAU, ALASKA 99811  
(907) 465-3834  
(907) 465-3835

## Senate

### Committee on Resources

#### MINUTES

April 2, 1984  
3:07 pm

Beltz Room  
Room 211, Capitol

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#### MEMBERS PRESENT

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

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#### CALENDAR

CSHB 576(Res), An Act relating to a grant of state land to the City of Whittier.

HB 542, An Act relating to leasing land for refuse disposal.

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#### CSHB 576(Res)

Representative Bette Cato, sponsor of the bill, explained that this bill would grant 600 acres of state land to the City of Whittier for sale to the public. Whittier received no entitlement under AS 29.18.190, and desperately needs land for settlement.

Ned Farquhar, Special Assistant to the Commissioner of Natural Resources, spoke in support of the bill.

Senator Sturgulewski recommended changing the words "critical public purposes" to "community development and expansion", and including language in the letter of intent to clarify that land needed for the Shotgun Cove Road right-of-way would be excluded from those lands granted to the City of Whittier.

Margo Knuth, Department of Law, explained that the Constitutional prohibition against local and special legislation did not apply to this bill because of Whittier's unique situation.

Reed Stoops, Chugach Natives, Inc., spoke in support of the bill as it allows for cooperative future development of Shotgun Cove by the City of Whittier and Chugach Natives, Inc.

HB 542

Representative Dick Shultz, sponsor of the bill, explained that this bill would allow licensed public utilities in unorganized communities to lease land from the Department of Natural Resources at less than its appraised value for refuse disposal sites.

Ned Farquhar testified in support of the bill.

Senator Mulcahy moved HB 542 from Committee with individual recommendations. There was no objection.

The meeting adjourned at 3:45 pm.

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 2/29/84

REQUEST

Bill/Resolution No.: HB 542  
Title: An Act ...leasing Land for  
Reuse disposal.  
Sponsor: Rep. Schnitz  
Requestor: House Resources  
Date of Request: 2/29/84

FISCAL DETAIL

Agency Affected: DNR  
Program Category Affected: NRMEC  
BRU, Program or Subprogram(s) Affected:  
Land and Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

No Fiscal Impact

ANALYSIS: Attach a separate page for analysis

Prepared By: Ned Farquhar *NF* Phone: 465-2400  
Division: Commissioners' Office Date: 2/29/84

MH Approved by Commissioner: *Wm D Arnold, Design* Date: \_\_\_\_\_  
Agency: Natural Resources 2/29/84

Distribution (by Agency preparing fiscal note):

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

12/1/83

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SENATE RESOURCES COMMITTEE  
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: *CSHB 546 (Res) am*

BILL NAME: *An act relating to obstructful hindrance  
of lawful hunting, fishing, or trapping.*

SPONSOR(S): *H. Resources*

RELATED BILLS PENDING:

DATE INTRODUCED: *5-2-84*

REFERRALS:

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:

SUMMARY BY LEGAL DIVISION:

SPONSOR CONTACTED FOR  
BACKUP MATERIALS:

DEPT. OF LAW SUMMARY:

FISCAL NOTE:

AGENCY RESPONSE:

OTHER INTERESTED SENATORS OR  
REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELECONFERENCE:

BACKGROUND MATERIAL DISTRIBUTED:

PSA/PRESS RELEASE:

LIST OF WITNESSES:

SUGGESTED AMENDMENTS/COMMITTEE  
SUBSTITUTES DRAFTED:

# Alaska State Legislature

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



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

## Senate

### Committee on Resources

#### MINUTES

May 14, 1984  
3:13 pm

Beltz Room  
Room 211, Capitol

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#### MEMBERS PRESENT

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

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#### CALENDAR

HB 188, An Act relating to big game hunting by nonresidents.

HB 458, An Act relating to agricultural rights to land.

HB 546, An Act relating to harassment of persons lawfully engaged in hunting, fishing, or trapping.

HB 709, An Act relating to fees for guided tours through historical sites.

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#### HB 188

Dave Stancliff, Aide to the House Resources Committee, explained that this bill would allow nonresident hunters of big game to be accompanied by Alaska residents of the second degree of kindred, including "marriage relations". It would also increase the fine for violation of this provision from \$2500 to \$5000.

Paddy McGuire, Alaska Department of Fish and Game, spoke in support of the bill.

Senator Mulcahy moved CS HB 188 (Finance)am from committee with individual recommendations. There was no objection.

HB 709

Carol Wilson, Special Assistant to the Commissioner, Department of Natural Resources, spoke in support of the bill, which would authorize DNR to establish and collect fees for guided tours through historical sites.

Senator Mulcahy moved CS HB 709 (State Affairs) from committee with individual recommendations. There was no objection.

HB 546

Dave Stancliff, Aide to the House Resources Committee, spoke in support of the bill and explained that the problems with HB 163, a similar bill that was vetoed by the Governor last year, have been solved in HB 546.

Lisa Nelson, Criminal Division, Department of Law, testified that there is no Constitutional problem with the bill as currently written.

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

Senator Mulcahy moved CS HB 546 (Resources) from committee with individual recommendations. Senator Sturgulewski objected and then withdrew her objection.

HB 458

Representative Bob Bettisworth, sponsor of the bill, explained that the bill was intended to help those purchasers of "agricultural rights" land who are having difficulty obtaining financing for home construction by issuing a fee simple conditional title to those purchasers.

Senator Kerttula reviewed the history of federal homesteading, the problems of diminishing farm land in other states, and the importance of preserving agricultural land in Alaska.

Betty Cook, Alaska Housing Finance Corporation, Anchorage, testified that even if fee simple title were issued, AHFC's regulations would prohibit loans being made on land that produces significant income, and prohibit refinancing of loans. There would be additional problems if there were other liens on the property and because of AHFC's lack of experience with agricultural loans.

Ralph Bennett, Aide to Representative Bettisworth, testified that his research indicated that banks were willing to make loans on land for which fee simple conditional title was held.

The meeting adjourned at 3:58 pm.

NEVADA

Section 1. Chapter 503 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. It is unlawful for a group of people, acting together, intentionally to interfere with a person who is lawfully hunting or trapping. For the purpose of this subsection, hunting or trapping is "lawful" only if permitted by the owner or person in possession of the land, other than the government, in addition to any requirement of license or permit from a public authority.

2. The provisions of subsection 1 do not apply to any incidental interference arising from lawful activity by users of the public land, including without limitation ranchers, miners or persons seeking lawful recreation.

MAINE

§7541 Harassment prohibited.

1. Interference with taking. No person may willfully interfere with the lawful hunting, fishing or trapping of a wild animal, wild bird or fish.

2. Disturbing wild animals, wild birds or fish. No person may willfully disturb or attempt to disturb a wild animal, wild bird or fish with the intent to interfere with the hunting, fishing or trapping of them.

3. Violation. A violation of this section is a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

4. Property rights otherwise provided by law. This chapter shall not be construed in any way to limit the ownership use, access or control of property rights otherwise provided by law.

§7542 Injunction; damages.

1. Injunction. The District Court or Superior Court may enjoin conduct which would be in violation of section 7541 upon notification by a person affected or who reasonably may be affected by the conduct, upon a showing that the conduct is threatened or that it has occurred on particular premises in the past and that it is not unreasonable to expect that under similar circumstances it will be repeated.

## SOUTH DAKOTA

Section 1. No person may intentionally interfere with any person or group of persons lawfully engaged in the process of taking or attempting to take any game or fish. No person may engage in any activity specifically intended to harass or otherwise prevent the lawful taking of any game or fish. No person may engage in any activity to scare or disturb any game with specific intent to prevent their lawful taking. This section may not be construed to prohibit a landowner from revoking a prior grant of permission to hunt on his land. A violation of any provision of this section is a Class 2 misdemeanor.

Section 2. Any person who fails to obey the order of a peace officer to desist from conduct in violation of section 1 of this Act, if the officer observes such conduct, or has reasonable grounds to believe the person was engaged in such conduct that day or intends to engage in such conduct that day on a specific premises, is guilty of a Class 1 misdemeanor.

Section 3. The court may enjoin conduct which is in violation of section 1 of this Act upon petition by a person affected or who reasonably may be affected by such conduct, upon a showing that such conduct is threatened or that it has occurred on a particular premises in the past and may reasonably be expected to be repeated. The court may award damages to any person adversely affected by a violation of section 1 of this Act. Damages may include an award for punitive damages, license fees, travel or other expenses which were rendered futile by preventing the licensee from taking game or fish.

Signed March 12, 1983.

## ILLINOIS

[S.H.A. ch. 61, ¶301]

Section 1. Definitions. As used in this Act:

- a. "wild animal" means any wild creature the taking of which is authorized by the fish and game laws of the State.
- b. "Taking", means the capture or killing of a wild animal and includes travel, camping, and other acts preparatory to taking which occur on lands or waters upon which the affected person has the right or privilege to take such wild animals.

[S.H.A. ch.61, ¶302]

Section 2. Any person who knowingly performs any of the following is guilty of a Class C misdemeanor;

- (a) interferes with the lawful taking of a wild animal by another with intent to prevent the taking.
- (b) disturbs or engages in an activity that will tend to disturb wild animals, with intent to prevent their lawful taking.
- (c) disturbs another person who is engaged in the lawful taking of a wild animal or who is engaged in the process of taking, with intent to dissuade or otherwise prevent the taking.

(d) enters or remains upon public lands, or upon private lands without permission of the owner or his agent, with intent to violate this Section.

[S.H.A. ch. 61, §303]

Section 3. Any person who knowingly performs any of the following acts is guilty of a Class B misdemeanor;

(a) fails to obey the order of a peace officer to desist from conduct in violation of Section 2 of this Act if the officer observes such conduct, or has reasonable grounds to believe that the person has engaged in such conduct that day or that the person plans or intends to engage in such conduct that day on a specific premises.

[S.H.A. ch. 61 §304]

Section 4. (a) Any court may enjoin conduct which would be in violation of Section 2 of this Act upon petition by a person affected or who reasonably may be affected by such conduct, upon a showing that such conduct is threatened or that it has occurred on a particular premises in the past and that it is not unreasonable to expect that under similar circumstances it will be repeated.

(b) A court may award damages to any person adversely affected by a violation of Section 2, which may include an award for punitive damages. In addition to other items of special damage, the measure of damages may include expenditures of the affected person for license and permit fees, travel, guides, special equipment and supplies, to the extent that such expenditures were rendered futile by prevention of the taking of a wild animal.

# LOUISIANA

## § 648. Definitions

As used in this Subpart, the following definitions shall apply:

(1) "Wild animal" means any wild creature, including fish, wild birds, and wild quadrupeds, the taking of which is authorized by the provisions of this Title.

(2) "Process of taking" means any act directed at the lawful taking of a wild animal, including the acts of travel, camping, or other activity occurring in preparation for the taking which occurs on state-managed lands or waters governed by the provisions of R.S. 56:731-R.S. 56:757 or which occurs on private lands or waters with the permission of the owner or his agent.

Added by Acts 1982, No. 376, § 1.

## § 648.1. Harassment and disturbance prohibited

No person shall engage in any of the following activities on lands or waters managed by the state pursuant to R.S. 56:781-R.S. 56:787, or upon private lands or waters where a hunter, trapper, or fisherman has been given permission by the owner or his agent to take wild animals:

(1) Interfere with the lawful taking of a wild animal by a hunter, trapper, or fisherman or interfere with the process of taking, with intent to prevent the taking.

(2) Disturb a wild animal, or engage in any activity or place any object or substance that will tend to disturb or otherwise affect the behavior of a wild animal, with intent to prevent or hinder its lawful taking.

(3) Disturb any hunter, trapper, or fisherman who is engaged in the lawful taking of a wild animal or who is engaged in the process of taking, with intent to dissuade or otherwise prevent the taking, or to prevent such person's enjoyment of the outdoors.

(4) Enter or remain upon state-managed lands or waters or upon private lands or waters with intent to violate the provisions of this Section.

Added by Acts 1982, No. 376, § 1.

On authority of R.S. 24:253, subsection designations A to D as found in Acts 1982, No. 376 were changed to paragraph redesignations (1) to (4).	Library References Game ⇌ 7. C.J.S. Game § 10 et seq.
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## § 648.2. Remedies, damages, and penalties

A. The secretary may seek injunctive relief to restrain and prevent violations of R.S. 56:648.1, upon request by the person affected or who reasonably may have been affected by such conduct.

B. Any person adversely affected by a violation of R.S. 56:648.1 shall be entitled to recover actual damages, including expenditures of the affected person for license and permit fees, travel, guides, special equipment and supplies, to the extent that such expenditures were rendered futile by the actions of the person violating the provisions of this Section.

C. Violation of the provisions of R.S. 56:648.1 constitutes a class two violation.

Added by Acts 1982, No. 376, § 1.

## § 648.3. Failure to obey order; violation

A. It shall be unlawful for any person to continue any conduct in violation of R.S. 56:648.1 when ordered to desist by an enforcement officer who has observed such conduct or who has reasonable grounds to believe that the person has engaged in such conduct on that day or plans or intends to engage in such conduct that day on a specific property.

B. Violation of the provisions of R.S. 56:648.3(A) shall constitute a class three violation.

Added by Acts 1982, No. 376, § 1.

## ARIZONA

### § 17-316. Interference with rights of hunters; violation; classification

A. The commission may, by rule, establish designated hunting areas on public lands if it finds that a significant interference or disruption of a hunt is likely to occur on those lands.

B. It is a class 2 misdemeanor for a person while in a designated hunting area to intentionally interfere with the lawful taking of wildlife by another or to intentionally harass, drive or disturb any game animal for the purpose of disrupting a lawful hunt.

C. It is a class 3 misdemeanor for a person to enter or remain in a designated hunting area on any state lands including state trust lands with the intent to interfere with the lawful taking of wildlife.

D. The commission or any person properly licensed to take wildlife who is directly affected by a violation of this section may bring an action to restrain conduct declared unlawful in this section and to recover damages.

E. A peace officer who reasonably believes that a person has violated this section may order the person to desist or to leave the area or arrest such person upon refusal to desist or leave.

F. The conduct declared unlawful in this section does not include any incidental interference arising from lawful activity by public land users, including ranchers, miners or recreationists.

Added by Laws 1981, Ch. 239, § 1.

## MICHIGAN

### 312.10. Unlawful hunting

Sec. 10. (1) Unless otherwise specified, a person shall not do any of the following:

(s) Intentionally interfere in any manner with the lawful hunting, pursuing, or taking of a wild bird or a wild animal by another person.

#### TIPS FOR HUNT SABOTEURS

Fourteen million Americans will be shouldering their rifles and shotguns within the next few months, marching off to their annual offensive against our wildlife. These legions, which are more numerous, and generally better equipped than the entire Nazi armies of the Second World War, will take a bloody toll before the season ends. They will kill deer and rabbits, ducks, dogs, cats, a few children, and even a few hunters.

It is time for friends of animals to start organizing a defense that will serve to at least temper the wanton destruction. There are many ways that a friend of animals can become a forest partisan on behalf of our wildlife, and we offer here a few suggestions that range in effort, depending upon a person's abilities and commitment:

1. Deny the hunter the land to hunt on. Much hunting is done on private lands. To protect these animals, encourage your neighbors, especially those who own large tracts such as farms and ranches, to post their land and forbid hunting. Try to convince them that hunters invariably cause more damage to agriculture than the wild animals do.

2. Many areas have hunting restricted to a specified number of hunters who have special permits. Commonly, these permits allow the hunter to use a particular blind or hunt less common species, such as bear. Apply for these permits yourself. The permits are usually awarded by a simple lottery selection. If you're lucky, you'll win a permit and deny a hunter his kill.

3. Get into the woods yourself the day before the hunting season. If you're familiar with the most commonly hunted areas, try to drive wildlife away. A stroll through the forest with a nice loud radio and a dog on a leash, will serve to make wildlife more wary of humans. This is particularly important for younger animals that have not yet had the traumatizing experience of being hunted.

4. Certain substances, such as rotten eggs, when rubbed into hunting blinds, make these enclosures even more uncomfortable for the hunters. Uncomfortable hunters are irritable, and are also poorer shots. Plastering the floor of a hunting blind with cow dung is another good idea.

5. If you're familiar with wildlife habits in your neighborhood, try to encourage them to break these habits shortly before hunting season. For instance, many hunters like to stalk along deer tracks which are pretty well defined to a good woodsman. Placing deer repellent (available at many feed and hardware stores) along these tracks will encourage the deer to move away and leave the hunter with a route devoid of the species. If you want to save money, just scoop up a bag of human hair from a local barber shop and hang handfuls of it in little bags about two or three feet from the ground, along the deer track. The deer will soon get the message that there are humans in the area and will drift away.

6. If there is much hunting with dogs in your area, try to get hold of a female dog in heat and lead her, on a leash, through an area that is heavily hunted. Male dogs in the hunter's pack will "get wind" of the female and lose their enthusiasm for chasing rabbits or deer.

7. Hunters frequently like to ambush their prey by setting out food and then hiding in blinds. Commonly, bushels of apples are set out a few days before hunting season to encourage deer to browse in this area. When hunting season comes, the hunter merely comes to the site, climbs into a blind, and waits for the deer to come to him. To disrupt this, there are two alternatives. First, remove all apple piles immediately on finding them during the days preceding hunting season. Second, if there are just too many apples to carry away, give them a good spraying with deer repellent and spread barber shop hair clippings all over the area.

8. Encourage your municipality to pass an ordinance that bans, in the interest of public safety, the use of all weapons within its limits. Rifles, shotguns, bows and arrows have been known to kill people too.

9. If you have a portable tape recorder, get a cassette recording of wolf howls. Play this in the woods a few times in the days before hunting season. It will make wildlife wary.

10. Try to develop strong anti-hunting sentiment in your community by writing letters to the editor of your local newspapers, meeting with neighbors, getting on talk shows. Creating public awareness of the problem is a vital point. Let your neighbors know that the law recognizes wildlife as belonging to all people, and they are not the exclusive property of hunters until after they have been murdered.

11. Work on a project to get your State to pass a law that would require all hunters to carry written permission from the landowners of the places they hunt. This further curbs the hunter's battlegrounds because many farmers are reluctant to sign permits that would allow people to hunt on their lands. Also, much land is owned by summer residents, corporations, etc. that are nearly impossible to get hold of.

12. Approach your Congressperson and Senators with demands that hunting and trapping be prohibited on national wildlife refuges and all public land.

13. If you have any old, stuffed animal toys, set these around commonly hunted areas. Hunters often don't take the time to check if an animal is real. Better to have a hole in a cotton rabbit than a real one - and the noise of the gun going off might serve to scare away other wildlife.

14. We will be trying to put together a better activist's guide for next hunting season, so if you have any ideas or procedures you've found effective, please let us know. Mail them in to Bill Clark, Friends of Animals, 11 West 60th Street, New York, NY 10023.

Use your imagination. There are plenty of ways to frustrate the hunt, depending on your own abilities and enthusiasm. The main point here is to do something. By your work, you will be helping animals in two ways. First, you will be protecting them from the hunters and second, you will be letting the hunters know that friends of animals are in the woods. This serves to anger them, and angry hunters do not stalk so quietly, their aim is not so precise. Emotions can play heavily in the success of a hunt, and the most effective killers are cool and methodical. Disrupt!

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF LAW

POUCH KC - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3428

CRIMINAL DIVISION

May 17, 1984

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

RE: HB 546 - Harassment of Hunters

Dear Senator Fahrenkamp:

As you may recall, on Monday, May 14th, I testified before the Senate Resources Committee concerning HB 546 -- an act relating to the obstruction or hindrance of lawful hunting, fishing, or trapping. During my testimony, I mentioned that Representative Lindauer had proposed an amendment to the bill during its consideration on the House Floor. The purpose of the amendment, which was adopted by the House, was to ensure that a person who obstructs the capture of orca whales in Alaskan waters by Sea World could not be prosecuted under the bill. I informed the committee that, in my opinion, the language of the amended bill would not protect a person from prosecution for interference with Sea World's capture of orca whales.

Since Monday, I have analyzed the language of the bill more carefully, and have discussed it with other attorneys. I now believe that my initial interpretation of the bill's language was erroneous, and that the Lindauer amendment achieves its intended purpose.

For your information, my most recent analysis of the bill has revealed that there is a slight problem with the language of the Lindauer amendment. As amended, the bill would make it a crime for a person to obstruct the activities of another person who is lawfully hunting, fishing, or trapping with a valid State of Alaska license or permit. Under AS 16.05.400, however, a person under the age of 16 or a resident 60 years of age or older is exempt from licensing requirements. Under a literal reading of CSHB 546 (Res), if a person obstructed hunting or fishing by a person over the age of 60 or under the age of 16, the interference would not be a crime. To remedy this apparent oversight, an amendment to the bill was proposed in the Senate Rules Committee. It is my understanding

The Honorable Bettye Fahrenkamp  
Chairman, Senate Resources Committee

May 17, 1984  
Page 2

that the amendment will be offered during consideration of the bill on the Senate Floor.

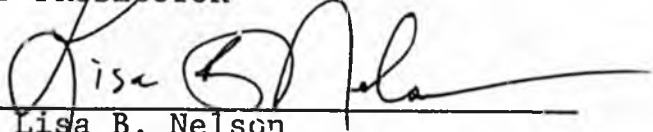
If you have any questions about the interpretation of the language contained in CSHB 546 (Res), please feel free to call me. I would be glad to discuss the bill with you. I apologize for any confusion or inconvenience which my comments before the Resources Committee may have caused.

Sincerely,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

DANIEL W. HICKEY  
CHIEF PROSECUTOR

By:

  
\_\_\_\_\_  
Lisa B. Nelson  
Assistant Attorney General

LBN/so-13

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# ANTI-HUNTERS VS. HUNTERS: WAR IN THE WOODS

*Greenpeace fanatics are harassing hunters in the field. It's a vicious and very dangerous movement, and you could be the next victim. Here's what to expect plus some very good advice on what not to do about it.*

*By Richard Starnes, Editor-at-Large*

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The lush alpine valleys and rugged highlands of northeastern British Columbia have witnessed the opening skirmishes in what threatens to become all-out war between big-game hunters and anti-hunting zealots who have sought to stop them by harassment, abuse, intimidation and—it is charged—physical violence.

How much violence has occurred to date is in dispute, but there have been several angry confrontations involving hunters and anti-hunting activists, one beating has already taken place, and feeling is running so high that Canadian provincial authorities are alarmed at the prospect of more violence when the big-game season opens this fall.

"It's only a question of time before some hothead loses his composure and someone gets hurt," said one hunter who was victimized by the anti-hunters.

Arrayed against each other in the conflict are the hunters, outfitters, and game-management officials of British Columbia, and a dedicated, well-financed, implacable organization of anti-hunters who call themselves Greenpeace.

Greenpeace is no collection of saloon conspirators content to crank

out mimeographed anti-hunting diatribes and picket sporting-goods stores. It is slick, professional, worldwide, and growing rapidly. Its Vancouver chapter alone budgets nearly \$500,000 a year for anti-hunting activities. Its tools are \$1,000-a-day helicopters, expensive sound cameras, and self-confessed expertise at manipulating the press and television. Its tactics are harassment, confrontation, and attempts physically to restrain hunters. Its leader, Dr. Patrick Moore of Vancouver, made it clear in an interview with *OUTDOOR LIFE* that episodes of harassment and intimidation that took place in the rich hunting grounds of British Columbia in 1979 and 1980 were only the opening salvos in the conflict.

"We'll be back this year," he said. "They can't stop us. We intend to stop trophy hunting, first in British Columbia, ultimately all over the world."

How Greenpeace seeks to frustrate hunters is perhaps best told in the words of Richard A. Mielke, a 50-year-old Pontiac, Michigan, fire fighter who last year took a 21-day hunt-of-a-lifetime in the rugged, 1.6-million-acre Spatsizi Wilderness Park in British Columbia. He and his partner, Darryl Hastings,

40, a computer broker from Rochester, Michigan, encountered the Greenpeaceers on the first day of the hunt.

"They barged right into our camp," Mielke said. "They stuck sound cameras right in our faces. They harangued and abused us. One of them screamed at me, 'Is there something wrong with your sex life? Is that why you're up here killing animals?' When we tried to ride out of camp they locked arms across the trail to stop us. One of them grabbed the bridle of my horse. That was dangerous. That's rough country up there. If the horse had shied and fallen I could have been badly hurt."

Eventually the hunters and their guide broke free and continued the hunt, but on nearly every day of the hunt the harassment continued. On one day Mielke took his rifle—unloaded—to a dock on tiny Bug Lake to scope a wolf that had been howling near the camp.

"One of these Greenpeace guys crowded up against me, bumped me, and yelled, 'You're not going to shoot that animal while I'm here!' He grabbed my rifle, and then he fell into the lake."

"They would taunt you in every way they could," Hastings added. "You

couldn't even go to the john without one of them sticking a camera in. It's hard to keep your cool under those circumstances, yet I couldn't give them the satisfaction of bothering me."

Although the Greenpeacers scornfully characterize hunters such as Mielke and Hastings as "jet-set headhunters," both are men of modest means.

"I scrimped and saved and worked at odd jobs for two years to get the money for that hunt," Mielke said. "By the time I'd paid air fares, outfitters' fees, and license and trophy fees it cost me around \$10,000."

Hastings put the cost of his hunt at near \$12,500, and noted it would be a long time, if ever, before he could afford another hunt of that magnitude.

Both hunters report that attempts to reason with the anti-hunters were futile.

"We were after Stone sheep, principally," Hastings said. "But they kept alluding to them as 'bighorns.' I told one of them, 'You're such a phony; you don't even know what species you're talking about.'"

Both men got trophy sheep as well as other trophy specimens, but the Greenpeace activists succeeded in blighting what would otherwise have been an idyllic hunt.

"There were several days when I didn't hunt because of them," Hastings said.

Complaints to provincial wildlife authorities were to no avail. "Early in the hunt a park ranger came into our camp," Hastings said. "We asked him why he wouldn't protect our right to carry on a lawful activity. I'd paid around \$1,000 for licenses and tags, and these people were trying to deprive me of my right to hunt. The ranger replied that there was nothing he could do. 'It's a public park,' he told me. 'They can go anywhere they please.'"

Later, after the anti-hunter fell (Greenpeacer Moore says he was pushed) into the lake, four Royal Canadian Mounted Police officers and two B.C. Fish and Wildlife Department officials arrived at the Mielke-Hastings camp by helicopter. Again the two hunters repeated their plea for protection, again the officials said there was nothing they could do.

"They told us they were trying to figure out how to resolve the issue," Hastings told OUTDOOR LIFE. "But all they did was to tell us, 'We want you fellows to be patient and keep the peace.'" (There are indications, however, which we will come to later, that B.C. officials are preparing to abandon

Illustration by Domenick D'Andrea

## Violence against them would give Greenpeace "proof" that all hunters are thugs and violence-prone killers.

their policy of noninterference when the 1981 season opens.)

Even after Mielke and Hastings quit their camp to return home, the Greenpeace contingent pursued them. After alerting press and television, the anti-hunters continued their tactics of harassment. They followed the two hunters into the airport at Vancouver, taunting them, haranguing and vilifying them, and waving professionally-made anti-hunting placards for the benefit of news and television cameras. Several wore animal costumes, including horns or antlers. The Greenpeacers drove the two hunters to take refuge in the airport lounge, where the bartender did what the Royal Canadian Mounted Police and game department officials had been unable or unwilling to do. He chased the anti-hunters out of the place.

*In the fall of 1980, the Gary Zechel hunting party camped in the Spatsizi wilderness in British Columbia and ran into harassment by eight Greenpeace agitators (left). When Zechel and his wife rode out of their camp for a day of hunting with their guide, the Greenpeacers locked arms across the trail to block their way and screamed abuse. A female Greenpeacer grabbed Zechel's reins to hold him back. The guide broke through the human barrier, and the Zechels pulled away and rode around them. Gary Zechel stated that his greatest fear was that one of the horses would spook and injure or kill someone. The painting is based on a photograph supplied by the Greenpeacer organization! At right, Greenpeacers in animal costumes harass Richard A. Mielke and Darryl Hastings in the Vancouver airport after their successful hunt.*



What was possibly an even uglier incident took place during the 1979 season in Spatsizi. Gary Zechel, an engineer with the Ford Motor Company, who lives in the Detroit area, was hunting Ranger Creek with his wife Jo-Carole, who is a hunter, but wasn't hunting on this occasion. Accompanied only by an Indian guide, the Zechels were traversing one of the wildest, most primitive areas in North America.

"We were six or eight hours by horseback from our base camp, staying in a spike camp," Zechel recalled, "when these Greenpeace people showed up. There were seven men and one woman. There was lots of taunting, harassment, and intimidation. They said they would do whatever they could to stop us. They said if they couldn't persuade us to abandon our hunt they would restrain us physically. When we rode out for a day of hunting, they locked arms in front of us. When I tried to go to my wife's aid, one of them grabbed my horse's reins. Eventually our guide broke through, and my wife and I got away from them. They chased us several hundred yards up the trail, and our guide's horse fell into a bog. That was very dangerous. Even a minor injury is serious in that remote wilderness."

Like Mielke and Hastings, Zechel is an experienced hunter and outdoorsman, clearly able to take care of himself. But some insight into the psychological impact of the Greenpeace tac-

## WAR IN THE WOODS

tics can be won when Zechel says, "One of those guys had an ice ax he kept waving in my face. I felt more fear than I have felt in a long time."

Zechel's wife seems to have been singled out for particular attention by the Greenpeaceers.

"They ran raving and yelling at her," he reported. "It was like a riot. They came within five or ten feet of her."

Exercising what can only be described as saintly restraint, the Zechels and their guide did their best to ignore the anti-hunters.

"This drove them into a frenzy," Zechel said. "They acted nearly hysterical, obviously looking to cause some action or incident." Not surprisingly, the Greenpeace tactics finally wore down Jo-Carole's emotional reserves. "She was terrified and finally broke down crying and screaming for them to leave us alone. They refused and she ran into the tent, sobbing 'They're crazy—I'm afraid of them.' She spent the final days of the hunt in her tent."

When the Zechels broke camp and returned to Smithers, he filed an assault charge against the Greenpeace anti-hunters. Although technically the charge is still pending, it has been "stayed" and provincial authorities made it clear they have no plans to prosecute it.

Ralph Aldrich, chief conservation officer of the British Columbia fish and wildlife agency, undertook to explained why.

"From an enforcement point of view we can only follow the law," he said in an interview. "There is no law against yelling. It's just like picketing. Of course, if they threaten assault and take some overt action, that may be assault."

Is it illegal to impede hunters' horses? Aldrich's reply was something less than definitive. "It depends," he said. Thereupon he passed the buck to Peter Ewart, crown counsel (prosecuting attorney) for the Spatsizi district. From Prince George, B.C., Ewart indicated that, while still open, the charges laid by Gary Zechel against the Greenpeaceers would likely never be prosecuted.

"We took a look at the evidence and the probable outcome of a trial and put a 'stay' on the case," Ewart said. But then, plainly choosing his words carefully, Ewart laid out what may be provincial officials' plan to end the threat to one of British Columbia's prime industries. "I would have been much happier," he said, "if the charge had been intimidation instead of assault." British Columbia, he said, has a statute making it illegal to "impede or attempt to impede any person from carrying out

a lawful activity" by threats, harassment, or coercion.

"What he says is a crock," bluntly charged Ray Collingwood, whose firm outfitted both the Zechel and Mielke-Hasting parties. "They didn't prosecute because of the expense of getting witnesses back up here to testify. I've lost all respect for the government."

Collingwood revealed what apparently is not known by provincial authorities—real violence has already broken out.

"One of these [Greenpeace] guys tried to stop one of our pilots from taking off from an airstrip we maintain in the park," he told *OUTDOOR LIFE*. "He grabbed a wing strut of the Beaver and tried to force our pilot to abort his take-off. The plane got off anyway and later the pilot returned, landed the aircraft, and punched the guy out. He knocked him down and slapped him around some. He just hung a little licking on him."

Despite the degree of restraint exercised by Mielke, Hastings and Zechel, provincial authorities are acutely aware of the potential for violence. Like the hunters themselves, provincial officials see the tactics of Greenpeace as calculated provocations designed to spark violent reaction. All agree that would be counterproductive and, as one put it, "would give Greenpeace 'proof' that all hunters are thugs and violence-prone killers." Chief conservation officer Aldrich pointedly noted that there will be combined Royal Canadian Mounted Police and game department patrols in Spatsizi during the 1981 season.

Greenpeace's Moore airily dismissed the prospect of being prosecuted under the intimidation statute.

"The attorney general (of British Columbia) hired a man last summer especially to research the question," he said. "He concluded there was no law that could stop us. Our activities are as legal as the hunters'. All we're doing is occupying nonconsumptive space, competing for resources with the hunters. They can't say we're interfering with their rights. Those [game] animals don't belong to anyone until they're actually taken into possession."

It is clear that Patrick Moore is the architect, principal voice, and presiding genius of Greenpeace. He conceived and created the organization while a graduate student at the University of British Columbia (he is now a doctor of ecology) five years ago. His title is Canadian director of Greenpeace International, but plainly his sway extends to the worldwide branches of the organization. He is one of 12 salaried, full-time employees of Canadian Greenpeace, and he is paid \$1,200 a month. There are offices in Vancouver

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**"We intend to shut down trophy hunting in Spatsizi to show that it can be done."**

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Victoria, Toronto, and Montreal, as well as branches in the United States, the United Kingdom, the Netherlands, France, New Zealand, and Australia. A Greenpeace "secretariat" in Washington coordinates the activities of the international branches, and it has an annual budget of \$120,000.

"Our forte," Moore said in an interview, "is organizing expeditions into remote areas in order to confront in a nonviolent manner acts that we consider environmentally detrimental. Our funding is entirely private—donations from individuals that are generally less than \$50. We have no foundation or government grants. Our methods are too controversial to attract money from conservative quarters."

Greenpeace's first confrontation took place when Moore and others chartered an 85-foot vessel and sailed to the Aleutian island of Amchitka in an attempt to halt the testing of nuclear bombs. "We lost that battle but we won the war," he said. "They've stopped testing now and Amchitka is a wildlife preserve."

Later Greenpeace made expeditions to the South Seas in an attempt to stop nuclear testing by France (they failed), and they have conducted offensives against whalers and seal hunters.

"But we cut our teeth on nuclear testing," Moore said. "From it we learned how to deal with the media and how to understand international politics. We're fortunate in having people who understand the media—that's how you communicate with people in the modern world, knowing what sort of images appeal to the media."

Although Canadian authorities are tippy-toeing around the Greenpeace campaign of intimidation in Spatsizi, the government ended similar tactics that were attempted against commercial hunters of harp seals in Newfoundland.

"They enacted what they called 'seal protection regulations'," Moore said, "just to keep us out. It's ironic, and very undemocratic."

Moore insists that ending all hunting is not his goal. "Hunting can be part of a harmonious relationship with nature," he said. "Indian bowhunters lived in a balanced state with nature for

10,000 years. But what we're saying is that the relationship between man and animals has changed dramatically. These hunters are an extension of the Detroit urban-industrial ecosystem. They have no place in Spatsizi. In a park set aside for protecting these animals, we must stop thinking of them as a natural resource and think of them as a national treasure."

Moore's disclaimer notwithstanding, Greenpeace's program would effectively end hunting. It would totally rule out all trophy hunting, even under the rigidly controlled conditions prevailing in Spatsizi. It would prohibit hunting by all outsiders, insisting that only food hunters "that are part of the (local) environment be permitted to hunt." It would, in short, permit only subsistence hunting, and then only if the cessation of hunting would "dramatically affect" the life-style of the hunter, and only if subsistence hunting remained in "balance" with the environment.

Moore repeatedly insisted that the hunters who were assailed by the Greenpeacers were unthinking trophy freaks who habitually left the meat of their animals to spoil after removing horns, antlers, and capes. All three hunters heatedly denied the charge, noting that they had painstakingly packed all usable meat back to camp, either for shipment home or for use by the outfitter's crew. The outfitters con-

firmed this. In fact, British Columbia law requires that the meat of game animals be removed and used for food, and in its exhaustive investigation of the incidents, the provincial game department found no violations of the law by the hunters.

For the record, Moore denies any of the Greenpeace activists at Spatsizi committed assault by grabbing anyone's arm. He denies that Mielke's rifle was pushed, but he insists that either Mielke or his companion shoved one of the Greenpeacers into the icy waters of

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**"They're crazy—I'm afraid of them," Gary Zechel's wife said. She spent the final days of the hunt in her tent.**

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Bug Lake. He concedes that they tried to block progress of the hunters' horses, but denies any member of his group seized them by the bridles. "They ran their horses at us," he insisted.

"Our intention is to be there again this year. We intend to shut down trophy hunting in Spatsizi to show that it can be done. They say we are interfering

with them. We deny that. We're competing, as is our right, and they can't stop us."

Perhaps more philosophical than many hunters would be, Richard Mielke warns future hunters of Spatsizi that the Greenpeace anti-hunters "are trying to provoke you into taking a poke at them. And that's the last thing anyone should do. It's exactly what they want."

Unfortunately, however, it isn't the last thing that's likely to happen—unless British Columbia takes a page from Newfoundland's book and contrives a way to keep the Greenpeace people away from the hunters. There are some indications B.C. officialdom, perhaps belatedly, is now working hard to find a way to end the harassment of hunters. In reply to a letter of complaint from Mielke, B.C. Minister of Environment Stephen Rogers wrote:

"I wish to extend my personal apologies for the harassment you suffered (and) I also want to congratulate you and your hunting partner for the restraint you both showed under trying circumstances. The hunters in Spatsizi by their good behavior, as opposed to the conduct of Greenpeace, gained in general public stature while Greenpeace suffered.

"We are working with the Parks Branch to see what can be done to prevent situations such as you experienced from recurring."

**OUTDOOR  
LIFE**



# Alice Herrington Raises the Hackles of Sportsmen in Her War on Hunting

By E. J. NILSSON  
Ort Staff Writer



Alice Herrington

Whether Alice Herrington is right or wrong, she is anything but a bore. As founder and president of Friends of Animals (FOA), Herrington arouses strong feelings among sportsmen and others in her crusade against hunting.

Herrington, who lives with eight cats in Little Silver, N.J., founded FOA in 1957 to try to reduce the numbers of stray dogs and cats. And that is still the major purpose of the organization, she said.

But the group's chief claim to fame is Herrington's verbal bouts with hunters and trappers.

"To call this a sport is just pure nonsense," she said about hunting. "It's a real cruelty. It can't be justified."

IN HERRINGTON'S view, the only people worse than hunters are trappers.

"Deer hunters are not nearly as bad as trappers," she said. "I can't imagine how hunters, who pride themselves on fine shooting, ally themselves with trappers, who practice sadism. Deer hunters are due a little credit for at least the speed of their kill."

Despite the fireworks that FOA ignites with its "full program of hunting and trapping disruption," Herrington wants to convince the public that there "are two cruelties."

Besides the killing of "free animals, which are called wildlife," she explained, she's concerned about man's treatment of all domesticated animals—including pets and livestock.

"It's an American syndrome to love kittens and puppies but then throw out dogs and cats," she said, adding that millions of dogs are killed "in American municipal dog pounds, but they were loved as puppies."

In 1970, Herrington organized low-cost spaying programs for 20,000 animals. By 1980, the number had risen to 60,000.

Last September in Neptune, N.J., she opened a low-cost spaying clinic, said to be "a model of its kind with room for 80 animals and two veterinarians." Across the nation, her group pays for part of the cost of spaying in cooperation with 750 participating veterinarians.

ONE OF the prime targets of Herrington and the FOA is the food business.

"Cruelty to animals is practiced on a larger scale by the food industry than by any other single sector of human activity," an FOA publication asserts.

And Herrington adds:

"If people want to support an industry that is destroying the land, then they can continue to eat these creatures. But if not they can eat vegetables."

Other institutions also are criticized by

FOA, including zoos.

"Zoos must be phased out," said an FOA publication.

Herrington's concern for animals was heightened when she returned to the United States in 1954. Working as a War Department statistician, she had seen relatively few animals running loose in Europe.

In the United States, she said, "I was shocked to find stray animals everywhere."

HERRINGTON, a graduate of the University of Wisconsin in Madison, put her statistical talents to work calculating the rate of increase of dogs and cats. She said she realized that cutting the prolific birthrate was the only long-range solution.

This realization led to the founding of FOA, which worked with volunteers until 1967. Now the group has 12 full-time em-

Herrington was asked whether she would advise FOA members to take traps that were legally set.

"Yes! Why not? Certainly," she said.

But wouldn't the "solution" be stealing?

"You could say that it's stealing if you like," she replied, "but the Robin Hood approach to life is still a very nice way to go."

To All Public Services  
OUT  
3/25/81  
ca

# Humane Group To Seize Animal Leghold Traps

By STEVE GRANT

Friends of Animals Inc. said Friday it is going to trip up trappers by setting off their leghold traps when the season opens next week.

The organization said it will ask its 4,500 members in Connecticut to look for the traps, touch them off with a stick and remove them, because it believes the traps are inhumane.

"We can't as an organization advise people to remove legally set leghold traps. It wouldn't be a smart thing to do. What we're asking them to do is remove illegally set traps. Our guess is most of them are illegal," said Priscilla Feral, the organization's Connecticut director.

Game laws require all leghold traps to have the owner's name on them and they must be placed underwater or in an animal's burrow.

A spokesman for trappers questioned the new campaign, which will begin next Saturday, when the season opens.

"They're setting up a vigilante group. Vigilantes in any situation are not good. They don't know enough and they tend to break the law themselves," said Robert Crook of Madisco, a member and former president of the Connecticut Trappers Association, which has about 800 members.

"I wouldn't object to anybody coming out and checking my traps, as long as they had the permission of the landowner, and as long as they didn't steal them, set them off or take animals out. But I really don't think that's their responsibility," Crook added.

He said the state Department of Environmental Protection is responsible

for seeing that trapping is conducted legally and that he understood the group was told by DEP not to remove illegal traps but instead to report them to a game warden.

Ms. Feral said a trapper's name legally can be placed anywhere on a trap, so members would have to trip them to check. She said members would not be advised to reset legal traps.

"DEP can read the riot act to me if it wishes. But no way will we aid the trapper. Our object is to get rid of the leghold trap," she said.

The organization has argued that the trap, which has two steel jaws that slam shut when an animal touches a piece of bait, is barbaric because some animals die slowly or are left crippled. Ms. Feral said domestic animals also have been caught in the traps. There are other traps available that are more humane, she said.

Crook estimated that there are 8,000 trappers in Connecticut, with the average trapper placing 50 or 100 traps in the wild.

The most commonly trapped animal in the state is the muskrat, which can yield a pelt that will fetch up to \$8. Raccoon, fox, mink, opossum, weasel, skunk and beaver also can be trapped legally, though the season for some of those animals does not begin until later.

Friends of Animals, which is based in New York, has waged other campaigns against hunters. Some members went into the Connecticut woods recently to play recorded wolf howls to alert animals of danger when the deer hunting season opened.

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PRIME SPONSOR: SHULTZ.  
 CO-SPONSORS:  
 CURRENT STATUS: 1/16/84 EXPIRED 1ST SESSION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/04/83	01	0175	FIRST READING -- COMMITTEE REPORTS
03/21/83	02	0572	RES -- CS05, NR02
03/21/83	03	0572	RES F/NOTE EQUALS ZERO
04/20/83	04	0942	JUD -- DNP01, RES CS04, NR02, OTHER01
04/20/83	05	0957	NOT MOVED FROM RLS COMM BY DIV 12-25-03
04/21/83	06	0968	RLS -- CS05, NR02, OTHER02
04/22/83	07	0994	SECOND READING
04/22/83	08	0994	RLS CS ADOPTED BY UNAN CONSENT
04/22/83	09	0995	AM01 WITHDRAWN
04/22/83	10	0995	AM02 NOT ADOPTED BY DIV 15-19-06
04/22/83	11	0996	AM03 ADOPTED BY UNAN CONSENT
04/22/83	12	0996	AM04 ADOPTED BY UNAN CONSENT
04/22/83	13	0997	AM05 NOT ADOPTED BY DIV 14-18-08
04/22/83	14	0997	ADVANCED TO 3RD READING BY UNAN CONSENT
04/22/83	15	0997	THIRD READING
04/22/83	16	0997	PASSED BY DIV 24-09-07
04/22/83	17	0998	NOTICE OF RECONSIDERATION GIVEN
04/25/83	18	1029	RECONSIDERATION NOT TAKEN UP
06/26/83	39	2161	CONCURRED IN SENATE AM3 BY DIV 31-09-00
07/05/83	40	2134	TRANSMITTED TO GOVERNOR

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/26/83	19	0808	FIRST READING -- COMMITTEE REPORTS
05/13/83	20	0970	RES -- DP02, NR04
05/27/83	21	1135	JUD -- CS05
06/10/83	22	1260	RLS -- JUD CS05, OTHER03 TAKEN UP IMMEDIATELY
06/16/83	32	1534	JUD -- 2ND CS05
06/26/83	33	1529	RLS -- TAKEN UP IMMEDIATELY
06/10/83	23	1263	SECOND READING
06/10/83	24	1263	JUD CS ADOPTED BY UNAN CONSENT
06/10/83	25	1263	ADVANCED TO 3RD READING BY UNAN CONSENT
06/13/83	30	1263	AM01 WITHDRAWN
06/13/83	31	1286	RECOMMITTED TO JUD BY UNAN CONSENT
06/26/83	34	1534	READ AGAIN SECOND TIME
06/26/83	35	1534	2ND JUD CS ADOPTED BY UNAN CONSENT
06/26/83	36	1534	ADVANCED TO 3RD READING BY UNAN CONSENT
06/10/83	26	1263	THIRD READING
06/10/83	27	1264	PASSED BY DIV 15-05-02
06/10/83	28	1264	NOTICE OF RECONSIDERATION GIVEN
06/13/83	27	1263	RETURNED TO 2ND READING BY UNAN CONSENT

DATE	SEQ	PAGE	LEGISLATIVE ACTION
06/26/83	37	1534	READ AGAIN THIRD TIME
06/26/83	38	1534	PASSED ON RECONSIDERATION BY DIV 17-05-00

\*\*\*\* \*\*

HB

576

SENATE RESOURCES COMMITTEE  
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER:

BILL NAME:

SPONSOR(S):

RELATED BILLS PENDING:

DATE INTRODUCED:

REFERRALS:

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:

SUMMARY BY LEGAL DIVISION:

SPONSOR CONTACTED FOR  
BACKUP MATERIALS:

DEPT. OF LAW SUMMARY:

FISCAL NOTE:

AGENCY RESPONSE:

OTHER INTERESTED SENATORS OR  
REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELECONFERENCE:

BACKGROUND MATERIAL DISTRIBUTED:

PSA/PRESS RELEASE:

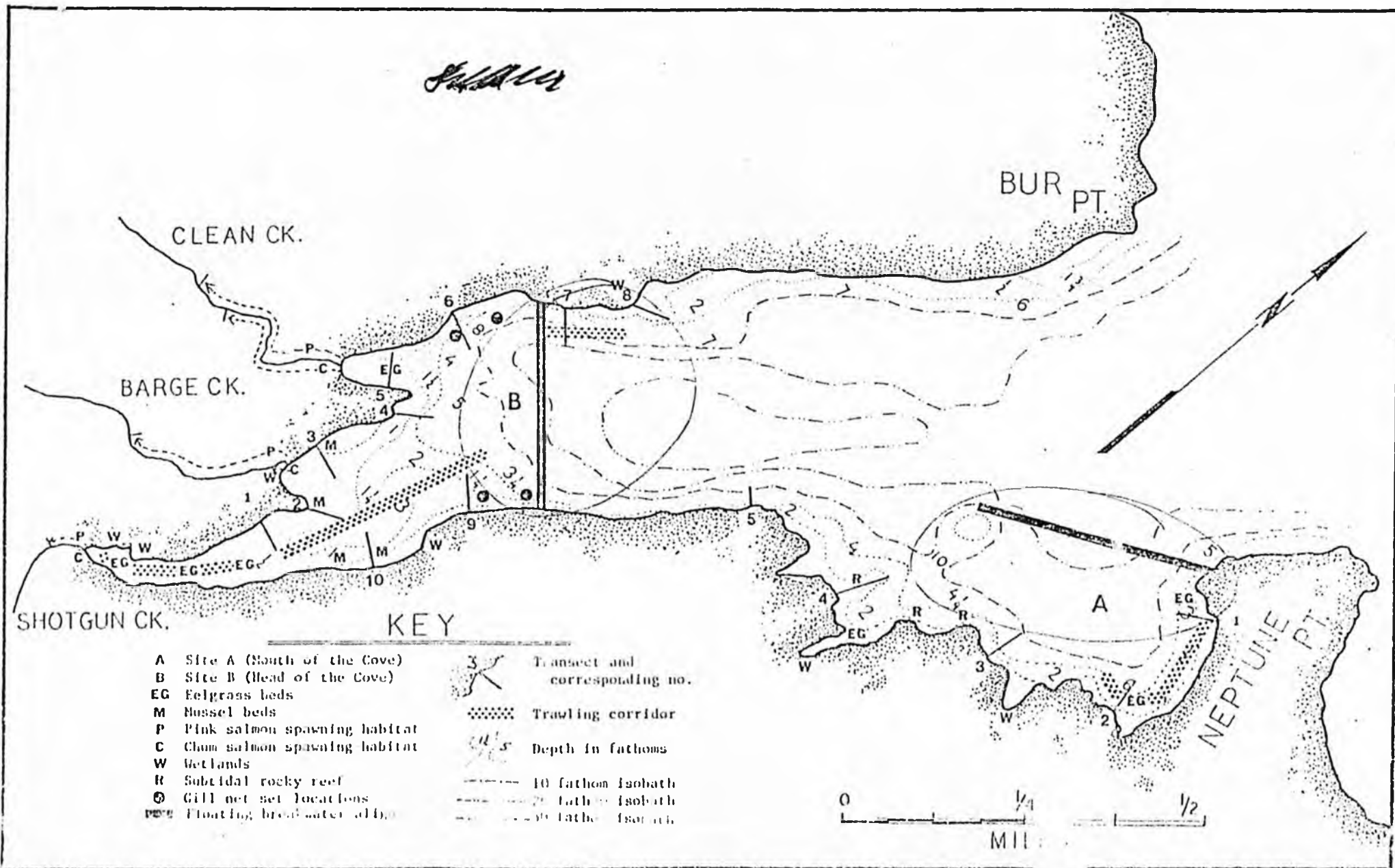
LIST OF WITNESSES:

SUGGESTED AMENDMENTS/COMMITTEE  
SUBSTITUTES DRAFTED:

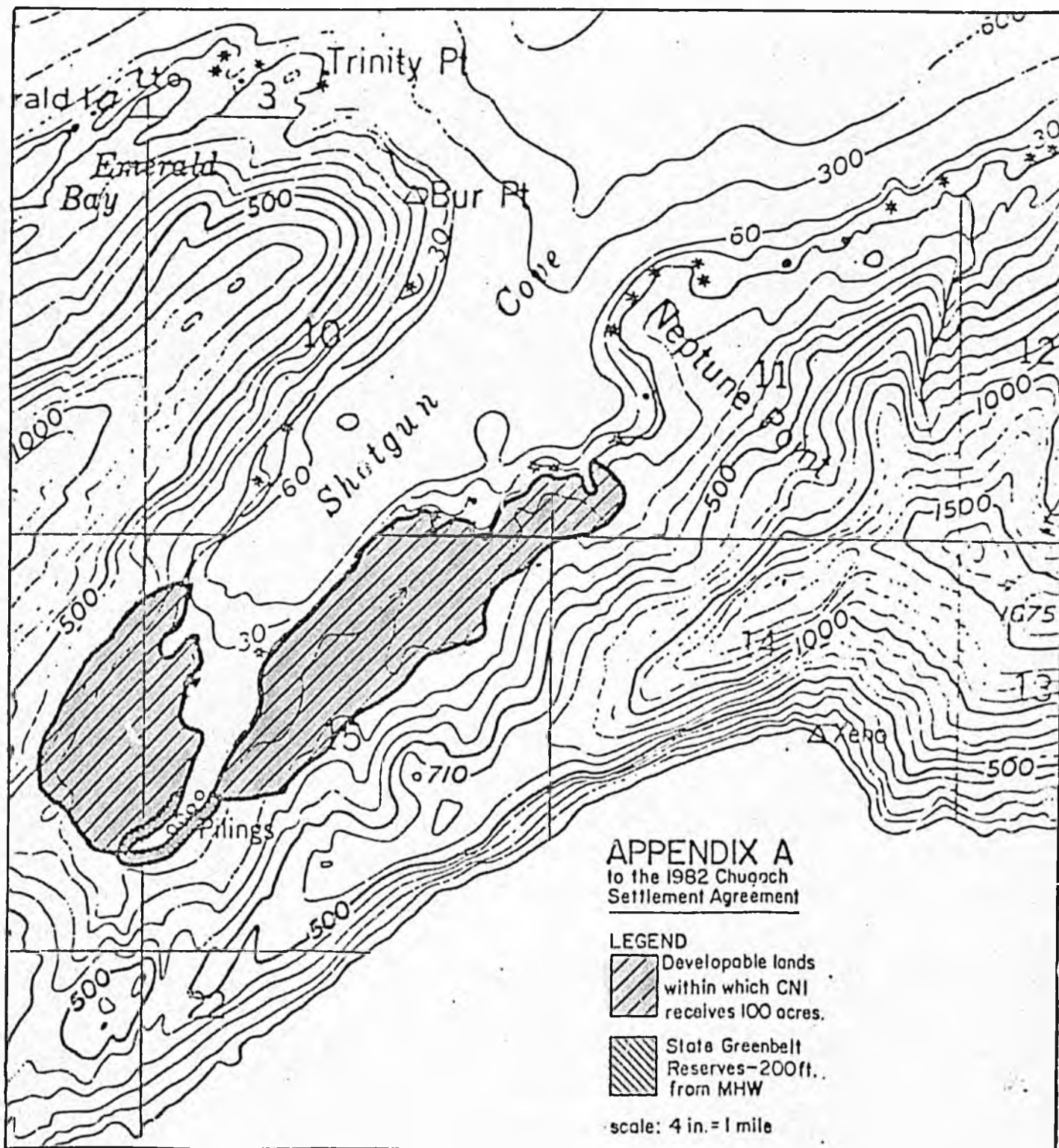
*DNR - Ned will be there to testify  
CATO - will be there to testify  
Paul Muller - has been notified & won't be coming.  
P. Fischer - will be there -*

# CONCEPTUAL HARBOR LOCATIONS & BREAKWATER

Figure 4 . Habitat map of Shotgun Cove, Whittier, Alaska and locations of biological sampling stations.



NOTE: ORIGINAL DOCUMENT IS COLOR-CODED, IF NECESSARY  
TO PROPER INTERPRETATION, REFER TO ORIGINAL DOCUMENT  
IN THE ALASKA STATE ARCHIVES



Pass  
19-0

SCS CS HB 576 (Resources) RELATING TO A GRANT OF STATE LAND TO THE CITY OF WHITTIER.

SPONSOR: CATO (will Paul Fischer address?)

GRANT 600 ACRES OF STATE LAND TO THE CITY OF WHITTIER FOR SALE TO THE PUBLIC. WHITTIER HAS AN EXTREMELY LIMITED LAND BASE TO ENABLE FUTURE COMMUNITY GROWTH. ALL LANDS IN THE CITY CORE AREA HAVE BEEN DEVELOPED OR ARE IN THE HANDS OF THE ALASKA RAILROAD, THE U.S. ARMY, OR THE STATE. WHITTIER RECEIVED NO ENTITLEMENT FROM THE STATE UNDER AS 29.18.190, WHICH ALLOWED MUNICIPALITIES TO SELECT 10% OF ALL VACANT AND UNAPPROPRIATED STATE LAND WITHIN THEIR BOUNDARIES, <sup>Some</sup> AS WHEN THIS LAW WAS ENACTED THERE WERE NO STATE LANDS WITHIN WHITTIER'S BOUNDARIES.

ATTORNEY GENERAL'S OFFICE TESTIFIED THAT THE CONSTITUTIONAL PROHIBITION AGAINST LOCAL AND SPECIAL LEGISLATION DOES NOT APPLY TO THIS BILL BECAUSE OF WHITTIER'S UNIQUE SITUATION (ABSENCE OF PRIVATE LAND BASE, MANY RESIDENTS LIVE IN SINGLE BUILDING IN THE CITY -- UNIQUE CONDITION OF SETTLEMENT). LETTER OF INTENT EXPRESSES THIS.

RESOURCES COMMITTEE SUBSTITUTE:

CLARIFIES THAT ANY OF THE LAND RETAINED BY THE CITY OF WHITTIER IS TO BE USED FOR "COMMUNITY DEVELOPMENT AND EXPANSION".

Offered: 4/9/84  
Referred: Finance

Original sponsors: Cato, Lindauer,  
McBride and Shultz

1 IN THE HOUSE BY THE RESOURCES COMMITTEE  
2 SENATE CS FOR CS FOR HOUSE BILL NO. 576 (Resources)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to a grant of state land to the City  
7 of Whittier."

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

9 \* Section 1. LEGISLATIVE FINDINGS. It is the finding of the legisla-  
10 ture in enacting sec. 2 of this Act that the City of Whittier is uniquely  
11 lacking in available private land. The legislature seeks to correct this  
12 situation by providing a grant of land to the City of Whittier that the  
13 state had planned to offer for private ownership.

14 \* Sec. 2. (a) The commissioner of natural resources shall grant 600  
15 acres of state land to the City of Whittier. The grant shall include no  
16 less than 400 acres of state land from Shotgun Cove and no less than 200  
17 acres from the Whittier Subdivision.

18 (b) As used in (a) of this section,

19 (1) "Shotgun Cove" means land within sections 10, 11, 14, 15,  
20 and 16, Township 8 North, Range 5 East, Seward Meridian;

21 (2) "Whittier Subdivision" means land within sections 8, 9, and  
22 17, Township 8 North, Range 5 East, Seward Meridian.

23 (c) Except for land retained by the City of Whittier for community  
24 development and expansion, land conveyed to the city under this section and  
25 not sold within 10 years of the enactment of this Act reverts to the state  
26 unless the commissioner of natural resources finds that the City of  
27 Whittier has diligently prepared for a sale of the land. If the commis-  
28 sioner finds that the city has diligently prepared for a sale of the land,  
29 the commissioner may extend the deadline for a period determined proper by

House  
version read  
"critical  
public  
purposes."  
Concern  
over  
how to  
define; broad  
interpretation.

Our language was developed after review of  
Statehood Act & ANCSA (see attached).

1 the commissioner.

2 (d) Sale of land under this section shall occur after public notice  
3 and by a competitive method.

# Alaska State Legislature

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



*Adopted*

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

## Senate

### Committee on Resources SENATE RESOURCES COMMITTEE LETTER OF INTENT FOR SCS CS HB 576 (Resources)

~~DRAFT~~  
4/3/84

The legislature, in its passage of SCS CS HB 576 (Resources), finds that special legislation is necessary and appropriate for the resolution of the unique problem of land availability in the City of Whittier. There is no general legislation that could resolve this problem.

Whittier, with a private land base of about 15 acres, is surrounded by state, federal, and native lands. Many of Whittier's residents live in a single building in the city. The presence of reserved federal lands and unavailable state lands, with the absence of a private land base for development, has been a clear obstacle to private settlement in Whittier. SCS CS HB 576 (Resources), while special in its focus, complies with the constitutional mandate for settlement and development of state lands and will provide the City of Whittier with the private lands that it so uniquely needs.

It is the intent of the legislature that the Department of Natural Resources coordinate with the Department of Transportation and Public Facilities to ensure that land needed for the Shotgun Cove Road right-of-way is excluded from those lands granted to the City of Whittier. Design work on the Shotgun Cove Road has been completed by the Department of Transportation and Public Facilities, and land necessary for the right-of-way should remain in State ownership.

DOT proposed this as amendment to bill. DNR + Cato felt was unnecessary (DNR plans to do this anyway).

---

Bettye Fahrenkamp, Chairman  
Senate Resources Committee

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

*BM file*  
BILL SHEFFIELD, GOVERNOR

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

The Honorable Al Adams  
Chairman  
House Finance Committee  
Alaska State Legislature  
Pouch V  
Juneau, AK 99501

March 21, 1984

Dear Representative Adams:

The question has arisen, in connection with CSHB 576 (City of Whittier land grant), of whether the City's land ownership situation and its need for corrective legislation are unique. I am writing because I am concerned that the Attorney General's March 16 letter to you may be interpreted as indicating that the Department does not consider the City's situation and need as unique.

The City of Whittier, with a private land base of about 15 acres, is surrounded by State, federal, and Native lands. Many of Whittier's residents live in a single building in the City. The presence of reserved federal lands and unavailable State lands, with the absence of a private land base for development, has been a clear obstacle to private settlement in Whittier.

Thus, the uniqueness of Whittier's situation springs not from the fact that the City did not receive municipal entitlement lands under Title 29, but rather from the current land situation, which has produced such a unique condition of settlement in the City. This is the basis of the change of wording between Representative Cato's original bill (HB 576) and the Committee Substitute.

The Department has supported Representative Cato's proposal to mend the situation by providing the City with a grant of lands that the State itself would have offered for settlement. The City will have the advantages of being able to conduct the land sales according to its own planning. For the State to comply with local wishes and conduct land sales in the area might take longer and produce different results.

The Honorable Al Adams

-2-

March 21, 1984

The Department, of course, would defer to the Legislature in the determination of whether such a land grant advances its purposes in formulating public policy. It is our belief that the legislation would advance the Constitutional mandate for settlement and development of lands in Alaska. The Department recognizes Whittier's land situation as unique and supports the passage of CSHB 576.

Please contact me or my staff if you have any further questions.

Sincerely,

*Esther C. Wunnicke, Dept. 13*  
Esther C. Wunnicke  
Commissioner

cc: Representative Cato

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 2/29/84

REQUEST

Bill/Resolution No.: HB 576  
 Title: An Act...Grant of State Land to...Whittier  
 Sponsor: Rep. Cato  
 Requestor: House Resources  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: DNR  
 Program Category Affected: NRMEC  
 BRU, Program or Subprogram(s) Affected: Land and Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL	1.0					
300 CONTRACTUAL	.5					
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	1.5	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	1.5					
FEDERAL FUNDS	-0-					
OTHER	-0-					
TOTAL	1.5					

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

General Fund

ANALYSIS: Attach a separate page for analysis

Prepared By: Ned Farquhar NF Phone: 465-2400  
 Division: Commissioners' Office Date: 2/29/84

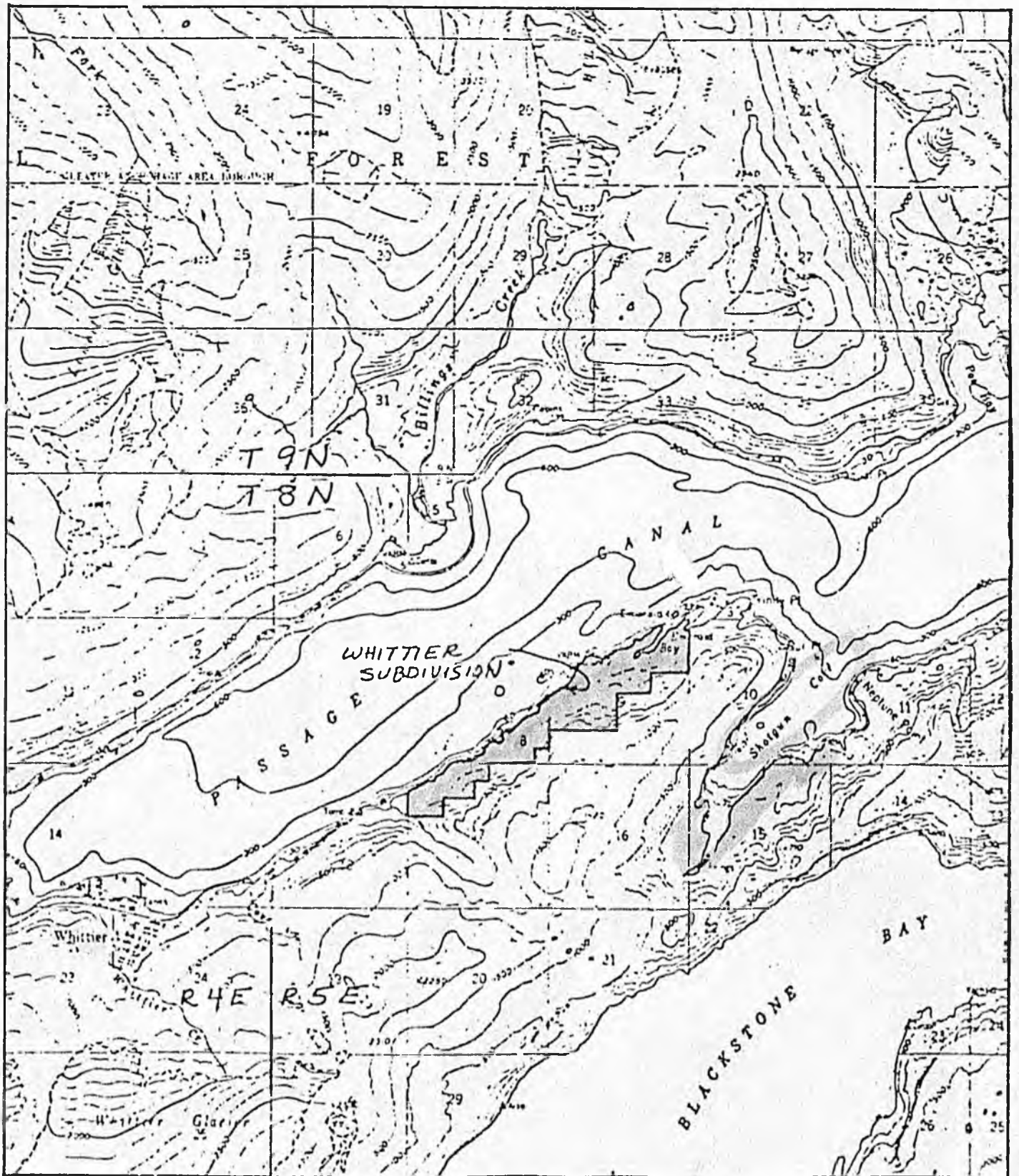
MH Approved by Commissioner: Minnie D. Amundson Degulis Date: 2/29/84  
 Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

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

12/1/83

NOTE: ORIGINAL DOCUMENT IS COLOR-CODED. IF NECESSARY  
TO PROPER INTERPRETATION, REFER TO ORIGINAL DOCUMENT  
IN THE ALASKA STATE ARCHIVES



# Alaska State Legislature

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



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

## Senate

### Committee on Resources

#### MINUTES

April 2, 1984  
3:07 pm

Beltz Room  
Room 211, Capitol

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#### MEMBERS PRESENT

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

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#### CALENDAR

CSHB 576(Res), An Act relating to a grant of state land to the City of Whittier.

HB 542, An Act relating to leasing land for refuse disposal.

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#### CSHB 576(Res)

Representative Bette Cato, sponsor of the bill, explained that this bill would grant 600 acres of state land to the City of Whittier for sale to the public. Whittier received no entitlement under AS 29.18.190, and desperately needs land for settlement.

Ned Farquhar, Special Assistant to the Commissioner of Natural Resources, spoke in support of the bill.

Senator Sturgulewski recommended changing the words "critical public purposes" to "community development and expansion", and including language in the letter of intent to clarify that land needed for the Shotgun Cove Road right-of-way would be excluded from those lands granted to the City of Whittier.

Margo Knuth, Department of Law, explained that the Constitutional prohibition against local and special legislation did not apply to this bill because of Whittier's unique situation.

Reed Stoops, Chugach Natives, Inc., spoke in support of the bill as it allows for cooperative future development of Shotgun Cove by the City of Whittier and Chugach Natives, Inc.

HB 542

Representative Dick Shultz, sponsor of the bill, explained that this bill would allow licensed public utilities in unorganized communities to lease land from the Department of Natural Resources at less than its appraised value for refuse disposal sites.

Ned Farquhar testified in support of the bill.

Senator Mulcahy moved HB 542 from Committee with individual recommendations. There was no objection.

The meeting adjourned at 3:45 pm.

[SELECTION FROM PUBLIC LANDS; FISH AND WILDLIFE  
RESOURCES; PUBLIC SCHOOL SUPPORT; MINERAL  
PERMITS, LICENSES, OR CONTRACTS; MINERAL  
LAND GRANTS; SCHOOLS AND COLLEGES;  
CONFIRMATION OF GRANTS; INTERNAL  
IMPROVEMENTS; SUBMERGED LANDS]

SEC. 6. (a) For the purposes of furthering the development of and expansion of communities, the State of Alaska is hereby granted and shall be entitled to select, within thirty-five years after the date of the admission of the State of Alaska into the Union, from lands within national forests in Alaska which are vacant and unappropriated at the time of their selection not to exceed four hundred thousand acres of land, and from the other public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection not to exceed another four hundred thousand acres of land, all of which shall be adjacent to established communities or suitable for prospective community centers and recreational areas. Such lands shall be selected by the State of Alaska with the approval of the Secretary of Agriculture as to national forest lands and with the approval of the Secretary of the Interior as to other public lands: *Provided*, That nothing herein contained shall affect any valid existing claim, location, or entry under the laws of the United States, whether for homestead, mineral, right-of-way, or other purpose whatsoever, or shall affect the rights of any such owner, claimant, locator, or entryman to the full use and enjoyment of the land so occupied: *Provided further*, That for the purposes of this section the term "public lands of the United States in Alaska which are vacant, unappropriated, and unreserved" shall include, without limiting the use thereof, the retained or reserved interest of the United States in lands which have been disposed of with a reservation to the United States of all minerals or any specified mineral or minerals.

(b) The State of Alaska, in addition to any other grants made in this section, is hereby granted and shall be entitled to select, within thirty-five years after the admission of Alaska into the Union, not to exceed one hundred and two million five hundred and fifty thousand acres from the public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection: *Provided*, That nothing herein contained shall affect any valid existing claim, location, or entry under the laws of the United States, whether for homestead, mineral, right-of-way, or other purpose whatsoever, or shall affect the rights of any such owner, claimant, locator, or entryman to the full use and enjoyment of the lands so occupied: And provided further, That no selection hereunder shall be made in the area north and west of the line described in section 10 without approval of the President or his designated representative.

(c) Block 32, and the structures and improvements thereon, in the city of Juneau are granted to the State of Alaska for any or all of the

ANCSA 14(c)(3)

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for community expansion + appropriate  
rights of way for public use and other  
foreseeable community needs

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is interpreted not to  
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prohibition on state and  
personal property in a  
an allotment. People  
of Bay Borough, 466  
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associated with either  
allotment or an Alaska  
people of S. Naknek v.  
466 F. Supp. 870 (D.

United States, 464  
1979), aff'd in part,  
1980), cert. denied,  
464 U.S. 2047, 68 L. Ed. 2d

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states shall retain  
title, including



Unique - even in Alaska!

## THE CITY OF WHITTIER

September 15, 1983

Margaret J. Hayes  
District Manager  
State of Alaska  
Department of Natural Resources  
Division of Land Management  
3601 C Street, Pouch 7-005  
Anchorage, AK 99510

Dear Ms. Hayes,

You have asked for comments on the proposed disposal of lands in our area.

The City of Whittier agrees that the lands in both Shotgun Cove and Whittier Subdivision should be put in hands of developers so Whittier will have a chance to expand and become a planned community.

All lands in question are within the City limits of Whittier and fall within our planning efforts. Whittier has an extremely limited land base to enable future community growth. All available land in the City core area have been developed or are in the hands of the Alaska Railroad or U.S. Army.

The City needs to have maximum control over the remaining lands in our city limits to plan the direction for future growth.

The City requests that all lands within the Whittier Subdivision and all remaining lands in Shotgun Cove be transferred to City ownership. The City would then be able to establish a municipal land disposal program to guide disposal of these lands.

If the City had ownership of these lands, the City would be in a position to determine the tenancy, size, and natures of the land disposals and would be able to use revenues generated through land disposals to help offset the cost of providing service to these areas like road maintenance, utilities, police, and fire protection.

The City requests:

1. Lands identified for disposal in these two areas be transferred to ownership of the City of Whittier.

2. Lands to be disposed of in the two areas comply with all applicable zoning and planning powers of the City of Whittier.

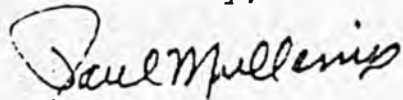
The City of Whittier's request for ownership of these lands should receive consideration because of Whittier's rather unique history of attempting to obtain a land base.

The only lands owned by the City of Whittier were obtained through purchase of GSA excess property at the time of the Army's termination of interest in the area.

The City has never received a Municipal Entitlement of lands in conjunction with incorporation or annexation and to date has never received any entitlement from the State.

Your consideration in the above matter will be appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Paul Mullenix". The signature is written in dark ink and is positioned above the typed name.

Paul Mullenix  
City Manager

#### McGrath Area

The Division of Municipal and Regional Assistance has been working with the City of McGrath and other communities along the Upper Kuskokwim in response to their concern about coordinating on issues of mutual interest. With them, we are in the early stages of developing a regional strategy for the area which would address, among other things, land disposals and other land management decisions. As the project becomes fully operational, the strategy effort may provide an opportunity for DNR to obtain additional input on the disposal areas and to benefit from a more coordinated regional response with respect to State lands and resource management decisions. This would seem especially true if DNR initiates an Upper Kuskokwim Basin Plan in FY 84-85.

Regardless of the progress of this planning effort, we would like to stress the importance of public hearings to review disposal projects. Although there has been considerable interest in State land disposals in McGrath, there have also been a number of concerns expressed throughout the area. There should be ample opportunity for local input.

#### Whittier Area

For the past year, the Division has been working with the City of Whittier to develop a comprehensive plan. Development of the plan has involved frequent discussions on future land use with the Whittier Planning Commission, City administration and local residents. The plan, projected to be submitted to the Whittier City Council for adoption by October, 1983, will provide direction on future land use. The comments offered below only reflect policies identified in the draft comprehensive plan and concerns expressed by Whittier residents during development of the plan. The comments do not reflect formal action taken by the City Council.

All lands within the proposed Whittier Subdivision disposal and the majority of and potentially all land within the Shotgun Cove disposal are within Whittier's municipal boundaries. The Poe Bay disposal is approximately 3 1/2 - 4 miles east of Whittier's municipal boundaries. Although the City is concerned with potential service delivery and secondary impacts on the City from the Poe Bay disposal, the majority of concern is focused on the Whittier Subdivision and Shotgun Cove disposals.

With the exception of lands in the Shotgun Cove and Section 18 areas (approximately 500 acres) that have been selected by Chugach Regional Native Corporation, lands identified by DNR

Ms. Hayes  
September 20, 1983  
Page 3

for disposal comprise virtually all remaining lands within Whittier's municipal boundaries that are suitable for residential development. As such, the City is very concerned that maximum beneficial use of this limited land base occurs to enable desired community expansion. The Division recommends that the following issues/actions receive consideration for any land disposals within Whittier's municipal boundaries.

As indicated, Whittier has an extremely limited land base to enable future community growth. With the exception of several small tracts of land (less than 15 acres), all available lands in the Whittier core area have been developed or are under the restrictive ownership of the Alaska Railroad. In addition, the majority of land within Whittier's boundaries is unsuitable for development because of extremely steep slopes, poor soils, poor drainage, and glaciation. These conditions underscore the need for the City to have maximum possible control over the remaining land base to provide avenues for future growth.

To assist in accomplishing this goal, we understand the City intends to request that the State transfer ownership of lands within the Whittier Subdivision and Shotgun Cove disposals to the City. If this transfer were to occur, the City would be able to establish a municipal land disposal program to guide disposal of these lands. Through ownership of these lands, the City could best determine timing, size and nature of the land disposals and would be able to use revenues generated through municipal land disposals to help offset future costs of providing municipal services to these areas, e.g., road maintenance, utilities and fire protection.

Whittier is very concerned with the potential future costs to the City for providing municipal services to these areas, and is particularly concerned that offering virtually all developable lands through these two simultaneous disposals will severely restrict the City's ability to accommodate future growth. The timing of these two disposals may encourage speculative and seasonal recreational development, as current housing, community development, and economic growth demands may not require disposal of this amount of acreage in 1986 to accommodate existing needs. The City's goal is to establish single family year-round residential development as the primary use for these areas, and Whittier is not sure this interest will be accommodated by the proposed disposals.

The only lands owned by the City were obtained through municipal purchase of GSA excess property when the U.S. Army terminated its interests in the Whittier area. The City conducted a municipal bond sale to generate sufficient revenues to purchase these lands in the Whittier core. In the

mid-1970's, the City annexed lands east of the core (including the majority of land within these two disposals) in an attempt to provide more lands for community growth. However, the City did not receive a municipal entitlement of lands in conjunction with this annexation and to date, has received no municipal entitlements from the State. The only lands projected to be transferred from the State to the municipality are approximately 100 acres in the Shotgun Cove area and these lands contain a covenant restricting use of public services related to the proposed Shotgun Cove small boat harbor. In addition, Whittier does not have a Native village corporation in its area. If a village corporation were in Whittier, 14(c)(3) provisions of ANCSA would mandate transfer of a maximum of 1,280 acres to the municipality. In short, Whittier has never received any land entitlements and has virtually no lands available to it to encourage or accommodate community expansion.

As a second overall concern, the Division supports use of the adopted Whittier Comprehensive Plan, Land Use Plan, and Zoning Ordinance as guides for land disposals in the Whittier Subdivision and Shotgun Cove areas, whether or not the land is transferred to the City. At present, these areas are designated as R-1 and R-2 zones. The R-1 zone allows single family homes on 3-acre minimum size lots. The R-2 zone allows single family homes on 1 1/2 acre minimum size lots or cluster development of two homes on 2 acre minimum size lots. The City recognizes that higher density may be necessary in the future, but prefers this density at present. Concerns with density are best addressed at the local level. The Division requests that DNR recognize the applicability of City plans and ordinances on land use and density within the municipal boundaries.

The Whittier Comprehensive Plan draft has also identified the desirability of a landward buffer zone a minimum of 50 feet in width from the mean high water level. This buffer zone would enable public access to the coastline in all areas. The Division requests this City draft policy receive consideration in DNR's disposal plans.

Consideration should also be given to scheduling the Whittier Subdivision disposal before the Shotgun Cove disposal. Access to much of the Whittier Subdivision disposal is available at present via the uncompleted Shotgun Cove road and would facilitate its development as a residential area. Access to the Shotgun Cove disposal area at present is possible only by boat, although road access may be possible in the future with construction of the Shotgun Cove road. Timing of the Shotgun Cove disposal should be coordinated with completion of the proposed Shotgun Cove small boat harbor and road projects.

*from Paid Stamps*

1982

CNI SETTLEMENT AGREEMENT

intent to relinquish these lands on December 24, 1982. Following termination of the 30-day comment period, the State will review all comments and make a final decision either to relinquish or not to relinquish as soon as practicable after January 24, 1983, but no later than March 1, 1983, and will notify in writing the other parties to this Agreement of its final decision and will file its amended selection relinquishing the lands.

B. Shotgun Cove. (1) The State has received approval from the Secretary of Agriculture for its National Forest Community Grant Selection No. AA-17588 containing approximately five thousand two hundred and five (5,205) acres of land in the vicinity of Shotgun Cove, Whittier, Alaska, and subject to the provisions of subparagraph (6) of this subparagraph will relinquish its selection to 100 acres of this selection.

(2) The Secretary of the Interior will suspend adjudication of the following portion of the State's selection until the State files an amendment to this selection with the BLM:

Township 8 North, Range 5 East, Seward Meridian

Section 10:	S $\frac{1}{2}$
Section 11:	W $\frac{1}{2}$
Section 14:	NW $\frac{1}{4}$ NW $\frac{1}{4}$
Section 15:	N $\frac{1}{2}$ , N $\frac{1}{2}$ SW $\frac{1}{2}$ , SW $\frac{1}{4}$ SW $\frac{1}{2}$
Section 16:	NE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{2}$ , SE $\frac{1}{4}$

After the State files the amended selection application pursuant to subparagraph 5 of this subparagraph, the Secretary of the Interior will adjudicate all State selected lands not excluded by the amendment.

(3) Following a determination by the State on the location of the proposed small boat harbor at Shotgun Cove, the State, in accordance with A.S. 38.05.315(a), shall identify in writing and convey to the City of Whittier a parcel of land generally upland of the small boat harbor. The size of the parcel shall be determined by the State in its discretion. The Whittier conveyance shall contain a covenant running with the land restricting the use of the land to public purposes associated with the small boat harbor.

(4) Following identification by the State of the lands to be conveyed to the City of Whittier but no later than one year after the State determines the location of the small boat harbor (or an earlier time if CNI so elects) CNI shall identify not more than two parcels of land from within the "developable area" shown on a map attached to this Agreement as Appendix A. The parcel or parcels shall total as nearly as practicable one hundred (100) acres. To the maximum extent practicable, the lands conveyed to CNI shall consist of a reasonably contiguous parcel or parcels based upon aliquot part legal descriptions. The ratio of waterfront linear footage to mean upland linear depth footage shall not

exceed 3 to 2, but CNI shall be entitled to receive at least total waterfrontage of 2,087 linear feet. CNI may, after informing the State of its reason, select two parcels, provided that such parcels shall be subject to the above condition. If CNI elects to identify its selection prior to the State's location of the small boat harbor or the State's identification of the lands to be conveyed to the City of Whittier, CNI must obtain the approval of the State and the City of Whittier, which approval shall not be unreasonably withheld.

(5) Following identification of a parcel or parcels by CNI, the State will submit to the Secretary of the Interior an amended selection application relinquishing the parcel or parcels identified by CNI and the Secretary of the Interior will convey the parcel or parcels to CNI pursuant to paragraph 4 of this Agreement.

(6) The State shall only relinquish the lands described in paragraph 4.A(17) if, after compliance with the notice requirements of AS 38.05.345, the State determines that it is in the best interests of the public for the State to make that relinquishment. The State published notice of its intent to relinquish these lands on December 24, 1982. Following termination of the 30-day comment period, the State will review all comments and make a final decision as soon as practicable after January 24, 1983, but no later

than March 1, 1983, either to relinquish or not to relinquish and will notify in writing the other parties to this Agreement of its decision. If the State decides to relinquish, it will file its amended selection in accordance with the procedure set forth in subparagraphs (4) and (5) of this subparagraph.

C. Eagle Bay. (1) The State has selected approximately 1,231 acres of land located at Eagle Bay, Glacier Island, Alaska. This National Forest Community Grant Selection No. AA-17607 has been disapproved by the Secretary of Agriculture and that disapproval is under review by the United States District Court for Alaska in State of Alaska v. Block, et al., A81-311 Civ. The State will file an amendment with the BLM which will relinquish approximately 144 acres from the State's selection. The lands to be relinquished are more fully described in paragraph 4.A(1).

(2) The State and the Secretary of Agriculture agree that the State's relinquishment of a portion of its selection shall in no way affect any other claims or rights of either party in State of Alaska v. Block, and further agree that the lands not relinquished by the State shall be subject to that litigation as if no amendment of relinquishment had been filed by the State. In furtherance of this Agreement, the State and Secretary of Agriculture will file appropriate papers with the District Court to carry out this paragraph.