

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672
5007 HRES SB 133 - SB 136



CSSB 133
Fiscal Note Analysis

With the passage of CSSB 133, the department will be required to determine and certify the entitlement of an estimated 146 first and second class cities within the state within six months. Because the bill changes the definition of vacant, unappropriated and unreserved (vu) land, and expands the date of eligibility, while retaining the language which states that cities are entitled to 10% of "the maximum total acreage of" vu land within their boundaries which existed "at any time" between their initial eligibility (presumably the enactment of the referenced statutes in 1972) and the new date (January 1, 1988), the research involved will be quite extensive.

Many of the 146 cities will be unaffected by the legislation. However, to facilitate the Certification by the Director, numerous state records must be searched to assure the correct acreage for each municipality and make that determination. These records include those of the Department of Community and Regional Affairs (city incorporations and boundaries), the Department of Natural Resources (land title records, status plats, classification and planning documents) and the federal government (land title records, status plats, and other Bureau of Land Management (BLM) records).

Presently, city boundaries are not depicted in the department's Land Administration (computer) System (LAS) nor on state status plats. This will necessitate a time consuming manual adjudication process which must be accomplished within the six month limitation. In order to accomplish this expedited certification process the department will require the following for a maximum of twelve months:

CERTIFICATION

1. A Project Manager (Natural Resource Manager I, range 18, 12 months). The Manager will supervise a staff consisting of a Natural Resource Technician II (range 12), and a Clerk Typist III (range 8). The manager must have sufficient background to understand and work with the various processes involved, including the land transfer process from the federal government to the state, and from the state to municipalities (Title 29, etc.). The manager must act as liaison and problem solver for involved agencies and cities. This position will also be responsible for public notice and conducting hearings associated with the process of certification. The Manager will also review records and make determinations concerning those records as necessary for creating background for certification. The Manager must also work with the department's title personnel to recheck these results with the federal title documents and plats to assure everything is in order; and with the Technician to ensure correct mapping from department documents.

2. The necessary record and resource gathering, mapping and general support for the manager will be provided by the Natural Resource Technician (range 12, first 6 months or less). The Technician, with the direct supervision of the Officer will review and delineate on a single pictorial document the following: correct municipal boundaries (from information obtained from the Department of Community and Regional Affairs by the Technician); many classifications from old land planning reports, classification orders (original and renumbered), regional, area and management plans. This document will be used to provide a focal point from which a rational review of all the data may be accomplished.

3. The Clerk Typist III (range 8, 10-12 months) would supply data entry, clerical, typing and general office support for the Certification staff. The Clerk will be responsible for typing documents, decisions, etc.; monitoring files; and inputting computer data.

ADMINISTRATION

After the initial certification and adjudication and administrative phase will take place primarily in the Northern Region in Fairbanks, as the North Slope Borough would be able to select its entitlement of 89,950 acres while the new Northwest Borough would be able to select approximately 240,000 acres. This requires use of all of the state records and its various systems; coordinating with the borough in the actual selection; formulating the decision which would transfer management authority to the borough; reviewing the survey data, writing survey instructions, negotiating survey contracts for the vast areas many of which are totally unsurveyed, reviewing the survey accomplished by the private surveyors; and finally, conveying title.

To date the division has conveyed 372,000 acres of the total municipally selected amount of 785,000 acres. The number of people involved has run to a high of 15 people in past years, while the division presently has only 1 3/4 people working on municipal entitlements. The present reduction is attributable to a wind down phase as most action is awaiting survey of the land. To expeditiously handle the selections and get the land conveyed a level 18 manager, one grade 16 officer, and 1 technician at a level 12 with a Clerk Typist, level 8 would be required. These people would be permanent and located in Fairbanks. The duties of this staff focus on the process following certification: Land selection and conveyance. The administration staff should be assembled and begin work during the last month of FY 88 in order to coordinate with the certification team.

In order to assist the municipalities in selecting the lands to which they are entitled and to transfer these lands to the municipalities with maximum efficiency, the Manager will work directly with the municipal land officer in each municipality for land identification. In that process the Manager must review general growth demographics and in conjunction with many plans, data, and

studies in the resource libraries throughout Alaska that are particularly applicable to the area in question. The Manager will consult with other agencies; act as primary liaison between various state agencies, the individual city or municipality; provide information to the municipalities; and resolve problems.

The Officer II will be responsible for handling the logistic involved in the conveyance of title to several hundred thousand acres of land including the many legal notices and public hearings. A major problem in the past has been the lack of capability for handling the attendant paperwork which has slowed the process of transferring title. A definitive filing system with computerization of the selection status of each application will be developed by this individual. The Officer, together with the Technician, would handle mapping and title work for the conveyance process. Working from the maps assembled for the certification, the Officer would add information concerning the selection and adjudication processes, and verify the information. That process might include a search of the old general land office records, Bureau of Land Management survey data and possible later state cadastral data to accurately determine survey status. The Technician would assist the Officers and the Manager with basic research and resource gathering, and mapping. The Clerk would supply support for the staff including typing, filing, and data entry.

Line Item Explanation

Y E A R 1

100 - Personal Services
Certification

P.P.T. - Anc

18	23.3 (12 months)
12	12.2 (9 months)
8	12.0 (10 months)
	<u>47.5</u>

Administration

P.F.T. - Fbx

18	4.6 (1 month)
16	4.0 (1 month)
12	3.2 (1 month)
8	2.3 (1 month)
	<u>14.1</u>

200 - (5.0) Travel to Pt. Barrow, Kotzebue, and various cities.

300 - (4.0) Extensive legal advertising, hearings, printing, charter, telephones, certified mailings.

400 - (2.0) Supplies and commodities for staff.

Annual total year 1: \$72.6

Y E A R 2

Administration

P.F.T. - Fbx

18	54.8
16	48.2
12	38.4
8	27.5
	<u>168.9</u>

200 - (5.0) Travel to Pt. Barrow, Kotzebue, and various cities.

300 - (6.0) Extensive legal advertising, hearings, printing, charter, telephone, certified mailings.

400 - (2.0) Supplies and commodities for staff.

Annual total year 2: \$181.9

April 3, 1987

Senator Don Bennett, Co-Chairman
Senate Finance Committee
P.O. Box V
Juneau, Alaska 99811

Re: Senate Bill 133

Dear Senator Bennett:

I represent the class in Weiss v. State, trial court case no. 4FA-82-2208 Civil (the Mental Health Lands Trust Lawsuit). Last year when HB 587 was considered, the parties in interest agreed that they did not want municipal entitlement issues to become further linked to the mental health trust lands litigation. All agreed that additional selections of mental health trust land were not permitted under the law. For that reason, language was inserted into the various bills to maintain the status quo regarding mental health trust lands and the Weiss litigation. An example of the language added to the bills is found in Sec. 6 of CSHB 587 (Rules) am, Second Session of the Fourteenth Legislature. That language follows:

"*Sec. 6. AS 29.65.060 is amended by adding new subsections to read:

(g) Notwithstanding (a) of this section, a municipality may not select school land or mental health land after October 4, 1985. Nothing in this section affects the legal rights of any person with regard to selections of school land or mental health land made by a municipality on or before October 4, 1985..."

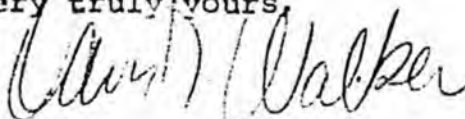
I believe SB 133 and any legislation that in any way relates to the use or selection of mental health trust lands by municipalities must contain language indicating that a

Senator Don Bennett, Co-Chairman
Senate Finance Committee
April 3, 1987
Page Two

municipality, whether existing or newly created, may not select mental health land after October 4, 1985, the date of the Weiss decision.

I will be happy to discuss this with you, or members of your staff at any time.

Very truly yours,



David T. Walker

DTW:jp

cc: James B. Gottstein, Esq.
William H. ("Chip") Dennerlein, Manager,
Office of Intergovernmental Affairs
G. Thomas Koester, Assistant Attorney General
Cooper Geraty, Esq.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

April 28, 1987

The Honorable Sam Cotten
The Honorable Adelheid Herrmann
Co-Chairs, House Resources Committee
P.O. Box V
Juneau, AK 99811

Dear Representatives Cotten and Herrmann:

Subject: CSSB 94, relating to mineral policy.

Background: Representatives from the resource departments and the Department of Commerce and Economic Development met among themselves and with the Attorney General's office and various members of the minerals industry in fashioning CSSB 94.

Position: The Department of Natural Resources recognizes the need for and supports adoption of a state Mineral Policy Act.

With respect to Section 1, paragraph (1) of CSSB 94, the administration believes that this paragraph reiterates and reinforces the state's commitment to make state land available for mineral exploration and development, within the parameters set out in the Alaska Constitution.

Paragraph (2) of Section 1 of CSSB 94 recognizes the need for a streamlined, consistent, reasonable and non-duplicative permit process which will be designed to encourage, not hinder, investment in mineral development.

Paragraph (3) of Section 1 of CSSB 94 acknowledges that a statewide transportation infrastructure which is comprehensive in nature is a vital component in a policy which supports and encourages mineral exploration and development.

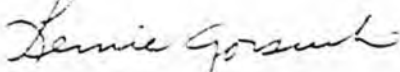
Finally, Section (b) of the proposed bill provides a framework for the administration to review its regulations and internal administrative policies in order to determine their consistency with the act, and to address any inconsistencies. It is intended that affected agencies will prepare reports for submission to the Governor and Legislature.

Representative Sam Cotten -2-
Representative Adelheid Herrmann

April 28, 1987

Recommendation: The administration supports CSSB 94 and believes that it will provide Alaska with a strong and meaningful mineral policy and set a positive tone for mineral exploration and development.

Sincerely,



for Judith M. Brady
Commissioner

cc: Members, House Resources Committee
Bill Sporsors
George Sullivan, Governor's Office
Rod Swope, Governor's Office
Commissioner Collinsworth
Commissioner Kelso
Commissioner Smith

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: SSSB 94
Publish Date: _____

Revision Date: 3/12/87
Title: An Act adopting a mineral policy for the state
Sponsor: Cochill, Bennett, et. al
Requestor: House Resources

Agency Affected: Natural Resources
BRU: Minerals Management
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Activities required by this bill will be performed by existing staff.

Prepared by: Lawrence Z. Ostrovsky
Division: Commissioner's Office

Phone: _____
Date: 4/28/87

Approved by Commissioner: Jenni Gorsch
Agency: Natural Resources

Date: 4/28/87

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agencies
Senate Secretary

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: SB 94

Publish Date: _____

Revision Date: 2/26/87

Agency Affected: Dept. of Natural Resources

Title: Mineral Policy Act

BRU: Mineral Management

Sponsor: Cochill, Bennett et al

Components: _____

Requestor: Senate Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
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	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

As far as The Department of Natural Resources can determine,
there would be no additional cost of operation to the Department.

Prepared by: Lawrence Ostrovsky
Division: Commissioner's Office

Phone: 465-2400
Date: 2/26/87

Approved by Commissioner: Norm D Smith, Deputy
Agency: Natural Resources

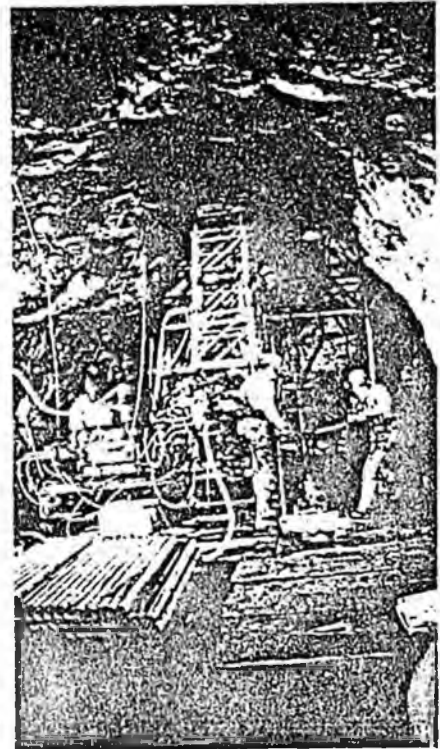
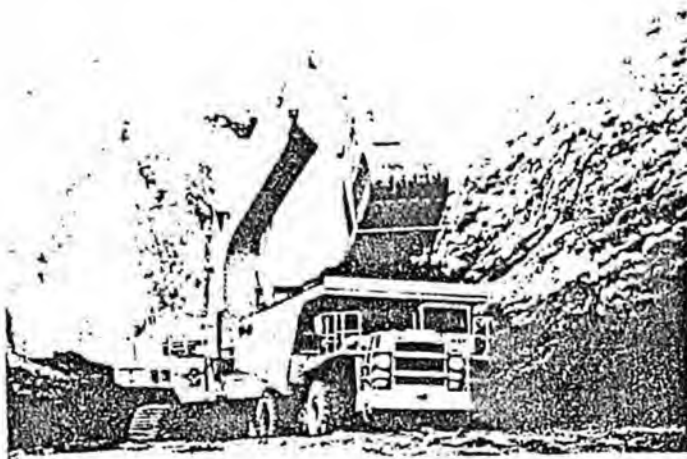
Date: 2/26/87

Distribution (by preparer):

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

12/1/87

Initial Report of the
Alaska Minerals Commission



January 1987

Initial Report of the
ALASKA MINERALS COMMISSION
to
Governor Steve Cowper
and the
Alaska Legislature

January 1987

FOREWORD

The Alaska Minerals Commission was created by the 14th Legislature through the enactment of Chapter 98 of the 1986 Session Laws of Alaska. The source of the Act was Senate Bill 418 (Appendix B) which was passed by the legislature and signed into law by Governor Bill Sheffield on June 6, 1986.

The enabling legislation instructs the Commission to make recommendations to the governor and legislature on ways to mitigate the constraints, including governmental constraints, on the development of minerals, including coal, in the state.

The Commission is charged with preparing an initial report to be presented to the governor and the legislature at the beginning of the 1987 legislative session and a final report to be presented to the 1989 legislative session, after which the Commission will expire. The Commission will also prepare an interim report for the 1988 legislative session.

Commission members are appointed by the Governor, the President of the Senate and the Speaker of the House. The current members include representatives of the placer, hard rock and coal mining industries and come from diverse areas of the state. Staff support to the Commission is provided by the Division of Minerals and Forest Products, Department of Commerce and Economic Development.

The inaugural meeting of the Commission was held in August 1986 and included the election of Earl Beistline, Chairman and Darrell Spilde, Vice Chairman. A Statement of Purpose was drafted (Appendix A) and committees were organized in the areas of land management, regulations, transportation, administrative policy and education.

Additional meetings were held in September, October, November and December of 1986 to prepare the Commission's initial report. Two meetings were held in Fairbanks and three were held in Anchorage. Meetings were preceded by public notice, and meeting agendas included public testimony. A mailing list of over 100 individuals, organizations and companies with interest in the minerals industry was prepared, and copies of meeting minutes and other business are sent to members on the mailing list.

In December 1986, Darrell Spilde resigned his seat due to work commitments, and Roger Burggraf was appointed by the President of the Senate, Don Bennett to fill the vacancy. Joe Usibelli was elected to succeed Darrell Spilde as Vice Chairman at the December meeting of the Commission.

Committees are chaired by Commission members and participants in committee meetings included representatives from miners' associations, mining companies, native corporations, government agencies, other resource industry associations and interested individuals.

The initial report of the Commission recommends as its priority the adoption of an Alaska Minerals Policy Act. Additional recommendations are proposed in the areas of land management; regulations and administrative policy; transportation and infrastructure; and the promotion of mineral development, education and technology.

One area which the Commission has not addressed in its initial report is the subject of mineral taxation, leasing and royalties. This subject is complex and while the Commission has not had sufficient time to review it, this area will be addressed in future reports.

The Commission will continue its work over the next two years, following up on the results of recommendations presented in this report and making additional recommendations in future reports.

I would like to thank all members of the Commission, the staff, and those members of the public who have provided their comments and worked on committees for their contributions in preparing this report.

Earl Beistline
Chairman

ALASKA MINERALS COMMISSION

Members

Del Ackels, Owner-Operator
GOLDUST MINES
Fairbanks, Alaska

Karl Hanneman
Mining Engineer
Fairbanks, Alaska

Earl Beistline
Mining Consultant
Fairbanks, Alaska

Jenny Hawley, Vice President
HAWLEY RESOURCE GROUP, INC.
Anchorage, Alaska

G. G. (Jerry) Booth, Mgr. Alaska Operations
COMINCO ALASKA, INC.
Anchorage, Alaska

Peter Richardson, Mgr. Project Admin.
GREENS CREEK MINING COMPANY
Juneau, Alaska

Roger Burggraf, President
ALASKA MINERS ASSOCIATION
Fairbanks, Alaska
(Appointed December 1986)

Darrell Spilde, Vice President
NERCO MINERALS, INC.
Fairbanks, Alaska
(Resigned December 1986)

Joe Davis, Senior Manager
INSPIRATION MINES, INC.
Nome, Alaska

Joe Usibelli, President
USIBELLI COAL MINE, INC.
Healy, Alaska

Don Finney, Ketchikan Manager
U. S. BORAX AND CHEMICAL CORP.
Ketchikan, Alaska

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Development
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Fairbanks, Alaska 99701
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INTRODUCTION

Alaska is entering a period of economic change. Those sectors of the economy supported directly by oil production or indirectly by pass-through spending of government revenues will be severely impacted.

Mining is one sector of the economy that is not directly affected by the loss of state revenue or by a decrease in oil related activities as it does not appreciably depend on the level of funding in state capital or operating budgets.

While economic changes have depressed the oil industry in Alaska, there have been several economic changes favorable to the mining industry. Increased metal prices, lower fuel and labor costs, and lower interest rates should be working favorably for the growth of the mining industry in Alaska.

Yet, economic information for 1986 indicates that all is not well. The placer mining industry suffered a 27 percent decrease in the number of mines, a loss of 390 jobs statewide and a 16 percent decrease in gold production. In contrast, placer gold production in the Yukon Territory is expected to set a new record in 1986.

Exploration activities in Alaska remained at their lowest level in some 15 years, down nearly 90 percent from 1981 levels. In contrast, exploration in British Columbia increased some 30 percent in 1986 to a level 10 times greater than in Alaska.

While there are many factors that contribute to the lowered level of mineral activity in Alaska, the comparison with activity in the Yukon Territory and British Columbia—areas which share similar geology, climates and costs—indicates that there are fundamental impediments and constraints to conducting exploration and mining in Alaska.

Comments from individuals in the industry are revealing. Questionnaires are annually mailed to miners for use in preparing an annual mineral industry report jointly published by the Department of Commerce and Economic Development and the Department of Natural Resources. The comments which follow are excerpts from the responses to those questionnaires.

The following two comments are from questionnaires returned by managers of exploration programs.

"I now confine most of my exploration activities to the southwestern U.S. where it is more economic and not as difficult to deal with the environmental regulations. Alaska is a wonderful place to try to develop mines but the economics and constantly more difficult environmental restrictions are almost too enormous to overcome. I hope this changes in the future. Somehow this message needs transmitting to those who can effectuate a change for the better. As I recommended the last four years, the only way to effectuate change for the better is to withdraw investment in exploration in Alaska. As you may realize, that was a very difficult thing for me to do. I hope in the future it will change."

"The problem is the lack of a clearly defined policy by governmental agencies toward mining activities. This uncertain environment makes us hesitate or abandon possible projects."

The following comment is from an Alaska Native Corporation.

"We have an extremely difficult time attracting joint venture partners from the minerals industry to finance development. Alaska has an extremely poor reputation with the minerals industry. Most companies prefer to invest their money elsewhere."

The following two comments are from placer miners.

"(The problems include) water quality regulations which are not practical and too costly to comply with. Lack of understanding of the placer industry by people in the regulatory agencies. There are new people all the time. Because of the uncertainty of getting revised standards for water quality regulations which would be practical and economically attainable, we cannot justify capital expenditures for modernizing our equipment. We are unable to implement long term mining plans."

"Without doubt, the main problem is the clean water regulations which for some operations are impossible to meet. I have not mined on my claims now for two years. I have been waiting for a reason to return if that ever happens."

The 14th Legislature, in the enabling legislation that created the Alaska Minerals Commission, cited many of the problems currently facing the industry.

"... there are major constraints on the continued development of a diverse mineral industry in the state, including the Environmental Protection Agency's effluent guidelines, state water quality standards and improperly classified streams and rivers, restrictions on surface access, complex and numerous permitting requirements, a limited access to minerals through mineral closing orders and restrictions on multiple use through state and federal land use plans."

Prior to World War II, Alaska enjoyed an international reputation for its placer and hard rock mining industries. Mining was primarily responsible for the construction of Alaska's highway and railroad systems, the founding of many of its modern communities including Fairbanks, Nome and Juneau, and the well being of much of Alaska's economy.

While the mining industry will never replace the bonanza revenues generated by oil production, it can provide thousands of new jobs, increase the tax base, reduce pass through payments and other economic benefits which will contribute to the increased diversity and stability of Alaska's economy.

This report sets out the preliminary findings of the Alaska Minerals Commission and proposes recommendations that will allow Alaska's mineral industry to grow and reestablish its economic importance to Alaska.

RECOMMENDATIONS OF THE ALASKA MINERALS COMMISSION

I. ALASKA MINERALS POLICY ACT

FINDINGS: Many of the problems facing the mineral industry stem from the lack of a clear, statutory policy supporting the responsible development of Alaska's mineral resources. The Commission members are unanimous in their belief that the greatest immediate need is the passage of a mineral policy act during the next legislative session which will implement Article VIII, Section 1 of the Constitution of Alaska by encouraging the development of Alaska's resources by making them available for maximum use, by establishing that resource development is consistent with the public interest, and by directing that resource development is an economic priority of the state. Such a policy act will become the foundation for other legislative and administrative actions recommended in this report.

The effectiveness of an act that sets policy depends entirely upon its implementation. To assure that the policies presented here will become active and enforceable policies of the state, a section enumerating the rights of citizens to take legal action has been incorporated. This section is modeled after the rights granted citizens under the federal Clean Water Act.

THE COMMISSION RECOMMENDS THAT:

1. The LEGISLATURE enact an Alaska Mineral Policy Act by amending Title 44, Article 99 of the Alaska Statutes with the addition of the following sections:

Section 44.99.200 DECLARATION OF STATE MINERAL POLICY. In conformance with Article VIII, Section 1 of the Constitution of Alaska, and to further the goals of the state economic development policy to maintain a sound economy, stable employment and to encourage responsible economic development in the state for the benefit of present and future generations through the purposeful development of the state's abundant mineral resources including metals, industrial minerals, and coal; it is the policy of this state:

- (1) that Alaska's lands be available for mineral exploration and development through multiple-use practices that shall not subordinate mineral resource development;
- (2) that mineral development not be encumbered by excessive, unreasonable or uneconomical legislative or administrative actions;
- (3) that a comprehensive system of transportation and infrastructure be developed in Alaska that allows mineral products from the state to enter the market place;
- (4) that the general and public functions of the state which promote mineral development, which inform and educate the people, and which advance the knowledge and technology of the mineral industry be supported.

Section 44.99.205 ENFORCEMENT. (a) Any citizen may commence a civil action on his or her own behalf against any person (including (i) the State of Alaska, (ii) any other governmental instrumentality or agency, and (iii) any government employee or officer acting in his or her official capacity) when there is alleged a failure of such person to carry out any policy under this act.

(b) The court, in issuing any final order in any action brought pursuant to this litigation, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

City of Sand Point

P.O. Box 249
Sand Point, Alaska 99661

(907) 383-2696

276 2700


April 27, 1987


Honorable Sam Cotten
Alaska State House
Box V
Juneau, Alaska 99811


RE: CS SB 133

Dear Representative Cotten:

The communities of the Aleutians East area, Akutan, Cold Bay, False Pass, King Cove, Nelson Lagoon and Sand Point, are concerned by the impacts of CS SB 133 on the potential Aleutians East borough formation. We ask for your support of the following provisions and amendments to CS SB 133. They are identified by priority.

Priority #1) Ensure that Sec 8.AS.29.65.130(10)(D), which is in the committee substitute, remains in the adopted bill. 

Priority #2) Include provisions that count all State land classifications toward a municipality's entitlement base, but restrict the land which it can select to the land classifications in Sec 8.AS.29.65.130(10)(C) of CS SB 133. 

Priority #3) Expand the classifications used to determine the land entitlement base and those which are eligible for selection by municipalities to include, wildlife habitat, transportation corridor, resource management and forestry lands (language in HB 102 on municipal land entitlements). 

We believe that these priorities also correspond to their degree of difficulty of accomplishing as amendments. The reasons we request your support of the above position are outlined below.

BACKGROUND

There are about 755,196 acres of State land in the Aleutians East region, 523,404 of Federal lands that the State has selected. There are also 505,335 of State owned tidelands. In short, there are about 1,275,000 acres of State owned

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lands in the Aleutians East area, and 1,750,0000 if tidelands are included. However, only about 7,500 acres (classified as settlement lands) are presently included in classifications that allow selection by municipalities. Thus, if the Aleutians East area incorporates as a borough, it may be eligible to select only about 750 acres to fulfill its entitlement of 10% of State land. This selection is about .00024% of State land in the region, and is about .37 acres/resident. The communities of the Aleutians East area question if the intent of the municipal entitlement program is to provide such a small percentage of State lands in a region to satisfy the land requirements of municipalities. We also note that the language adopted in this bill would seriously impact future boroughs that may be established, such as those that may be mandated in SS HB 1, mandatory 3rd class boroughs for education purposes.

PRIORITY #1

The CS SB 133 includes a provision, Sec 8 AS.29.65.130(10) (D), that may increase the amount of acreage which the proposed Aleutians East Borough can select. This provision allows municipalities to select lands classified resource management no earlier than September 1, 1983. We strongly support this committee substitute amendment.

Most State lands in the Aleutians East area were classified in the Bristol Bay Cooperative Management Plan (BBCMP), which was adopted by the State in 1984. The State owns about 75,000 acres which were classified as resource management by the BBCMP. Thus, these lands should qualify as being classified resource management no earlier than September 1, 1983, and be eligible for selection by the proposed Aleutians East Borough. This acreage should increase the borough's total selection pool to about 82,000 acres. Ten percent (10%) of this amount is about 8,200 acres or about 4 acres/borough resident.

PRIORITY #2

A way to help counteract the effects of large amounts of lands in classifications ineligible for municipal selection is to include all land classifications or a broader range of the present classifications in the amount of acreage used to calculate a municipality's entitlement. A municipality would still be ineligible to select lands in these expanded classifications, but they would count toward a municipality's

selection pool. Thus, a municipality could select a greater amount of acreage in the eligible classifications. We support this proposed amendment as a means to provide a sufficient land base for regional governments, such as a borough. Further, we recommend including the following additional classifications be used to determine the selection pool, but not be eligible for selection by a municipality: resource management lands classified before September 1, 1983, wildlife habitat, transportation corridor and forestry.

In the Aleutians East area, this approach would increase the potential borough's entitlement base to 750,000 - 1,275,000 acres. The borough would be eligible to select 10% of these lands, 75,000 - 127,500 acres, in the eligible land classifications identified in Sec 8 AS.29.65.130(10)(C). However, in our area, selections would still be restricted to the 7,500 acres classified as settlement, (82,000 if resource management lands classified after September 1, 1983 are included, Priority #1) because there are no other lands in the eligible classifications. This provision would at least increase the amount of land the borough would receive from the present 750 acres, to 7,500 acres, or about 3.5 acres/resident and potentially 82,500 acres, or 41 acres/resident if Priority #1 amendment passes.

PRIORITY #3

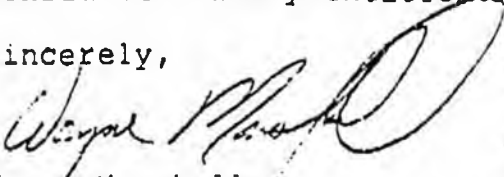
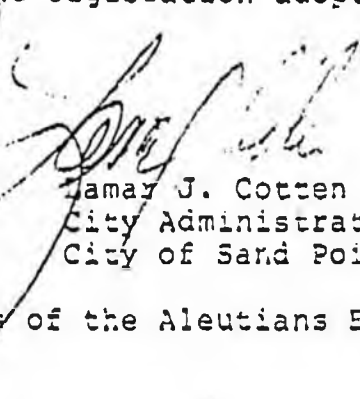
Language proposed in HB 102, (sponsored by Representative Adams) expands the land classifications eligible for selection by a municipality to include resource management, wildlife habitat, transportation corridor and forestry lands. Most lands in the Aleutians East area are included in these classifications, and presently are not eligible for selection by a municipality or to determine its entitlement base. If this language is adopted, the Aleutians East Borough may be eligible to select 10% of at least 750,000 acres, and potentially (depending on Federal transfers to State selected lands) 1,250,000 acres. Thus, the Aleutians East Borough could select 75,000 to 125,000 acres of State land, or 37.5 to 62.5 acres/resident.

We understand that DNR, ADF&G, and environmental organizations have previously opposed this language and that it may not be supported by the administration. We recognize that this amended language would be very difficult to obtain, but feel that our suggested Priority #2, may be a

viable option to this amendment which other parties would consider/accept. However, we would like to see the language in HB102 adopted in CS SB133.

We ask for your support and consideration of the amendments and hope that we can continue to work with you to ensure that the interests of the proposed Aleutians East Borough are considered in any entitlement legislation adopted.

Sincerely,

	
Wayne Marshall	Jamar J. Cotten
City Manager	City Administrator
City of King Cove	City of Sand Point

Representing the communities of the Aleutians East area.

City of Sand Point

P.O. Box 249
Sand Point, Alaska 99661

(907) 383-2696

276 2700

April 27, 1987

Honorable Sam Cotten
Alaska State House
Box V
Juneau, Alaska 99811

694-8211

Wayne @ home

RE: CS SB 133

PWS - same probs as habitat

Dear Representative Cotten:

The communities of the Aleutians East area, Akutan, Cold Bay, False Pass, King Cove, Nelson Lagoon and Sand Point, are concerned by the impacts of CS SB 133 on the potential Aleutians East borough formation. We ask for your support of the following provisions and amendments to CS SB 133. They are identified by priority.

Priority #1) Ensure that Sec 8.AS.29.65.130(10)(D), which is in the committee substitute, remains in the adopted bill.

Priority #2) Include provisions that count all State land classifications toward a municipality's entitlement base, but restrict the land which it can select to the land classifications in Sec 8.AS.29.65.130(10)(C), of CS SB 133.

wildlife habitat is most imp't

- rsc mgmt. -

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Priority #3) Expand the classifications used to determine the land entitlement base and those which are eligible for selection by municipalities to include, wildlife habitat, transportation corridor, resource management and forestry lands (language in HB 102 on municipal land entitlements).

OKV

We believe that these priorities also correspond to their degree of difficulty of accomplishing as amendments. The reasons we request your support of the above position are outlined below.

BACKGROUND

There are about 755,196 acres of State land in the Aleutians East region, 523,404 of Federal lands that the State has selected. There are also 505,335 of State owned tidelands. In short, there are about 1,275,000 acres of State owned

1

lands in the Aleutians East area, and 1,750,0000 if tidelands are included. However, only about 7,500 acres (classified as settlement lands) are presently included in classifications that allow selection by municipalities. Thus, if the Aleutians East area incorporates as a borough, it may be eligible to select only about 750 acres to fulfill its entitlement of 10% of State land. This selection is about .00024% of State land in the region, and is about .37 acres/resident. The communities of the Aleutians East area question if the intent of the municipal entitlement program is to provide such a small percentage of State lands in a region to satisfy the land requirements of municipalities. We also note that the language adopted in this bill would seriously impact future boroughs that may be established, such as those that may be mandated in SS HB 1, mandatory 3rd class boroughs for education purposes.

PRIORITY #1

The CS SB 133 includes a provision, Sec 8 AS.29.65.130(10) (D), that may increase the amount of acreage which the proposed Aleutians East Borough can select. This provision allows municipalities to select lands classified resource management no earlier than September 1, 1983. We strongly support this committee substitute amendment.

Most State lands in the Aleutians East area were classified in the Bristol Bay Cooperative Management Plan (BBCMP), which was adopted by the State in 1984. The State owns about 75,000 acres which were classified as resource management by the BBCMP. Thus, these lands should qualify as being classified resource management no earlier than September 1, 1983, and be eligible for selection by the proposed Aleutians East Borough. This acreage should increase the borough's total selection pool to about 82,000 acres. Ten percent (10%) of this amount is about 8,200 acres or about 4 acres/borough resident.

PRIORITY #2

A way to help counteract the effects of large amounts of lands in classifications ineligible for municipal selection is to include all land classifications or a broader range of the present classifications in the amount of acreage used to calculate a municipality's entitlement. A municipality would still be ineligible to select lands in these expanded classifications, but they would count toward a municipality's

selection pool. Thus, a municipality could select a greater amount of acreage in the eligible classifications. We support this proposed amendment as a means to provide a sufficient land base for regional governments, such as a borough. Further, we recommend including the following additional classifications be used to determine the selection pool, but not be eligible for selection by a municipality: resource management lands classified before September 1, 1983, wildlife habitat, transportation corridor and forestry.

In the Aleutians East area, this approach would increase the potential borough's entitlement base to 750,000 - 1,275,000 acres. The borough would be eligible to select 10% of these lands, 75,000 - 127,500 acres, in the eligible land classifications identified in Sec 8 AS.29.65.130(10)(C). However, in our area, selections would still be restricted to the 7,500 acres classified as settlement, (82,000 if resource management lands classified after September 1, 1983 are included, Priority #1) because there are no other lands in the eligible classifications. This provision would at least increase the amount of land the borough would receive from the present 750 acres, to 7,500 acres, or about 3.5 acres/resident and potentially 82,500 acres, or 41 acres/resident if Priority #1 amendment passes.

PRIORITY #3

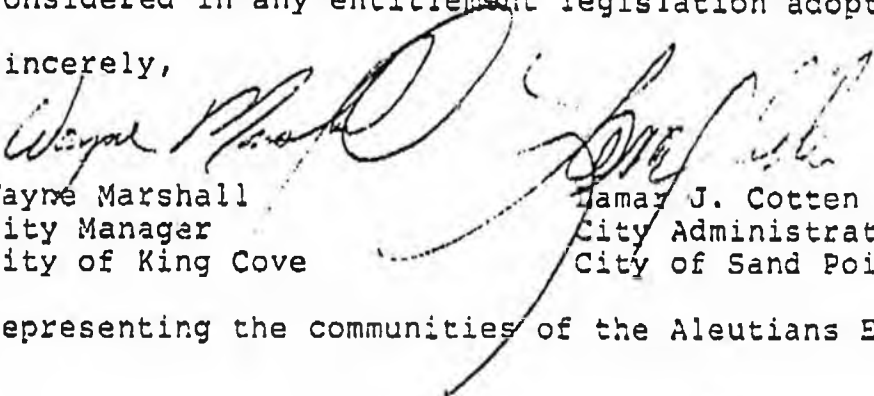
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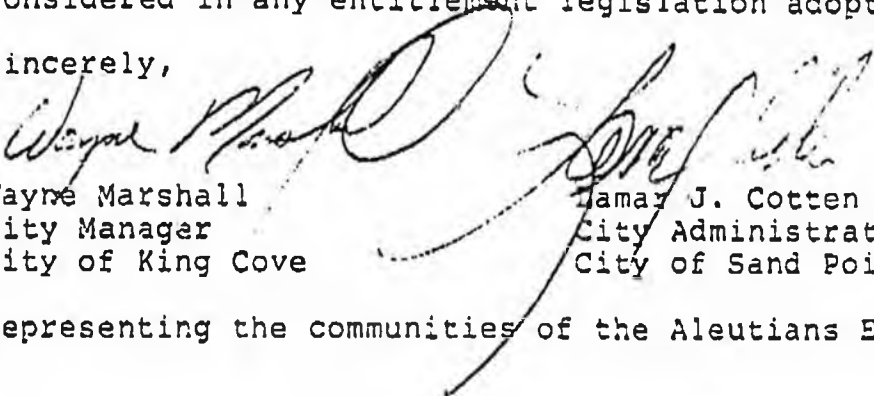
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viable option to this amendment which other parties would consider/accept. However, we would like to see the language in HB102 adopted in CS SB133.

We ask for your support and consideration of the amendments and hope that we can continue to work with you to ensure that the interests of the proposed Aleutians East Borough are considered in any entitlement legislation adopted.

Sincerely,


Wayne Marshall
City Manager
City of King Cove


Hama J. Cotten
City Administrator
City of Sand Point

Representing the communities of the Aleutians East area.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

April 29, 1987

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99901-1796
PHONE: (307) 465-2400

The Honorable Sam Cotten, Co-Chair
The Honorable Adelheid Herrmann, Co-Chair
House Resources Committee
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Representatives Cotten and Herrmann:

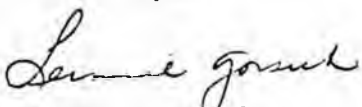
Subject: CS SB 133-An act relating to general grant land entitlement.

Position: The Department of Natural Resources supports the concept of municipal entitlements. The department is pleased to see that the legislature is moving to correct past inequities whereby some municipalities received a zero acre land entitlement. We also salute the alteration of the vacant, unappropriated, and unreserved (vu) land definition to match the classification regulations adopted in 1983. However the administration continues to have serious reservations about this particular piece of legislation, as detailed in the attached analysis.

Recommendation: The department supports the concept of municipal entitlements because there should be incentives for creating regional governments. Our concern is focused on the basis for establishing those entitlements. Most municipalities have already received entitlements under the existing statutory scheme. Changes in that scheme give rise to inconsistencies and support arguments for revisiting all past, as well as future, entitlements. Experience teaches that uncertain vesting dates promote exhaustive wrangling. Resource management is a classification category rather than a purpose. Material and public recreation lands, regularly retained by the state, should not become eligible for municipal selection without reclassification. Previous legislative land grants, and the conditions for them, should be acknowledged. Therefore, we recommend that the committee take a look at the history of the Municipal Entitlement Act, its purposes and results, prior to acting on this legislation.

We welcome the opportunity to work with the committee and interested groups to resolve these remaining issues.

Sincerely,


for Judith M. Brady
Commissioner

cc: Committee Members
Sponsor
George Sullivan, Governor's Office
Rod Swope, Governor's Office

ANALYSIS
CS SB 133

The first land entitlement for boroughs under state law was made in 1963 (AS 7.10.150). The purpose of that grant was "as assistance and incentive to exercise local government over broad areas" and was patterned after the grant of land made to the state by Congress in the Alaska Statehood Act. In addition, it was to supply a broad range of sites for municipal facilities (specific sites can also be acquired under AS 38.05.810, enacted at the time of statehood). Under this act up to 10% of the vacant, unappropriated, and unreserved (vu) land within borough boundaries was available for municipal selection. A 1970 amendment extended the grant to first and second class cities.

By 1978, the legislature found it necessary to do a wholesale revision of the program. The primary purposes of the revision were to remove uncertainties in the existing municipal entitlement law and to provide for an immediate, final determination and settlement of municipal land entitlements so that conveyances could proceed. Entitlements were set in statute (AS 29.65.010) for boroughs and unified municipalities with acreages ranging from a low of .26 acres per capita (Anchorage) to a high of 21.4 acres per capita (North Slope Borough). Cities and new municipalities retained the 10% formula. The 1978 statute provided a date certain for computation of entitlement which would allow the entitlement to be set and conveyed within a short period of time.

Other circumstances have changed since the Act's inception nearly 25 years ago: Municipalities are able to obtain land grants for facilities under several different mechanisms; the state is no longer a principal landowner at the heart of most municipalities; and the state has obtained more land from the federal government.

As a result of the Alaska Native Claims Settlement Act (ANCSA) passed in 1971, the state was no longer a principal landowner in and near many municipalities. Much of the land near the core of municipalities, especially in rural Alaska, was transferred to Native corporations. In recognition of that fact, Native corporations are required under ANCSA to transfer lands to municipalities where appropriate.

When the legislature first contemplated the grant of state land to municipalities, the total of all state land amounted to 7.5 million acres. When acreages were set in 1978, all land granted under the statehood act amounted to 35 million acres. It now amounts to 80.5 million acres. Of course, only a portion of this land is available to municipalities.

All of these factors combine to create a situation in which, under the current version of the bill, newer, smaller municipal entities could obtain more land than large, long established municipalities. For instance, without a cap in place, the Northwest Arctic Borough may obtain as much as 41.45 acres per capita in addition to whatever land it will obtain from local Native corporations. Additionally, this bill appears to revisit previous legislation which repealed an 89,850 acre entitlement to the North Slope Borough.

An additional concern is that without a date certain for the computation of entitlements, the state may find itself in the position it was prior to the

1978 amendments. Before 1978, almost no land was conveyed to municipalities due to uncertainties within the act concerning entitlement determinations. Because the bill proposes to remove the date certain for computation of entitlement, replacing it with a range of dates during which maximum vuu land is to be computed, these computations will be more open to dispute.

Finally, the revised Section 8 appears to answer concerns regarding the vulnerability of the Prudhoe Bay surface estate. However, the department suggests a clarification of the provision, to read; "classified resource management no earlier than October 1, 1983 and is still classified resource management." The statement that the land be classified for resource management "purposes" is too broad to be meaningful.

We also note that several bills have been introduced which require the retention of state material lands (SB 71, HB 69, SCR 4, HCR 5) and public recreation lands (SB 18, HB 18, SB 55, HB 93, SB 163, SB 190, HB 210, HB 244 and others). An effort should be made to coordinate legislative intent.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____
 Revision Date: 4/9/87
 Title: General Land Grant Entitlement
 (municipal selection)
 Sponsor: Henslev, Halford, et al
 Requestor: House Resources

Bill Version: CSSB 133
 Publish Date: _____

Agency Affected: Natural Resources
 BRU: Land and Water Management
 Components: Land Conveyance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		61.5	168.9	168.9	168.9	168.9
TRAVEL		5.0	5.0	4.0	3.0	3.0
CONTRACTUAL		4.0	6.0	6.0	4.0	4.0
SUPPLIES		2.0	2.0	2.0	1.5	1.5
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		72.5	181.9	181.9	181.9	181.9
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		1.0	3.0	2.0	3.0	3.0
PART-TIME		2.0	1.0	1.0	1.0	1.0
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached

Prepared by: Tom Hawkins Phone: 465-2400
 Division: Land and Water Management Date: 4/28/87

Approved by Commissioner: *Armi Goruk* Date: 4/28/87
 Agency: Natural Resources

Distribution (by preparer):

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

CSSB 133
Fiscal Note Analysis

With the passage of CSSB 133, the department will be required to determine and certify the entitlement of an estimated 146 first and second class cities within the state within six months. Because the bill changes the definition of vacant, unappropriated and unreserved (vuu) land, and expands the date of eligibility, while retaining the language which states that cities are entitled to 10% of "the maximum total acreage of" vuu land within their boundaries which existed "at any time" between their initial eligibility (presumably the enactment of the referenced statutes in 1972) and the new date (January 1, 1988), the research involved will be quite extensive.

Many of the 146 cities will be unaffected by the legislation. However, to facilitate the Certification by the Director, numerous state records must be searched to assure the correct acreage for each municipality and make that determination. These records include those of the Department of Community and Regional Affairs (city incorporations and boundaries), the Department of Natural Resources (land title records, status plats, classification and planning documents) and the federal government (land title records, status plats, and other Bureau of Land Management (BLM) records).

Presently, city boundaries are not depicted in the department's Land Administration (computer) System (LAS) nor on state status plats. This will necessitate a time consuming manual adjudication process which must be accomplished within the six month limitation. In order to accomplish this expedited certification process the department will require the following for a maximum of twelve months:

CERTIFICATION

1. A Project Manager (Natural Resource Manager I, range 18, 12 months). The Manager will supervise a staff consisting of a Natural Resource Technician II (range 12), and a Clerk Typist III (range 8). The manager must have sufficient background to understand and work with the various processes involved, including the land transfer process from the federal government to the state, and from the state to municipalities (Title 29, etc.). The manager must act as liaison and problem solver for involved agencies and cities. This position will also be responsible for public notice and conducting hearings associated with the process of certification. The manager will also review records and make determinations concerning those records as necessary for creating background for certification. The Manager must also work with the department's title personnel to recheck these results with the federal title documents and plats to assure everything is in order; and with the Technician to ensure correct mapping from department documents.

2. The necessary record and resource gathering, mapping and general support for the manager will be provided by the Natural Resource Technician (range 12, first 6 months or less). The Technician, with the direct supervision of the Officer will review and delineate on a single pictorial document the following: correct municipal boundaries (from information obtained from the Department of Community and Regional Affairs by the Technician); many classifications from old land planning reports, classification orders (original and renumbered), regional, area and management plans. This document will be used to provide a focal point from which a rational review of all the data may be accomplished.

3. The Clerk Typist III (range 8, 10-12 months) would supply data entry, clerical, typing and general office support for the Certification staff. The Clerk will be responsible for typing documents, decisions, etc.; monitoring files; and inputting computer data.

ADMINISTRATION

After the initial certification and adjudication and administrative phase will take place primarily in the Northern Region in Fairbanks, as the North Slope Borough would be able to select its entitlement of 89,950 acres while the new Northwest Borough would be able to select approximately 240,000 acres. This requires use of all of the state records and its various systems; coordinating with the borough in the actual selection; formulating the decision which would transfer management authority to the borough; reviewing the survey data, writing survey instructions, negotiating survey contracts for the vast areas many of which are totally unsurveyed, reviewing the survey accomplished by the private surveyors; and finally, conveying title.

To date the division has conveyed 372,000 acres of the total municipally selected amount of 785,000 acres. The number of people involved has run to a high of 15 people in past years, while the division presently has only 1 3/4 people working on municipal entitlements. The present reduction is attributable to a wind down phase as most action is awaiting survey of the land. To expeditiously handle the selections and get the land conveyed a level 18 manager, one grade 16 officer, and 1 technician at a level 12 with a Clerk Typist, level 8 would be required. These people would be permanent and located in Fairbanks. The duties of this staff focus on the process following certification: Land selection and conveyance. The administration staff should be assembled and begin work during the last month of FY 88 in order to coordinate with the certification team.

In order to assist the municipalities in selecting the lands to which they are entitled and to transfer these lands to the municipalities with maximum efficiency, the Manager will work directly with the municipal land officer in each municipality for land identification. In that process the Manager must review general growth demographics and in conjunction with many plans, data, and

studies in the resource libraries throughout Alaska that are particularly applicable to the area in question. The Manager will consult with other agencies; act as primary liaison between various state agencies, the individual city or municipality; provide information to the municipalities; and resolve problems.

The Officer II will be responsible for handling the logistics involved in the conveyance of title to several hundred thousand acres of land including the many legal notices and public hearings. A major problem in the past has been the lack of capability for handling the attendant paperwork which has slowed the process of transferring title. A definitive filing system with computerization of the selection status of each application will be developed by this individual. The Officer, together with the Technician, would handle mapping and title work for the conveyance process. Working from the maps assembled for the certification, the Officer would add information concerning the selection and adjudication processes, and verify the information. That process might include a search of the old general land office records, Bureau of Land Management survey data and possible later state cadastral data to accurately determine survey status. The Technician would assist the Officers and the Manager with basic research and resource gathering, and mapping. The Clerk would supply support for the staff including typing, filing, and data entry.

Line Item Explanation

Y E A R 1

100 - Personal Services
Certification

P.P.T.	-	Anc
18	23.3	(12 months)
12	12.2	(9 months)
8	<u>12.0</u>	(10 months)
	47.5	

Administration

P.F.T.	-	Fbx
18	4.6	(1 month)
16	4.0	(1 month)
12	3.2	(1 month)
8	<u>2.3</u>	(1 month)
	14.1	

200 - (5.0) Travel to Pt. Barrow, Kotzebue, and various cities.

300 - (4.0) Extensive legal advertising, hearings, printing, charter, telephones, certified mailings.

400 - (2.0) Supplies and commodities for staff.

Annual total year 1: \$72.6

Y E A R 2

Administration

P.F.T.	-	Fbx
18	54.8	
16	48.2	
12	38.4	
8	<u>27.5</u>	
	168.9	

200 - (5.0) Travel to Pt. Barrow, Kotzebue, and various cities.

300 - (6.0) Extensive legal advertising, hearings, printing, charter, telephone, certified mailings.

400 - (2.0) Supplies and commodities for staff.

Annual total year 2: \$181.9

Alaska State Legislature

House of Representatives

Al Adams

Chairman

Committee on Finance

May 15, 1987

WHILE IN SESSION
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3320

1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

Official Business

MEMORANDUM

TO: Representative Pourchot, Chair
Representative Goll
Representative Frank

FROM: Representative Al Adams
District 22

AAA

SUBJ: SB 133: Municipal Land Entitlement Legislation

This bill, sponsored by Senator Hensley, resolves three outstanding municipal land entitlement issues. It corrects land entitlement deficiencies for Alaska's small cities, the North Slope Borough (NSB) and the newly created Northwest Arctic Borough (NWAB) in the Kotzebue region.

The original 10% land entitlement available to small cities terminated in 1978. Since that time, however, federal approval of state land selections has made land available within some city boundaries. Section 1 of HCS SB 133 (RES) would allow those cities to select some of that land, thus providing them an opportunity equal to that enjoyed by other small communities before 1978. The City of Anderson is expected to benefit from this section of the proposed legislation.

NSB's entitlement is addressed in sections 4, 5 and 9 of the bill. NSB did select land under the original 10% entitlement statute but wound up in court with the state over these selections. While the lawsuit was pending, the statute was changed in 1978 in two ways that affected NSB. First, instead of the 10% formula, NSB was given 89,850 acres. Second, a provision was inserted in the law that said that if a municipality contested its entitlement in court and lost, it could no longer pursue its entitlement rights. NSB notified the state of its intention to end the lawsuit but did not do so in the procedurally correct manner proscribed in the statute. So, DNR was not able to allow NSB to select any land. Legislation is required to revest NSB's original 89,850 acres. HCS SB 133 (RES) accomplishes this.

NWAB's entitlement is addressed in section 9. Although NWAB can select land under the current law, it would only receive about 13,000 acres which is much less than the 10% it is entitled to. This is because of the type of land available in NWAB that is eligible for selection under the current definition of "vacant, unappropriated, unreserved land". Changes to that definition, principally including resource management land in it, will allow the new borough to get its entitlement.

The bill is crafted to avoid any entanglement with mental health land problems.

Senator Hensley and I would appreciate your consideration of the attached amendments. The amendments are a product of discussions between ourselves and Governor Cowper. The Governor plans to develop comprehensive state land policy over the interim. Also, he is interested in the results of the Northwest Area Plan which will soon be completed. Our amendments will allow the NWAB to get an entitlement now that is less than the 10% it is entitled to under present law, but to have an opportunity to get its full entitlement after the Governor develops his land policy and after completion of the Northwest Area Plan. These amendments do not affect the NSB's entitlement at all.

Attached is the proposed amendments, a sectional analysis of the current version of the bill, a fiscal note, and other pertinent back up.

Attachments

By Representative Adams
and Senator Hensley

PROPOSED AMENDMENTS TO HCS SB 133 (RES):

P. 1, LINE 26 -- AFTER "after that date" add a new sentence to read "However, a municipality may not receive an entitlement under this subsection that exceeds 20 acres per person residing in the municipality on the date of its incorporation. For purposes of this subsection, the population of a municipality shall be determined by the Department in accordance with AS 29.60.020 and AS 29.60.150."

NWAS
pop 6696

This amendment caps entitlements by saying that if the 10% entitlement given to new boroughs under .030(a) is more than 20 acres per person, the borough will only get an entitlement equivalent to 20 acres per person. For the above language, the population count would be the count reported for the Northwest Arctic Borough in the Municipal Population Report, published by C&RA each year. This is the population count used for revenue sharing purposes.

P. 4, AFTER LINE 23, add a new section to read:
"Section 11. The general grant land entitlement authorized for the Northwest Arctic Borough under AS 29.65.030(a), as amended in sec. 2 of this Act, is a partial entitlement for the borough. After completion of the Northwest Area Plan prepared under AS 38.04.065, the governor shall submit to the legislature recommendations for additional general grant land entitlements for the Northwest Arctic Borough."

SECTION-BY-SECTION ANALYSIS OF HCS SB 133 (RES)

Section 1. Opens up the 10% selection to small cities that did not get or take option before. Would also affect cities who by annexation now have "vuu" state lands within their boundaries.

Sections 2 and 3. Give the Northwest Arctic Borough (NWAB) the ability to get an entitlement based on the new definition of "vuu" land in section 8. Does not give any other existing borough additional land.

Section 4. Allows North Slope Borough (NSB) to revest its entitlement of 89,850 acres.

Section 5. Gives NSB about three years to make its selections.

Section 6. This is a technical consistency section. It makes clear that a community cannot get any more acreage than originally entitled to. Since AS 29.65.010(b), .020(b), and .030(c) are repealed in the bill, adding the old statute references into this section of the law insures that protection is still in the statute.

Section 7. Insures no mental health or school land selections.

Section 8. Prohibits land exchanges for subsurface rights on any federal land and specifically prohibits land exchanges for any rights in ANWR. This prohibition applies to all communities.

Section 9. Adds additional types of land to what is classified "vacant, unappropriated, unreserved" and available for selection. The new types of land are material, public recreation, settlement, and resource management land classified as such on or after September 1, 1983. The resource management land that is available does not include any land in the Prudhoe Bay area.

Section 10. Requires that DNR consult with and assist municipalities in making their selections and fulfilling their entitlements.

Section 11. Repeals following sections of existing law: AS 29.65.010(b), .020(b), and .030(c) insuring that new selections do not give additional entitlements beyond old selections (but these protections are continued in section 6--see description); AS 29.65.110 stating that if a court battle over selections is lost by a community than any entitlement rights are forfeited. This is repealed so that NSB can get its entitlement.

Sections 12 and 13. Effective date sections. The whole bill goes into effect January 1, 1988 except for section 9 which calls for DNR to consult with the affected communities. It goes into effect immediately.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: HCS SB 133 (RES)

Publish Date: _____

Revision Date: 4/9/87

Title: General grant entitlement
(municipal selection)

Agency Affected: Natural Resources

BRU: Land and Water Management

Sponsor: Hensley, et al

Requestor: Senate Finance

Components: Land Conveyance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		61.5	168.9	168.9	163.9	100.9
TRAVEL		5.0	5.0	4.0	3.0	3.3
CONTRACTUAL		4.0	9.0	6.0	4.0	4.0
SUPPLIES		2.0	2.0	2.0	1.5	1.5
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		72.5	181.9	181.9	181.9	181.9

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		1.0	3.0	3.0	3.0	3.0
PART-TIME		2.0	1.0	1.0	1.0	1.0
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

(See attached)

Prepared by: Gary Gustafson

Phone: 465-2400

Division: Land and Water Management

Date: 3/31/87

Approved by Commissioner: *Harold Hensley*

Date: 4/16/87

Agency: Natural Resources

Distribution (by preparer):

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

CSSB 133
Fiscal Note Analysis

With the passage of CSSB 133, the department will be required to determine and certify the entitlement of an estimated 146 first and second class cities within the state within six months. Because the bill changes the definition of vacant, unappropriated and unreserved (vu) land, and expands the date of eligibility, while retaining the language which states that cities are entitled to 10% of "the maximum total acreage of" vu land within their boundaries which existed "at any time" between their initial eligibility (presumably the enactment of the referenced statutes in 1972) and the new date (January 1, 1988), the research involved will be quite extensive.

Many of the 146 cities will be unaffected by the legislation. However, to facilitate the Certification by the Director, numerous state records must be searched to assure the correct acreage for each municipality and make that determination. These records include those of the Department of Community and Regional Affairs (city incorporations and boundaries), the Department of Natural Resources (land title records, status plats, classification and planning documents) and the federal government (land title records, status plats, and other Bureau of Land Management (BLM) records).

Presently, city boundaries are not depicted in the department's Land Administration (computer) System (LAS) nor on state status plats. This will necessitate a time consuming manual adjudication process which must be accomplished within the six month limitation. In order to accomplish this expedited certification process the department will require the following for a maximum of twelve months:

CERTIFICATION

1. A Project Manager (Natural Resource Manager I, range 18, 12 months). The Manager will supervise a staff consisting of a Natural Resource Technician II (range 12), and a Clerk Typist III (range 8). The manager must have sufficient background to understand and work with the various processes involved, including the land transfer process from the federal government to the state, and from the state to municipalities (Title 29, etc.). The manager must act as liaison and problem solver for involved agencies and cities. This position will also be responsible for public notice and conducting hearings associated with the process of certification. The Manager will also review records and make determinations concerning those records as necessary for creating background for certification. The Manager must also work with the department's title personnel to recheck these results with the federal title documents and plats to assure everything is in order; and with the Technician to ensure correct mapping from department documents.

2. The necessary record and resource gathering, mapping and general support for the manager will be provided by the Natural Resource Technician (range 12, first 6 months or less). The Technician, with the direct supervision of the Officer will review and delineate on a single pictorial document the following: correct municipal boundaries (from information obtained from the Department of Community and Regional Affairs by the Technician); many classifications from old land planning reports, classification orders (original and renumbered), regional, area and management plans. This document will be used to provide a focal point from which a rational review of all the data may be accomplished.

3. The Clerk Typist III (range 8, 10-12 months) would supply data entry, clerical, typing and general office support for the Certification staff. The Clerk will be responsible for typing documents, decisions, etc.; monitoring files; and inputting computer data.

ADMINISTRATION

After the initial certification and adjudication and administrative phase will take place primarily in the Northern Region in Fairbanks, as the North Slope Borough would be able to select its entitlement of 89,950 acres while the new Northwest Borough would be able to select approximately 240,000 acres. This requires use of all of the state records and its various systems; coordinating with the borough in the actual selection; formulating the decision which would transfer management authority to the borough; reviewing the survey data, writing survey instructions, negotiating survey contracts for the vast areas many of which are totally unsurveyed, reviewing the survey accomplished by the private surveyors; and finally, conveying title.

To date the division has conveyed 372,000 acres of the total municipally selected amount of 785,000 acres. The number of people involved has run to a high of 15 people in past years, while the division presently has only 1 3/4 people working on municipal entitlements. The present reduction is attributable to a wind down phase as most action is awaiting survey of the land. To expeditiously handle the selections and get the land conveyed a level 18 manager, one grade 16 officer, and 1 technician at a level 12 with a Clerk Typist, level 8 would be required. These people would be permanent and located in Fairbanks. The duties of this staff focus on the process following certification: Land selection and conveyance. The administration staff should be assembled and begin work during the last month of FY 88 in order to coordinate with the certification team.

In order to assist the municipalities in selecting the lands to which they are entitled and to transfer these lands to the municipalities with maximum efficiency, the Manager will work directly with the municipal land officer in each municipality for land identification. In that process the Manager must review general growth demographics and in conjunction with many plans, data, and

studies in the resource libraries throughout Alaska that are particularly applicable to the area in question. The Manager will consult with other agencies; act as primary liaison between various state agencies, the individual city or municipality; provide information to the municipalities; and resolve problems.

The Officer II will be responsible for handling the logistics involved in the conveyance of title to several hundred thousand acres of land including the many legal notices and public hearings. A major problem in the past has been the lack of capability for handling the attendant paperwork which has slowed the process of transferring title. A definitive filing system with computerization of the selection status of each application will be developed by this individual. The Officer, together with the Technician, would handle mapping and title work for the conveyance process. Working from the maps assembled for the certification, the Officer would add information concerning the selection and adjudication processes, and verify the information. That process might include a search of the old general land office records, Bureau of Land Management survey data and possible later state cadastral data to accurately determine survey status. The Technician would assist the Officers and the Manager with basic research and resource gathering, and mapping. The Clerk would supply support for the staff including typing, filing, and data entry.

Line Item Explanation

Y E A R 1

100 - Personal Services
Certification

P.P.T. - Anc

18	23.3 (12 months)
12	12.2 (9 months)
8	12.0 (10 months)
	<u>47.5</u>

Administration

P.F.T. - Fbx

18	4.6 (1 month)
16	4.0 (1 month)
12	3.2 (1 month)
8	2.3 (1 month)
	<u>14.1</u>

200 - (5.0) Travel to Pt. Barrow, Kotzebue, and various cities.

300 - (4.0) Extensive legal advertising, hearings, printing, charter, telephones, certified mailings.

400 - (2.0) Supplies and commodities for staff.

Annual total year 1: \$72.6

Y E A R 2

Administration

P.F.T. - Fbx

18	54.8
16	48.2
12	38.4
8	27.5
	<u>168.9</u>

200 - (5.0) Travel to Pt. Barrow, Kotzebue, and various cities.

300 - (6.0) Extensive legal advertising, hearings, printing, charter, telephone, certified mailings.

400 - (2.0) Supplies and commodities for staff.

Annual total year 2: \$181.9

Alaska State Senate

P.O. Box V
Juneau, AK 99811
Phone: (907) 465-2444
465-3862/465-4923



Senate Finance Committee
State Affairs Committee
Vice-Chair, Rules Committee
Chair, Administrative Regulation Review

William L. Hensley

HOUSE Committee Substitute for Senate Bill No. 133 ()

Amount of Municipal General Grant Land Expressed as a Percent of
Total Land Area in the Municipality.

Municipality of Anchorage	3.7% - 1.8%*
Matanuska-Susitna Borough	2.7%
Fairbanks North Star Borough	2.3%
Kenai Peninsula Borough	1.7%
Kodiak Island Borough	1.6%
Ketchikan Gateway Borough	1.5%
City and Borough of Juneau	1.0%
Northwest Arctic Borough	1.0% **
Bristol Bay Borough	0.4%
City and Borough of Sitka	0.2%
Haines Borough	0.2%
North Slope Borough	0.16%

* Anchorage received approximately 1/2 of its entitlement.

** Assumes a 230,000 acre entitlement.



Official Business

COMMITTEE:

RESOURCES

DATE: MAY 4, 1987

SIGN-IN

Subject of meeting:

HB 289 SB 55
 182 86
 133
 94

NAME ADDRESS PHONE REPRESENTING DO YOU WANT TO TESTIFY?

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
Debbie Garrison	305 Highland Dr	586-3564		# 86
BRUCE BAKER	AK. DEPT. FISH & GAME - JUNEAU	465-4105	ADFF&G	SB 55
Coil Cotton	JNU	6-2345	AEL	HB 289 SB 55
Row Sumerville	Duncan	9-2399	AK. Outdoor Council	SB 55
Phil Holdsworth	Lumena	6-1783	AMA/RDC	HB 289 SB 94

1
2
3

1 the municipality within three months after approval by the director of
2 a plat of survey. The acreage shall be credited toward fulfillment of
3 the municipality's entitlement. A municipality is not entitled to
4 receive patent under this chapter to more than its entitlement de-
5 termined under AS 29.65.010 - 29.65.030. Any prior approval by the
6 director of municipal selections for land that was not vacant, unap-
7 propriated, or unreserved on the date of selection shall be rescinded,
8 and patent may not be issued except when disposal to a third party by
9 sale or lease has occurred. Transfers of land to municipalities under
10 this chapter are subject to AS 38.05.321. Classification actions as
11 reflected on the land status records of the Department of Natural
12 Resources are determinative of land classification status for purposes
13 of this chapter.

14 * Sec. 7. AS 29.65 is amended by adding a new section to read:

15 Sec. 29.65.122. PROHIBITION. A municipality may not acquire
16 subsurface rights to land of the federal government by trading land
17 received as a general grant land entitlement. A municipality may not
18 acquire any interest in land within the Arctic National Wildlife
19 Refuge by trading land with the Federal Government for land received
20 as a general grant land entitlement.

21 * Sec. 8. AS 29.65.130 ~~(10)~~ is amended to read:

22 (10) "vacant, unappropriated, unreserved land" means
23 general grant land as defined in (3) of this section, excluding miner-
24 als as required by sec. 6(i) of the Alaska Statehood Act, that

25 (A) has not been set aside by statute for one or more
26 particular uses or purposes;

27 (B) has not been approved for patent to a municipal-
28 ity under this chapter or former AS 29.18.190 and 29.18.200; [OR]

29 (C) is unclassified or, if classified under

2.4

230/240

1 AS 38.05.300, is classified for agricultural, grazing, material,
 2 public recreation, or settlement [COMMERCIAL, INDUSTRIAL, PRIVATE
 3 RECREATIONAL, RESIDENTIAL, UTILITY, OR OPEN-TO-ENTRY] purposes,
 4 or is classified in accordance with an agreement between a munic-
 5 ipality and the state providing for state management of land of
 6 the municipality; or

7 (D) was classified no earlier than September 1, 1983,
 8 for resource management purposes and is still classified for
 9 resource management purposes under AS 38.05.300.

10 * Sec. 9. Before January 1, 1988, the Department of Natural Resources
 11 shall consult with each municipality affected by this Act regarding classi-
 12 fications of state land within its boundaries and may assist the munic-
 13 ipality in identifying land suitable for selection in fulfillment of its
 14 general grant land entitlement.

15 * Sec. 10. AS 29.65.010(b), 29.65.020(b), 29.65.030(c), and 29.65.110
 16 are repealed.

17 * Sec. 11. Section 9 of this Act takes effect immediately under AS 01.-
 18 10.070(c).

19 * Sec. 12. Sections 1 - 8 and 10 of this Act take effect January 1,
 20 1988.

SB 133

Master

April 3, 1987

Senator Don Bennett, Co-Chairman
Senate Finance Committee
P.O. Box V
Juneau, Alaska 99811

Re: Senate Bill 133

Dear Senator Bennett:

I represent the class in Weiss v. State, trial court case no. 4FA-82-2208 Civil (the Mental Health Lands Trust Lawsuit). Last year when HB 587 was considered, the parties in interest agreed that they did not want municipal entitlement issues to become further linked to the mental health trust lands litigation. All agreed that additional selections of mental health trust land were not permitted under the law. For that reason, language was inserted into the various bills to maintain the status quo regarding mental health trust lands and the Weiss litigation. An example of the language added to the bills is found in Sec. 6 of CSHB 587 (Rules) am, Second Session of the Fourteenth Legislature. That language follows:

"*Sec. 6. AS 29.65.060 is amended by adding ^anew subsections to read:

(g) Notwithstanding (a) of this section, a municipality may not select school land or mental health land after October 4, 1985. Nothing in this section affects the legal rights of any person with regard to selections of school land or mental health land made by a municipality on or before October 4, 1985. *W.D.*



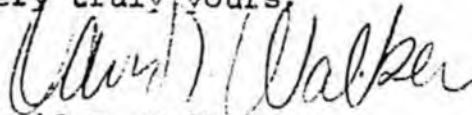
I believe SB 133 and any legislation that in any way relates to the use or selection of mental health trust lands by municipalities must contain language indicating that a

Senator Don Bennett, Co-Chairman
Senate Finance Committee
April 3, 1987
Page Two

municipality, whether existing or newly created, may not select mental health land after October 4, 1985, the date of the Weiss decision.

I will be happy to discuss this with you, or members of your staff at any time.

Very truly yours,



David T. Walker

DTW:jp

cc: James E. Gottstein, Esq.
William H. ("Chip") Dennerlein, Manager,
Office of Intergovernmental Affairs
G. Thomas Koester, Assistant Attorney General
Cooper Geraty, Esq.

*
*
Jan Henkins

63 - VAN
70 - faculties ✓
Tax base ✓
control ✓
7m@
for public uses

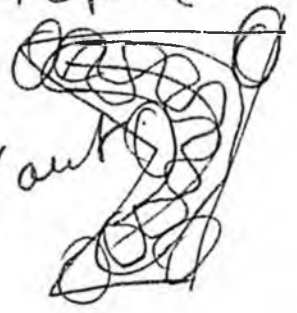
78 - State entitlements / 35 m@

87 - 15-20 cities
NS vs
NWAB
3

Admin - average cap.
89850

21.4@ per capita
73 @ per capita

- ① state land base
- ② class of lands avail
- ③ 900K in multi hands



Res. Dev. less as classification
area plan

Area
site specific

overlapping issues
of H05289 + 85133

Original sponsors: Hensley, Halford
and Faiks

1 IN THE SENATE BY THE FINANCE COMMITTEE
2 CS FOR SENATE BILL NO. 133 (Finance) am
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to general grant land entitlements;
7 and providing for an effective date."

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

9 * Section 1. AS 29.65.020(a) is amended to read:

10 (a) The general grant land entitlement of a city formerly eligi-
11 ble to receive general grant land under the provisions of former
12 AS 29.18.190 and 29.18.200 is 10 percent of the maximum total acreage
13 of vacant, unappropriated, unreserved land in the boundaries of each
14 city at any time between the initial date of eligibility under former
15 AS 29.18.190 and 29.18.200 and January 1, 1988 [JULY 1, 1978]. Within
16 six months after January 1, 1988 [JULY 1, 1978], the director shall
17 determine the entitlement for each city eligible to receive general
18 grant land under this section [FORMER AS 29.18.202] and certify that
19 entitlement to the city.

20 * Sec. 2. AS 29.65.030(a) is amended to read:

21 (a) The general grant land entitlement of a municipality incor-
22 porated after July 1, 1978, that does not qualify for an entitlement
23 under AS 29.65.010 or 29.65.020 is 10 percent of the maximum total
24 acreage of vacant, unappropriated, unreserved land within the bound-
25 aries of the municipality between [ON] the date of its incorporation
26 (and two years after that date.) *where 100 new def.*

27 * Sec. 3. AS 29.65.030(b) is amended to read:

28 (b) Within two years and six months after the date of incorpo-
29 ration of the [A] municipality [THAT IS INCORPORATED AFTER JULY 1,

1 1978], the director shall determine the entitlement of each municipal-
2 ity eligible to receive general grant land under (a) of this section
3 and certify the entitlement to the municipality.

4 * Sec. 4. AS 29.65.040(a) is amended to read:

5 (a) After July 1, 1978, general grant land entitlements provided
6 in former AS 29.18.201 and [FORMER AS] 29.18.202 are vested property
7 rights that must be fulfilled as provided in AS 29.65.050 or 29.65.-
8 080. After January 1, 1988, general grant land entitlements provided
9 in AS 29.65.010 are vested property rights that must be fulfilled as
10 provided in AS 29.65.050 or 29.65.080.

11 * Sec. 5. AS 29.65.040(c) is amended to read:

12 (c) Land may be selected or nominated for selection by a munic-
13 ipality to satisfy a general grant land entitlement under former
14 AS 29.18.201 and 29.18.202 at any time before October 1, 1980. Land
15 may be selected or nominated for selection by a municipality to satis-
16 fy a general grant land entitlement under AS 29.65.010 at any time
17 before October 1, 1990. However, if a municipal selection or nomina-
18 tion or a part of a municipal selection or nomination is rejected by
19 the director, the municipality may, not later than 90 days after
20 receipt of the rejection, select additional state land as necessary to
21 satisfy its entitlement.

22 * Sec. 6. AS 29.65.050(b) is amended to read:

23 (b) All approved selections under former AS 29.18.190 and 29.-
24 18.200 for which patent has not been issued to a municipality on July
25 1, 1978, shall be reviewed by the director within nine months after
26 July 1, 1978. Any approved selection of land that was vacant, unap-
27 propriated, or unreserved on the date of selection is valid as of the
28 date of the approval under former AS 29.18.190, [AND] 29.18.200,
29 29.18.201, 29.18.202, and 29.18.203) and a patent shall be issued to

Cities Incorporated in or before 1979	1978 Land Entitlement	Annexations Since 1978 (#)	ANCSA Village	Probability of more State land ever in boundaries after 1978	Additional Reason for Entitlement "0" or low After 1978	Reason for 1978 entitlement	Probability of more State land in boundaries since 1978 & before 1988	Last Revision: 4/2/87	Page 1 of 8	Comments:
Akhiok	0	NO	YES	None	NO	No land	None			
Akiachak	0	NO	YES	None	NO	No land	None			
Akiak	0	NO	YES	None	NO	No land	None			
Alakanuk	0	YES	YES	None	NO	No land	None			
Aleknagik	0	NO	YES	Low	NO	No land	Low ✓			
Allakaket	0	NO	YES	Remote to none	NO	No land	None			
Ambler	0	NO	YES	Remote to none	NO	No land	None			
Anaktuvuk Pass	0	NO	YES	None	NO	No land	None			
Anderson	0	NO	NO	High	NO	No land	High			
Angoon	0	YES	YES	None	NO	No land	None			Land not already selected by natives is not selectable
Aniak	0	NO	YES	Remote to none	YES*	No land	None			*Rec'd land under AS 38.05.810
Anvik	0	NO	YES	Remote to none	NO	No land	None			
Atmoutluak	0	NO	YES	None	NO	No land	None			
Barrow	0	NO	YES	None	NO	No land	None			
Bethel	40	NO	YES	Low	NO	No land	Low ✓			35 acres remaining from 1978 entitlement
Brevig Mission	0	NO	YES	Remote to none	YES*	No land	None			*Land gained under the provisions of AS 38.05.810
Buckland	0	NO	YES	Remote to none	NO	No land	None			
Chefornak	0	NO	YES	None	NO	No land	None			
Chevak	0	NO	YES	None	NO	No land	None			

5
-
f.w.

Cities Incorporated in or before 1979	1978 Land Entitlement	Annexations Since 1978 (#)	ANCSA Village	Probability of more State land ever in boundaries after 1978	Additional Entitlement After 1978	Reason for "0" or low 1978 entitlement	Probability of more State land in boundaries since 1978 & before 1988	Last Revision: 4/2/87	Page 2 of 8
								Comments:	
Chuathbaluk	0	NO	YES	Remote to none	NO	No general grant land	None		
Clark's Point	0	NO	YES	Remote to none	NO	No land	None		
Cordova	235	NO	NO	Medium	NO	Little General grant land	Medium ✓	22 acres remaining from 1978 entitlement	
Craig	0	NO	YES	Remote to none	YES*	No general grant land	None	*Made some conveyances under AS 38.05.810(a) (Mental Health land)	
Deering	0	NO	YES	Low	NO	No general grant land	None		
Delta Junction	400	NO	NO	Low to medium	NO	Little general grant land	Low ✓	309 acres conveyed; remainder approved	
Dillingham	1	NO	YES	Low	YES	No general grant land	Low ✓	Rec'd additional land under AS 38.05.810	
Diomedea	0	NO	YES	None	NO	No general grant land	None		
Eagle City	0	NO	NO	Low	NO	No land	None	New selections made - none in current corporate boundaries	
Eek	0	NO	YES	None	NO	No land	None		
Ekwok	0	NO	YES	Remote	NO	No land	None		
Elim	0	NO	YES	None	NO	No land	None		
Emmonak	0	NO	YES	None	NO	No land	None		
Fairbanks	15	YES	NO	High (but very few acres)	YES*	Little General Grant land	Low ✓	*Other lands received under 38.05.810	
Fort Yukon	0	NO	YES	None	NO	No land	None		
Galena	0	YES	YES	Low to remote	NO	No land	None		
Gambell	0	NO	YES	None	NO	No land	None		
Golovin	0	NO	YES	Remote to none	NO	No land	None		
Goodnews Bay	0	NO	YES	Remote to none	NO	No land	None		
Grayling	0	NO	YES	Remote to none	NO	No land	None		

Cities Incorporated in or before 1979	1978 Land Entitlement	Annexations Since 1978 (#)	ANCSA Village	Probability of more State land ever in boundaries after 1978	Additional Entitlement After 1978	Reason for "0" or low 1978 entitlement	Probability of more State land in boundaries since 1978 & before 1988	Last Revision: 4/2/87	Page 3 of 8
								Comments:	
Haines	0	YES	NO	Low	NO	Most land not General Grant	Low ✓		
Holy Cross	0	NO	YES	Remote to none	NO	No land	None		
Homer	16	YES	NO	Low	NO	Little general grant land	Low ✓	1 acraa remains from 1978 entitlement	
Hoonah	15	HC	YES	Low	NO	*Little GG land	Low ✓	*The state had previously con- veyed most excess land to city	
Hooper Bay	0	NO	YES	None	NO	No land	None		
Houston	405	YES	NO	Low to medium	NO	N/A	Low ✓	Received all land under 1978 entitlement	
Hughes	0	NO	YES	Remote to none	NO	No land	None		
Huslia	0	NO	YES	None	NO	No land	None		
Hydaburg	0	NO	YES.	Remote to none	NO	No land	None		
Kachemak	0	NO	NO	None	NO	No land	None		
Kake	0	NO	YES	Medium to high*	NO	No land	Low ✓	*about 200 acres selected at request of City and Kake tribal to trade for airport lands	
Kaktovik	0	NO	YES	None	NO	No land	None		
Kaltag	0	NO	YES	Remote to none	NO	No land	None		
Kasaan	0	NO	YES	Low	NO	No GG land	None		
Kenai	307	NO	NO	Low	NO	Little GG land	Low ✓	Received all land under 1978 entitlement	
Ketchikan	.5	YES	NO	(Small acreages) *Medium	NO*	No GG land	Low ✓	*Small fragments released by Forest Service to be conveyed to City (AS 38.05.810(a))	
Kiana	0	NO	YES	Remote to none	NO	No land	None		
King Cove	0	YES	YES	None	NO	No land	None		

Cities Incorporated in or before 1979	1978 Land Entitlement	Annexations Since 1978 (#)	ANCSA Village after 1978	Probability of more State land ever in boundaries after 1978	Additional Reason for Entitlement "0" or low 1978 entitlement	Probability of more State land in boundaries since 1978 & before 1988	Last Revision 4/2/87	Comments:
Kivalina	0	NO	YES	Remote	NO	No land	None	
Klawock	0	YES	YES	Remote	NO	No GG land	None	
Kobuk	0	NO	YES	Remote	NO	No GG land	None	
Kodiak	32	YES		Low	NO	Little GG land	Low ✓	27 acres remaining under 1978 entitlement
Kotlik	0	NO	YES	None	NO	No land	None	
Kotzebue	0	NO	YES	Remote to none	NO	No land	None	
Koyuk	0	NO	YES	Low	NO	No land	None	
Koyukuk	0	NO	YES	Remote	NO	No land	None	
Kupreanof	0	NO	no	Medium	YES*	All land MH- no GG	Low to medium ✓	* Conveyed 181 acres in lieu of entitlement (court settlement)
Kwethluk	0	NO	YES	None	NO	No land	None	
Larsen Bay	0	NO	YES	Remote to none	NO	No land	None	
Lower Kalskag	0	NO	YES	Low	NO	No land	Low ✓	
Manokotak	0	NO	YES	None	NO	No land	None	
Marshall	0	NO	YES	Remote to none	NO	No land	None	
McGrath	0	NO	YES	Low	YES*	No GG land	Low to none ✓	*Rec'd lands under AS 38.05.810
Mekoryuk	0	NO	YES	None	NO	No land	None	
Metlakatla	0	NO	no	None	NO	No state land	None	Not a city under state law (Native Reservation)
Mountain Village	0	NO	YES	None	NO	No land	None	
Napakiaik	0	NO	YES	None	NO	No land	None	
Napaskiak	0	NO	YES	None	NO	No land	None	

Cities Incorporated in or before 1979	1978 Land Entitlement	Annexations Since 1978 (#)	ANCSA Village	Probability of more State land ever in boundaries after 1978	Additional Entitlement After 1978	Reason for "0" or low 1978 entitlement	Probability of more State land in boundaries since 1978 & before 1998	Last Revision 4/2/87	Comments:
Kenana	0	NO	YES	Low to medium	NO	No land	Low ✓		
New Stuyahok	0	NO	YES	Remote	NO	No land	None		
Newhalen	0	NO	YES	Remote to none	NO	No land	None		
Newtok	0	NO	YES	None	NO	No land	None		
Nightmute	0	NO	YES	None	NO	No land	None		
Nikolai	0	NO	YES	Low	NO	No land	Low to none ✓		
Nome	0	YES	YES	Low	NO	No land	Low ✓		
Nondalton	0	NO	YES	Low	NO	No land	None		
Noorvik	0	YES	YES	None	NO	No land	None		
North Pole	.5	YES	NO	Low to none	NO	Little GG land	Low to none ✓		Entitlement satisfied
Nuiqsut	0	NO	YES	Remote to none	NO	No land	None		
Nulato	0	NO	YES	Low	NO	No land	None		
Nunapitchuk	0	YES	YES	None	NO	No land	None		
Old Harbor	0	NO	YES	None	NO	No land	None		
Ouzinkie	240	NO	YES	Low	NO	Little GG land	None		Has 240 acres remaining in 1978 entitlement
Palmer	0	YES	NO	Low	YES*	No GG land	Low ✓		*Rec'd some land under AS 38.05.810
Pelican	0	YES	NO	Medium	YES*	No land received	Medium-some received after 1978 ✓		*Special Leg. Conv. 10 Act Also some small AS 38.05.810(a) Conv.
Petersburg	*0	YES	NO	Low to medium	YES*	No GG land all MH	Low to medium-some received after 1978 ✓		*Conveyed 461 (96 MH) in lieu of entitlement (court settlement)
Pilot Station	0	NO	YES	None	NO	No land	None		
Platinum	0	NO	YES	Remote to none	NO	No land	None		

Cities Incorporated in or before 1979	1978 Land Entitlement	Annexations Since 1978 (#)	ANCSA Village	Probability of more State land ever in boundaries after 1978	Additional Reason for Entitlement "0" or low After 1978	Probability of more State land in boundaries since 1978 & before 1988	Last Revision 4/2/87	Comments:
Point Hope	0	YES	YES	High	NO	No land	None	
Port Alexander	0	NO	NO	High (Have some NFCG)	NO	No land	High	
Port Heiden	0	NO	YES	Remote to none	NO	No land	None	
Port Lions	35	YES	YES	Low	NO	No land	Low ✓	35 acres remaining in 1978 entitlement
Quinhagak	0	NO	YES	None	NO	No land	None	
Ruby	0	NO	YES	Low to remote	NO	No land	None	
Russian Mission	0	NO	YES	Remote to none	NO	No land	None	
Saint Mary's	0	YES	YES	None	NO	No land	None	
Saint Michael	0	YES	YES	None	NO	No land	None	
Saint Paul	0	YES	YES	None	NO	No land	None	
Sand Point	0	NO	YES	None	NO	No land	None	
Savoonga	0	NO	YES	None	NO	No land	None	
Saxman	0	NO	YES	None	NO	No GS land	None	
Scammon Bay	0	NO	YES	None	NO	No land	None	
Selawik	0	NO	NO	None	NO	No land	None	
Seldovia	0	NO	YES	Low	??*	No land	None	* Has pending application under AS 38.05.810
Seward	562	NO	NO	Low to medium	NO	Little GG land	Low ✓	30 acres remaining in 1978 entitlement
Shageluk	0	NO	YES	Remote to none ?	NO	Little GG land	None	
Shaktolik	0	NO	YES	Low	NO	Little GG land	None	
Sheldon Point	0	NO	YES	None	NO	Little GG land	None	

Last Revision:
4/2/87

Cities Incorporated in or before 1979	1978 Land Entitlement	Annexations Since 1978 (#)	ANCSA Village	Probability of more State land ever in boundaries after 1970	Additional Reason for Entitlement "0" or low After 1970	Probability of more State land in boundaries since 1978 & before 1988	Comments:
Shishmaref	0	NO	YES	Remote to none	NO	Little GG land	None
Shungnak	0	NO	YES	Remote to none	NO	No land	None
Skaqway	500	YES	NO	Low	NO	Land not TA'ed	Low ✓
Soldotna	14	YES	NO	Low	NO	Little GG land	Low ✓
Stebbins	0	NO	YES	None	NO	No land	None
Tanana	0	NO	YES	Remote	NO	No land	None
Teller	0	YES	YES	None	NO	No land	None
Tenakee Springs	C*	NO	NO	*High (Land rec'd & con- veyed after 1978)	YES*	No NFCG Land	High Land red'd & conv. *City acquired over 3,000 acres through court settement and cannot receive more.
Toqiak	0	YES	YES	None	NO	No land	None
Toksook Bay	0	NO	YES	None	NO	No land	None
Tuluksak		NO	YES	Remote to none	NO	No land	None
Tununak		NO	YES	None	NO	No land	None
Unalakleet	0	NO	YES	Remote to none	NO	No land	None
Unalaska	0	YES	YES	Remote	NO	No land	None
Upper Kalskaq	0	NO	YES	Low	NO	No land	Low ✓
Valdez	4,805	NO	no	High	NO	N/A	High 514 remaining from 1978 entitlement
Wainwright	0	NO	YES	None	NO	No land	None
Wales	0	NO	YES	Remote to none	NO	No land	None
Wasilla	0	YES	no	Low to none	YES*	No land	Low ✓ *Rec'd land under AS 38.05.810

Cities Incorporated in or before 1979	1978 Land Entitlement	Annexations Since 1978 (#)	ANCSA Village	Probability of more State land ever in boundaries after 1979	Additional Reason for Entitlement "0" or low After 1979	1979 entitlement	Probability of more State land in boundaries since 1978 & before 1988	Last Revision 4/2/87	Comments:
White Mountain	0	NO	YES	Remote to none	NO	No land	None		
Whittier	*0	NO	NO	Medium (NFCG Selections)	YES*	No state land	Low		*Granted 600 acres under Chapter 73 SLA 1984
Wrangell	*0	NO	NO	Medium	YES*	No land	Some rec'd-after ✓ 78		*310 acres (MH land) in lieu of entitlement (court settlement)
Yakutat	*104	NO	YES	High	YES*	N/A	High		*Decision to convey another 300 acres under AS 38.05.810(a)

Footnote: "GG" means General Grant.

"MH" means Mental Health.

"NFCG" means National Forest Community Grant lands.

S B

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HOUSE COMMITTEE REPORT

(9)

Date referred: 4/30/87

FURTHER REFERRALS: Judiciary
Finance

DATE: 5/7/88

The Resources Committee has considered CSSB 136 (Res)

"An Act relating to multiple use of state land and water."

RECOMMENDS:

- replace with HCS CSSB 136 (RES) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Jan Gt
White Young
Al D
Clay Davidson
Dick Stutz

SIGNING OTHER RECOMMENDATIONS:

Adelheid Herrmann Rokee

Jan Gt

Chairman's signature

Original sponsors: Coghill, Faiks,
Bennett, et al.

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 136 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to multiple use of state land and
7 water."

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

9 * Section 1. AS 38.04.910(4) is amended to read:

10 (4) "multiple use"

11 (A) means the management of state land and its various
12 resource values so that it is used in the combination that will
13 best meet the present and future needs of the people of Alaska,
14 making the most judicious use of the land for [SOME OR] all of
15 the [THESE] resources or related services over areas large enough
16 to provide sufficient latitude for periodic adjustments in use to
17 conform to changing needs and conditions; [IT]

18 (B) includes

19 (i) [(A)] the use of the [SOME] land for less
20 than all of the resources but does not exclude compatible
21 competing uses; [,] and

22 (ii) [(B)] a combination of balanced and diverse
23 resource uses that takes into account the short-term and
24 long-term needs of present and future generations for renew-
25 able and nonrenewable resources, including, but not limited
26 to, recreation, range, timber, minerals, watershed, wildlife
27 and fish, and natural scenic, scientific, and historic
28 values;

29 * Sec. 2. AS 38.05.300(a) is amended to read:

1 (a) The commissioner shall, where considered necessary and
2 proper, classify land for surface use [CLASSIFY FOR SURFACE USE LAND
3 IN AREAS CONSIDERED NECESSARY AND PROPER]. This section does not
4 prevent reclassification of land where the public interest warrants
5 reclassification, nor does it preclude multiple [PURPOSE] use of land
6 whenever different uses are compatible. An area of state [STATE]
7 land, water, or land and water [AREA] may not, except by act of the
8 state legislature, be closed to multiple [PURPOSE] use if the area
9 involved contains more than 640 acres.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HCS for CS by SB 136
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: 5/7/88
Title: HCS for CS for SB 136 An Act
Relating to Multiple Use
Sponsor: Coghill
Requestor: house Resources

Agency Affected: Dept. of Natural Resources
BRU: Land & Water Mgmt
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The Department anticipates no fiscal impact with respect to this legislation.

Prepared by: Lawrence Ostrovsky Phone: 465-2400
Division: Commissioner's Office Date: 5/7/88

Approved by Commissioner: Lawrence Ostrovsky Date: 5/7/88
Agency: Department of Natural Resources

Distribution (by preparer):

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

DRAFT

SB 136 files

3/11/88

Comparitive Discussion of Language in 4/22/87 CSSB 136 as it Relates to Fish and Wildlife Values Which are not Commonly or Readily Quantified (prepared at request of Representative Sam Cotten, Chairman of House Resources Committee)

Question: How, using examples, does the language proposed for deletion from existing law differ from language proposed for addition, in terms of ADF&G's ability to ensure that all fish and wildlife values are adequately factored into ADNR's best interest findings prepared under AS 38.05.035(e)?

Background/Legislative Intent: Sections 1 and 2 amend the definition of multiple use as it is defined in AS 38.04 (Alaska Lands Act) and AS 41.17 (Forest Practices and Resources Act) to require that multiple use lands be managed for all of their resources, thereby negating current statutory discretion to manage lands for a predominant use or for less than all competing uses. Section 3 appears to remove the statutory requirement that state lands be classified for surface use and grants the Commissioner of Natural Resources discretion to classify land where considered necessary and proper.

Analysis of Bill/Program Effects: The existing definition of multiple use is consistent with the state's constitutional provision that "Fish, forest, wildlife, grasslands, and all other replenishable resources belonging to the state should be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses." The existing language accommodates the commonly recognized fact that all potential natural resource uses may not be compatible on every acre. The current definition also allows for the objective and reasonable identification of appropriate primary, secondary, and incompatible uses on an area-specific basis.

The definition of "multiple use" in CSSB 136 emphasizes that the land be used for "all" rather than "some or all" resources. Although CSSB 136's reduced emphasis on "the use of the land for less than all of the resources," is accompanied by the added qualification that multiple use "does not exclude compatible competing uses," the latter requires that individual determinations be made as to whether competition between uses is great enough to result in incompatibility. There is concern that such compatibility tests may 1) unduly tax already strained agency staffs and budgets, 2) create delays in land use decisions that would be burdensome to private industry and the general public, and 3) place the burden of proof unduly upon those attempting to utilize those resources that are often the most difficult to quantitatively value.

To the extent that CSSB 136 also proposes to supplant the multiple use definition in the state's Forest Resources and Practices Act, it would eliminate the current provision that "consideration be(ing) given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output." This provision in existing statute is especially valuable insofar as it recognizes the fact that certain fish, wildlife, and other resource values may not be as easily quantified in economic terms as may timber and certain non-renewable resources. It should also be noted that this provision has a long history in federal law. In fact, the entire portion of existing AS 38.04.910 that CSSB 136 proposes to delete is practically identical to language in the federal Multiple Use-Sustained Yield Act of June 12, 1960 (74 Stat. 215; 16 U.S.C. 528-531) which reads as follows:

Sec 4.(a) "Multiple use" means the management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output. (emphasis added)

Attached is a discussion of this federal law that appeared in the Oregon Law Review (Vol. 64, 1985). If there have been problems in achieving a balance in the multiple resource uses of the national forests since 1960, one might attribute them in part to how adequately the Congressional intent of the Multiple Use-Sustained Yield Act has been implemented.

Later federal legislation has retained the emphasis of the Multiple Use-Sustained Yield Act and has added reference to specific resource uses. The Federal Land Policy and Management Act of 1976 reads as follows:

Sec. 103(c) The term "multiple use" means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of

balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources. including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

Example Situations in Which Statutory Emphasis on Least Quantifiable Fish & Wildlife Values Would Encourage Their Adequate Consideration:

For practical purposes, every land management decision that ADNR makes and which potentially affects fish and wildlife habitat involves the need for adequate consideration of both those fish and wildlife values that are readily quantifiable (such as ex-vessel and first wholesale values of commercial fisheries in Bristol Bay) and the myriad of values that are more difficult to quantify and less tangible. While it is not possible to determine how past resource tradeoff decisions may have been made differently had the changes proposed in CSSB 136 been in place, one can conclude that the greater the emphasis that the state's multiple use statute places on considering the less tangible values, the greater will be the obligation of future as well as present state land managers to ensure that this consideration is given.

Partially in recognition of this need, ADF&G devoted most of its January-February 1988 issue of Alaska Fish & Game to this very subject. There are a number of articles in that issue that address the subject, and copies of two of them are attached to illustrate both the concept and specific examples.

Example 1: The attached article by Sarah Watson, entitled "Dall Sheep - What are they worth," illustrates the kinds of values that are associated with consumptive and non-consumptive use of Dall sheep.

Example 2: The attached article by Bruce Baker, entitled "Pondering the Intangibles and Other Fish & Wildlife Values," summarizes the differences between price, cost, and value and goes on to emphasize the need for adequate recognition, in resource decisions, of commercial, recreational, subsistence, existence, bequest, and other values associated with fish and wildlife. Examples include a consideration of streamside habitat values compared with more tangible timber values.

Example 3: Another example of the need to provide clear legislative emphasis if all fish and wildlife values are to be adequately considered in resource management decisions can be

found in a summary of public comments compiled by ADNR and attached to a February 17, 1988 memorandum letter from Tom Hawkins, Assistant Commissioner, ADNR, to Norman Cohen, Deputy Commissioner, ADF&G. The following quotes from that approximately 100-page summary illustrate some of the values and concerns that people have expressed.

a. "The Susitna Valley gets quite a few numbers of tourists each year as hunters, anglers, etc. . . . Its streams have world-class fisheries plus beautiful remote scenery. That's why you get visitors from all over the world. They bring quite a boost to the Alaskan economy. They certainly would be less inclined to come visit and fish/hunt if the place no longer has that 'wilderness quality.'"

b. "My understanding is that the State will receive less than \$100,000 per year from the proposed lease, and that a few jobs will be created. My concern is for the degradation of a superb fishing/hunting/tourism resource that will surely be caused by the proposed clear cutting. Revenue generated by low impact use, fishing/hunting/tourism, of the Susitna Valley is thought to exceed \$5,000,000 per year."

c. "The Susitna Valley presently has a \$5-10 million world class sport fishing industry in place which is growing rapidly. A wilderness lodge industry such as ours cannot successfully co-exist with a logging project of the magnitude proposed."

d. "The one-page economic analysis is entirely inadequate."

e. "The only animals that may thrive will be moose, after the cutting of timber. What about other animals? Bear and other mammals. Where will they go when 50% of their habitat is gone?"

Although it may be possible to mitigate some of the effects indicated in the above comments, tradeoffs in natural resource use are also likely. It is essential to factor both quantitative and qualitative indications of value into both mitigation and tradeoff decisions. The responsiveness of present and future state resource managers to values and concerns such as these can be expected to be at least indirectly influenced by the statutory guidance that they receive on the meaning of the multiple use concept that they are charged to carry out.



Dall Sheep

What are they worth?

by Sarah Watson

Dall sheep habitat is viewed by some as mountainous and inaccessible and its climate unforgiving. Some investment-minded people, however, have seen the alpine tundra as a place of economic possibilities. Domestic livestock grazing, homesite subdivisions, ski facilities, and mining are some examples of proposed development projects. Dall sheep already living where future developments occur will have to habituate to their new neighbors or, at the extreme, die off and disappear as did many bighorn sheep populations in the western U.S. There, mining and settlement, in addition to decreasing the amount of habitat available for bighorns, attracted more settlers who brought domestic livestock. These animals competed for range and transmitted new and deadly diseases to bighorns. The incremental losses of bighorn sheep and habitat added up over time. Present bighorn sheep abundance, even after decades of restoration attempts, does not approach the historic levels.

However, in retrospect, tradeoffs are always made in economic decisions. Economic decisions involve the weighing of all

costs and benefits in search of the most benefits for the least cost. Does this mean Alaskans have to trade wildlife for economic development and a sound state economy?

On the contrary, Dall sheep as well as other wildlife resources have economic importance, too. Their value is in part reflected in people's actions—how they choose to spend their time and money. For example, some people travel long distances just to see these all-white mountain-dwelling animals which grow massive curling horns. To some, it is important to go sheep hunting every year. Photographers often win photo contests with pictures of Dall sheep, their photos gracing magazine covers, newspapers, and travel posters. For some, just knowing sheep are there, perhaps even in distant mountains, is of value.

Measuring these values in economic terms and comparing them to the benefits of a traditional industry is challenging. However, for those to whom wildlife is important, it can no longer be enough to say wildlife is "priceless" or has an indefinable value. Many land use decisions are being made using economic values and "priceless" cannot be used in economic analysis. With such a designation, wildlife such as Dall sheep may not be considered among the economically important choices for Alaska's future.

In 1983, biologists in the Fairbanks office of ADF&G decided to take on the challenge of estimating the value of Dall sheep by quantifying the importance of hunting to Alaska's economy and to hunters. With the help of the Foundation for North American Wild Sheep, especially its Alaska chapter, and the University of Alaska, we sent a questionnaire to all who hunted Dall sheep in Alaska in 1983. Over 2500 questionnaires were mailed to resident sheep hunters in all corners of Alaska and to nonresident hunters around the U.S. and the world. We received replies from 86 percent of the hunters, including 90 percent of the nonresidents.

J. Hyde

Hunters answered questions about the cost and the benefits of their sheep hunt. The costs included money spent for equipment, time off from work without pay, guide services, transportation, taxidermy, and other expenditures. Payment for these goods and services went to businesses both inside and out of Alaska and had positive impact on the economy. However, costs do not measure the value of the hunting experience to the hunter. The benefits to the consumer—the hunter—must also be considered in order to make sound economic evaluations.

Economists measure benefits to the consumer by the difference between the amount the consumer is willing to pay and the price actually paid. We asked hunters how much more they would have been willing to spend on their sheep hunt before deciding that it was too expensive to go Dall sheep hunting in Alaska that year.

Each individual decides what a hunt is worth and what he or she would be willing to give up in order to hunt. [See sidebar.] For some, sheep hunting is very important; they would be willing to forego most other activities in order to hunt. To others, sheep hunting just is not all that important and the money could be better spent doing something else, maybe moose hunting or maybe on that new set of tires. Everyone performs his or her own cost-benefit analysis individually. If we can spend less than the maximum we are willing to pay for the same experience,

we get a good deal! We all like good deals enough to choose them. This is why the amount spent on a hunt may not be a measure of the hunt's value.

From the survey, we found that Alaska's Dall sheep hunters spent an estimated \$6.2 million dollars in 1983. The average resident hunter spent over \$1,500 on a hunt. Nonresident hunters spent on the average almost \$8,000. Nonresidents had higher transportation costs and, by law, must hire a guide unless hunting with a resident relative within the second degree of kindred. Nonresidents additionally spent an estimated \$760,000 on hunting other species, visiting relatives, and buying items not related to their hunt. Nonresident sheep hunters accounted for only 17 percent of the hunters. Almost \$6 million from sheep hunting went directly into Alaska's economy for a harvest of about 1000 rams.

A few hunters thought that sheep hunting was an over-rated activity that costs far too much in energy and money for too little gain. However, most hunters not only "got what they paid for," but also got more out of the experience than what it cost. The net benefit of sheep hunting (not including other hunts or tourism) to hunters in economic terms came to \$5.5 million for their 1983 hunt.

The estimated costs and benefits attributable to sheep hunting in 1983 are minimum values. We did not measure the economic value of sheep hunting opportunities for those who chose not to hunt in 1983, and, judging from hunting statistics from ADF&G, the number of people hunting Dall sheep is increasing annually. We must eventually determine the value of Dall sheep to those who just want to see, photograph, or know wild sheep will be around for their great grandchildren to enjoy. Although it may be difficult to determine the value of an experience not normally bought and sold, it is important to express the benefits as well as the costs in any economic evaluation. As more and more land use decisions are being made based on economics, it is important to fully evaluate the tradeoffs.

Sarah Watson, a Fish and Game Technician with the Division of Game, ADF&G, Fairbanks, has worked on the research and management of Dall sheep since 1981.



J. Hyde

Is Hunting Worth It?

"Is hunting worth it? Can I afford to go hunting?"

Every year many Alaskans silently wrestle with these questions in their minds and, judging from the popularity of hunting in Alaska, the answer for many is yes!

Why do people choose to spend their time and money hunting? Many people have to evaluate how much time they can take off from work, how much money the hunt will cost after buying camp food, gas, ammunition, and maybe that new rifle. Can an air charter be afforded or will it have to be a hunt along the road system with the crowds again?

The benefits are also considered. The meat is good. Many people enjoy getting away from town to where it is quiet and where they can get some exercise, inhale that fresh mountain air, and spend time with their favorite hunting partners.

Maybe this is the year that trophy animal will be found. For some, it is a very personal time, a spiritual renewal of ties to nature.

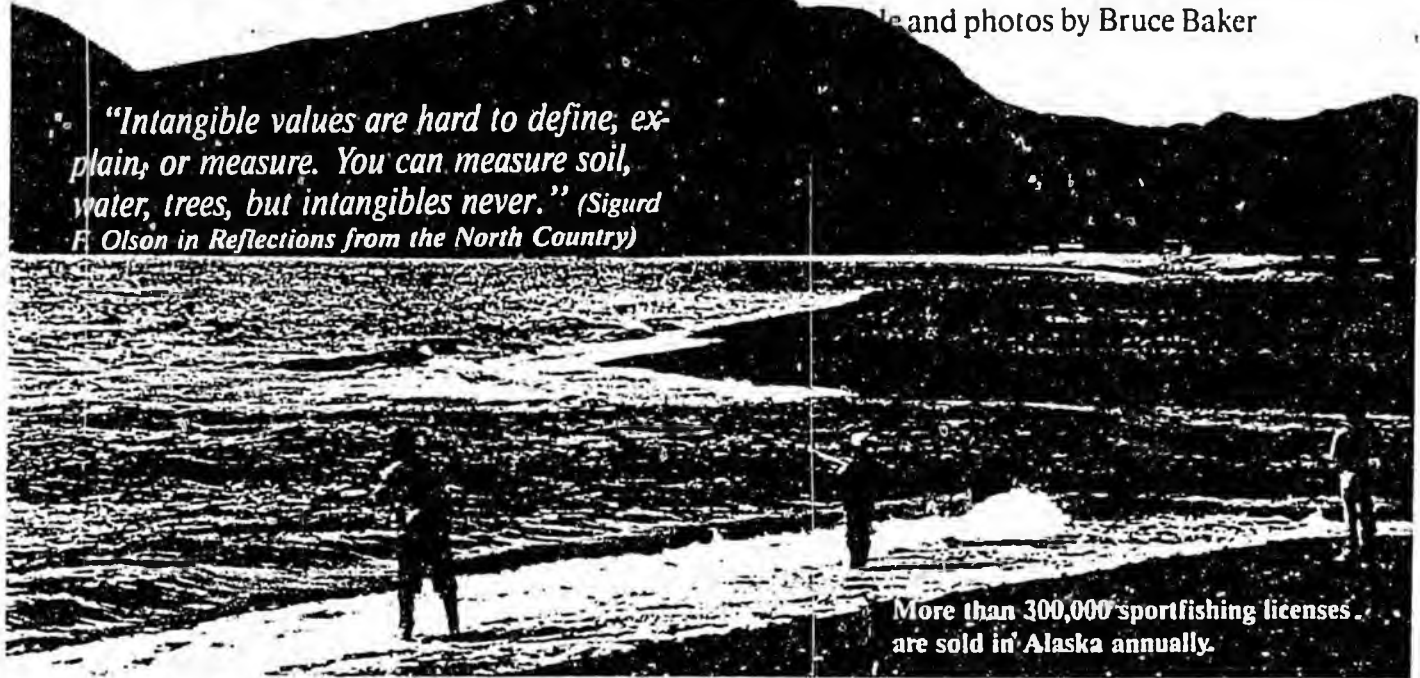
We make decisions daily by weighing the costs and benefits of alternate choices, trying to decide which will give us the most benefits for the least cost. Our values, which stem from our social, historic, religious, and educational backgrounds, determine what is a benefit or cost to us. Still, individuals with similar backgrounds may have different values because values are very personal and reflect the basic preferences of individuals. Values are expressed in economic decisions every time we choose to buy or not to buy some item.

So, to answer the question why some people choose to go hunting, it is because the benefits outweigh the costs.

Pondering the Intangibles and Other Fish & Wildlife Values

Article and photos by Bruce Baker

"Intangible values are hard to define, explain, or measure. You can measure soil, water, trees, but intangibles never." (Sigurd F. Olson in Reflections from the North Country)



More than 300,000 sportfishing licenses are sold in Alaska annually.

Biologists really do face a challenge in protecting fish and wildlife habitat through land management decisions. They can simply describe those values that are most readily quantifiable, such as the value of sockeye salmon to those working the fishing boats or canneries of Bristol Bay. The limitation of this approach is that only some of the resource's real value will be considered. An alternative is to quantify as many fish and wildlife values as possible and make a strong qualitative argument for those which do not lend themselves as well to quantitative analysis.

Professor Robert Weeden recently distinguished between price, cost, and value (*Alaska Fish & Game*, May-June 1987). He described price as simply the monetary agreement between buyer and seller, an actual market transaction and seldom an indication of true cost. Cost he defined as what we forego for something. The cost of using one's vacation time to paddle and portage across Admiralty Island may include the cost of passing up a moose hunt in the Interior later in the year. Value refers to the worth of something to an individual of certain preference in a particular situation. People value outdoor experiences differently.

The values of fish and wildlife are commonly described as commercial, recreational, option, existence, and bequest. A **commercial value** is the long-term contribution that Alaska's salmon fishery makes to the state's overall economy. The amount that one pays or would be willing to pay in order to sport fish the Kenai River or to photograph brown bears at the McNeil River Game Sanctuary is considered a **recreational value**. An **option value** is one that a New Yorker places on being able to someday visit Alaska and see a wolf. Even if one has no intent to visit Alaska, the knowledge that wildlife abounds here provides an **existence value**. Another commonly recognized value is that of **bequest**, the willingness to pay for providing wildlife for future generations.

There are variations on this simplified value classification. Aesthetic, educational, social, and biological considerations may be associated, for instance, with existence value. Subsistence hunting satisfies basic human needs, albeit more directly than does commercial harvest. It can also be of considerable social value to those whose community fabric has evolved around it. A biological value is the need for a species or population to thrive in sufficient numbers and over suf-

ficient range to ensure the viability of its gene pool and thus its long-term survival. Though often scoffed, there are also those who place great importance on the intrinsic right of species or populations to exist for their own sake, still another form of existence value.

Our nation's laws place the ownership of fish and wildlife resources in the public domain and require that state or federal governments manage these resources in the public interest. Government is expected to consider the full range of social benefits and costs in its decisions and not just those costs and returns that can be measured by the private sector. This concept is known as the Public Trust Doctrine, and it compels public servants to protect the interests of a variety of wildlife users, consumptive and nonconsumptive. Alaska's Constitution requires that "Fish, forests, wildlife, grasslands, and other replenishable resources belonging to the State should be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses." The Constitution could not prescribe specific levels at which each of these resources are to be sustained. Most of the necessary laws and regulations are, however, available to resolve

Coastal communities like Elfin Cove on Chichagof Island are economically dependent on commercial fishing as well as sport-fishing charter boats and lodges.



resource management disagreements on state lands. This is often done through comprehensive land use planning or detailed project reviews in which sustainable levels of various natural resources are at least implicitly optimized, often at less than their individual maximum sustainable levels. Through its coastal management legislation, the state may assist coastal communities in satisfying both state and local habitat management objectives. Specific resource development projects call for protecting wildlife while at the same time allowing the development of other resources to proceed at a reasonable level and cost. Management of federal lands and waters in or off Alaska offers additional opportunities for the state to influence basic resource allocation decisions and project-specific measures to protect fish and wildlife. Habitat management on these areas is, however, subject to the consideration of national as well as state and local needs. And finally, private land management requires a balance in protecting public fish and wildlife resources and guarding the rights of private ownership.

It is the Commissioner of Fish and Game who has the specific statutory

responsibility to "manage, protect, maintain, improve, and extend the fish, game and (curiously) aquatic plant resources of the state." This department must make the case for human use of wildlife and the need for habitat protection. Department biologists must be able to explain wildlife values in order to effectively influence area-wide or project level planning decisions. The latter may include provisions for fish passage through culverts, caribou movement and calving in oil fields, protecting eagle nesting trees, maintaining sediment-free spawning gravels for fish, or retaining blocks of subalpine timber in which mountain goats can escape bitter winter storms.

The need to describe fish and wildlife uses prompted ADF&G to devote two entire volumes of its 1986 Alaska Habitat Management Guide series to providing an economic overview of fish and wildlife. These volumes contain more than 1,200 pages describing, on a statewide or regional basis, commercial and sport fish uses, as well as the consumptive and non-consumptive uses of other wildlife.

A current example of a highly quantitative economic argument is the statement that gross wholesale revenues to processors in the Alaska salmon industry

averaged \$1.07 billion during the 1981 to 1985 period, soaring to \$1.5 billion in 1986; or that in 1984, the total commercial harvesting employment reached an estimated 30,000. It's more difficult, however, to quantify the need to protect the most important caribou calving habitat on the arctic coastal plain when oil prospects there may provide an opportunity to revitalize a sagging state economy and when a security conscious, consumer nation is trying to hedge its bets against political unrest in the oil-rich Middle East.

And all the sophisticated and computerized quantitative evaluation tools at our disposal don't seem to help much when you're standing on a streambank with a logger who has just told you that a nearby 400-year-old Sitka spruce is worth \$5,000 to \$8,000. You take a deep breath and explain that if the tree lives another century or so, it will provide that many years of bank stability; refuge among its washed out roots for thousands of young coho salmon fry; shade in a stream that may otherwise reach extreme summer or winter temperatures lethal to fish; a den used by generations of river otters; and perches for unknown numbers of American bald eagles. When



Both residents and visitors spend millions of dollars each year to view as well as hunt Alaska's wildlife.

the tree finally dies, it will continue to serve many of these functions and will provide refuge for cavity-nesting birds such as woodpeckers. If it eventually falls into the creek, it may provide a deep bankside pool and a riffle, a combination valuable for fish eggs, fry, and lunkers alike. It's extremely difficult to quantify these benefits, and even if we could, values may change over time.

Theodore Roosevelt, a conservationist among presidents, referred to the mountain lion as "the big horse-killing cat, the destroyer of the deer, the lord of stealthy murder, facing his doom with a heart both craven and cruel." Would he be likely to say that today? Would others? Biologists are fond of quoting Aldo Leopold, and even he, in 1920, promised to persevere until "the last wolf or lion in New Mexico" was dead. Within five years he was already beginning to temper his view, evidence that values can change within each of us, even those who are viewed as experts.

By 1948, Leopold summed up his thinking when he said, "Conservation is getting nowhere because it is incompatible with our Abrahamic concept of land. We abuse it because we regard it as a commodity belonging to us. When we see land as a community to which we belong, we may begin to use it with love and respect." He also felt that "Perhaps the most serious obstacle impeding the evolution of a land ethic is the fact that our educational and economic system is headed away from rather than toward, an intense consciousness of the land." That's a broader approach than debating the relative merits of applying the travel cost or the contingent value method in valuating wildlife, yet it seems that the most prudent resource management decisions really do require both philosophical and technical approaches if we are to succeed in protecting the habitats we are charged to look out for. And, of course, economics directs itself to producing technical approaches from philosophical foundations.

Bruce Baker has recently served as Acting Director of the Division of Habitat, ADF&G, Juneau.

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(e) All conveyances under the Act referred to in subsection (h) of section 1 hereof of national forest lands reserved from the public domain shall, upon recommendation of the Secretary of Agriculture, be made by the Secretary of the Interior.

Multiple Use-Sustained Yield Act

• Act of June 12, 1960 (74 Stat. 215; 16 U.S.C. 528-531)

Sec. 1. It is the policy of the Congress that the national forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes. The purposes of this Act are declared to be supplemental to, but not in derogation of, the purposes for which the national forests were established as set forth in the Act of June 4, 1897 (16 U.S.C. 475). Nothing herein shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish on the national forests. Nothing herein shall be construed so as to affect the use or administration of the mineral resources of national forests lands or to affect the use or administration of Federal lands not within national forests. (16 U.S.C. 528)

Sec. 2. The Secretary of Agriculture is authorized and directed to develop and administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom. In the administration of the national forests due consideration shall be given to the relative values of the various resources in particular areas. The establishment and maintenance of areas of wilderness are consistent with the purposes and provisions of this Act. (16 U.S.C. 529)

Sec. 3. In the effectuation of this Act the Secretary of Agriculture is authorized to cooperate with interested State and local governmental agencies and others in the development and management of the national forests. (16 U.S.C. 530)

Sec. 4. As used in this Act, the following terms shall have the following meanings:

(a) "Multiple use" means the management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs

and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

(b) "Sustained yield of the several products and services" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the national forests without impairment of the productivity of the land. (16 U.S.C. 531)

McIntire-Stennis Act

- Act of October 10, 1962 (76 Stat. 806; 16 U.S.C. 582a to 582a-7)

Sec. 1. It is hereby recognized that research in forestry is the driving force behind progress in developing and utilizing the resources of the Nation's forest and related rangelands. The production, protection, and utilization of the forest resources depend on strong technological advances and continuing development of the knowledge necessary to increase the efficiency of forestry practices and to extend the benefits that flow from forest and related rangelands. It is recognized that the total forestry research efforts of the several State colleges and universities and of the Federal Government are more fully effective if there is close coordination between such programs, and it is further recognized that forestry schools are especially vital in the training of research workers in forestry. (16 U.S.C. 582a)

Sec. 2. In order to promote research in forestry, the Secretary of Agriculture is hereby authorized to cooperate with the several States for the purpose of encouraging and assisting them in carrying out programs of forestry research. Such assistance shall be in accordance with plans to be agreed upon in advance by the Secretary and (a) land-grant colleges or agricultural experiment stations established under the Morrill Act of July 2, 1862 (12 Stat. 503), as amended, and the Hatch Act of March 2, 1887 (24 Stat. 440), as amended, and (b) other State-supported colleges and universities offering graduate training in the sciences basic to forestry and having a forestry school; however, an appropriate State representative designated by the State's Governor shall,

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3. *The Multiple-Use Sustained-Yield Act of 1960*

In addition to the troublesome *Perko* decision, the 1950s brought other challenges to the Forest Service's management authority and policies.³⁰⁵ Wilderness advocates, timber companies, and other users of the national forests pressured the agency and Congress to protect their respective interests.³⁰⁶

In 1956 Senator Hubert Humphrey introduced the first national forest wilderness³⁰⁷ and multiple-use bills.³⁰⁸ After some hesitation by the Forest Service, Chief Richard McArdle decided to support multiple-use legislation.³⁰⁹ Accordingly, on February 5, 1960, the Department of Agriculture formally proposed the Forest Service's own multiple-use bill to Congress.³¹⁰

³⁰⁴ 16 U.S.C. §§ 528-531 (1982).

³⁰⁵ Prior to the 1950s, the Forest Service's authority and management policies remained relatively stable and uncontroversial:

[F]or 55 years the Forest Service administered nearly 20 million acres of forests, rivers, mountains, and ranges with little legislative guidance, not much interest from the public and, frequently, tremendous pressures from exploiters of range, timber, and mineral resources. The Forest Service acted both as protector and as arbitrator. Pride in work, pride in the land, dedication to duty, and a tradition of keeping a distance from special interests lent credence to the characterization of the Forest Service as a "priesthood." Although without fault, better stewardship during this period would have been hard to find.

Flamm, *Evolution of National Forest Management: The Statutory Stimulus in CRISIS IN FEDERAL FOREST LAND MANAGEMENT*, *supra* note 2, at 49.

³⁰⁶ See generally S. DANA & S. FAIRFAX, *supra* note 52, at 179-201; H. STEEN, *supra* note 49, at 278-304.

³⁰⁷ S. 4013, 84th Cong., 2d Sess. (1956).

³⁰⁸ S. 3615, 84th Cong., 2d Sess. (1956). The bill would have created citizen advisory councils to recommend policy to the Secretary of Agriculture. In addition, it listed range, timber, water, minerals, wildlife, and recreation as resources to be protected.

³⁰⁹ Assistant Chief of the Forest Service Edward Crafts called this the "most critical decision" of McArdle's administration. H. STEEN, *supra* note 49, at 304-05. McArdle made his decision in spite of fears among his staff that the bill could jeopardize the agency's authority if Congress failed to enact the bill. Once McArdle decided to support the bill, however, members of the agency gave their unanimous support. *Id.*

³¹⁰ *National Forests - Multiple Use and Sustained Yield: Hearings on H.R. 10,572 Before the Subcomm. on Forests of the House Comm. on Agriculture*, 86th Cong., 2d Sess. 1-4 (1960) (hereinafter cited as *Hearings on H.R. 10,572*). The administration's bill stated, in full:

The Forest Service's management authority under the 1897 Act was limited in scope of the 1897 Act. Nevertheless, the Forest Service inserted confidence in the management of the national forests under the 1897 Act. There is no doubt that the bill will be enacted.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to carry out the following purposes: the Secretary shall develop and maintain the national forest system for multiple use and sustained yield of its resources.

SEC. 2. The Secretary shall develop and maintain the national forest system for multiple use and sustained yield of its resources.

SEC. 3. The Secretary is authorized to carry out the following purposes: the Secretary shall develop and maintain the national forest system for multiple use and sustained yield of its resources.

Id. at 1.

³¹¹ The Forest Service's management authority under the 1897 Act was limited in scope of the 1897 Act. Nevertheless, the Forest Service inserted confidence in the management of the national forests under the 1897 Act. There is no doubt that the bill will be enacted.

³¹² *Hearings on H.R. 10,572*, *supra* note 310, at 1.

The Forest Service's management authority under the 1897 Act was limited in scope of the 1897 Act. Nevertheless, the Forest Service inserted confidence in the management of the national forests under the 1897 Act. There is no doubt that the bill will be enacted.

The Forest Service bill, while not proposed as an amendment to the 1897 Act, clearly sought to confirm, if not to expand, the scope of the agency's regulatory authority under 16 U.S.C. § 551.³¹¹ Nevertheless, during testimony on the bill, McArdle asserted confidently that the agency already had the authority to manage for recreation, range, and wildlife purposes. He declared, "The national forests have been administered for many years under the dual conservation policies of multiple use and sustained yield. There is no question as to the Department's authority to so manage the national forests, and the recommendation that this bill be enacted should not be so construed."³¹² Congress generally

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the policy of the Congress that the national forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes. Nothing herein shall be construed to affect the authority of the Secretary of the Interior provided by law with respect to mineral resources.

SEC. 2. The Secretary of Agriculture is authorized and directed to develop and administer the renewable surface resources of the national forest for multiple use and sustained yield of the several products and services obtained therefrom. In the administration of the national forests due consideration shall be given to the relative values of the various resources in particular areas.

SEC. 3. In the effectuation of this Act the Secretary of Agriculture is authorized to cooperate with interested State and local governmental agencies and others in the development and management of the national forests.

Id. at 1.

³¹¹ The first section of the Forest Service bill proposed to expand the section of the 1897 Act concerning purposes for establishment (16 U.S.C. § 475) by adding recreational, grazing, and wildlife purposes. This section was later amended, at the request of the timber interests, to state that the three new purposes were "supplemental to, but not in derogation of," the timber and water purposes of the 1897 Act. 16 U.S.C. § 528 (1982). See Note & Comment, *Natural Resources — National Forests — The Multiple Use - Sustained Yield Act of 1960*, 41 OR. L. REV. 49, 53-55 (1961). Similarly, section 2 of the bill "authorized and directed" the Secretary "to develop and administer" the five resources named in the first section. Section 2, then, eliminated the possibility that the agency's administrative authority could be limited to fulfilling the purposes of water flow and timber supply. See *infra* text accompanying notes 317-19.

³¹² *Hearings on H.R. 10,572, supra* note 310, at 36. Dana and Fairfax have explained the ambivalent posture the Forest Service had to maintain:

The Forest Service position in pressing the legislation was quite awkward. On the one hand, they had to convince Congress that the need for legislation was real and haste was necessary in passing the act. On the other hand, they were required to assert that the proposed legislation was nothing new; the agency had all the authority required to practice multiple use management of the forests and had been doing so for over fifty years.

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accepted McArdle's claim that the bill would not affect the amount of authority over the national forests that Congress had already delegated to the executive branch.³¹³ With the support of virtually all national forest user groups,³¹⁴ as well as the administration,³¹⁵ Congress quickly approved a revised version of the Forest Service bill.³¹⁶

Notwithstanding the Forest Service's official position, the MUSY Act has fortified the agency's defense against legal challenges to its regulatory authority. *McMichael v. United States*³¹⁷ illustrates the Act's effect on judicial review. In *McMichael* the Court of Appeals for the Ninth Circuit upheld the agency's authority under 16 U.S.C. § 551 to prohibit use of motorized vehicles in an administratively designated "primitive area."³¹⁸ The court concluded that in the MUSY Act Congress had "expressly manifested its approval" of the Forest Service's policy to regulate the national forests for recreational purposes.³¹⁹ The same result

Clearly, the agency did not want to be left, if their legislative initiative failed, with the implication that they had no authority to provide recreation facilities on the National Forests.

S. DANA & S. FAIRFAX, *supra* note 52, at 201.

³¹³ During floor debate on the bill, Representative Harold Cooley, Chairman of the House Committee on Agriculture, stated, "The law does not give the Secretary of Agriculture any new authority." 106 CONG. REC. 11,707 (1960). Later, Cooley said, "This bill simply tries to clarify the administrative responsibilities of the Secretary of Agriculture . . . I do not think that we make any basic change at all." *Id.* at 11,711. Senator James Eastland, Chairman of the Senate Committee on Agriculture and Forestry, explained during the Senate floor debate, "The bill requires no change from existing policy and gives the Secretary no new authority." *Id.* at 12,078.

³¹⁴ See generally, *Hearings on H.R. 10,572, supra* note 310.

³¹⁵ See Letter from Richard E. McArdle to Hon. James O. Eastland (June 2, 1960), reprinted in 106 CONG. REC. 12,078 (1960) (expressing Forest Service's approval of MUSY bill).

³¹⁶ The enacted version included recognition of concurrent state jurisdiction over wildlife, specific authorization to establish wilderness areas, reiteration of the purposes stated in the 1897 Act for establishing forest reserves, and definitions of "multiple use" and "sustained yield." See 16 U.S.C. §§ 528-531 (1982).

³¹⁷ 355 F.2d 283 (9th Cir. 1965).

³¹⁸ *McMichael* was similar to *United States v. Perko*, 108 F.Supp. 315 (D. Minn. 1952), *aff'd* 204 F.2d 446 (8th Cir.), *cert. denied*, 346 U.S. 832 (1953), except that the primitive area in *McMichael* had no special congressional recognition. Thus, *McMichael* directly confronted the "question" raised in *Perko*. See *supra* note 303.

³¹⁹ The court of appeals stated:

The consistent administrative interpretation of section 551 . . . has been that while recreational considerations alone will not support the establishment of a national forest, they are appropriate subjects for regulation. Congress has tacitly shown its approval of this interpretation by appropri-

should logically flow from the broad terms of 16 U.S.C. § 551 as construed in *United States v. Grimaud*³²⁰ and other cases,³²¹ but passage of the MUSY Act made the judicial task much easier.

4. The Modern Legislation

During the 1960s Congress began to restrict the Forest Service's authority through environmental legislation. The Wilderness Act of 1964³²² limited the types of management that could occur in wilderness areas. The Endangered Species Act of 1973³²³ precluded activities that could adversely affect the habitats of threatened and endangered wildlife. The Wild and Scenic Rivers Act of 1968³²⁴ required protective management of certain river corridors. The National Trails System Act of 1968³²⁵ restricted management activities in the areas through which national scenic trails pass. Each of these laws limited the Forest Service's authority to alter the environment of specific areas.

After 1968 Congress enacted broader environmental safeguards for the national forests. The National Environmental Policy Act of 1969³²⁶ (NEPA) required the Forest Service to analyze environmental effects prior to undertaking any major federal action. NEPA, for example, caused the Forest Service to stop development activity in all national forest roadless areas.³²⁷ The Federal Water Pollution Control Act of 1972³²⁸ placed general limits on activity that would violate water quality standards on national forest watercourses. The Alaska National Interest Lands Conservation Act of 1980³²⁹ has been construed to require the Forest Service to allow reasonable access to private lands located in wilderness study lands in all national forests, not just those in

ating the sums required for its effectuation. Further Congress has expressly manifested its approval by actually adopting and furthering administrative policy in [the Multiple-Use Sustained-Yield Act].

McMichael, 355 F.2d at 285. The court did not examine the legislative history in the MUSY Act that sought to ensure the validity of primitive-type areas.

³²⁰ 220 U.S. 506 (1911), discussed *supra* in text accompanying notes 285-87.

³²¹ See, e.g., *Hunt v. United States*, 27 U.S. 96 (1928), and *supra* notes 292-300.

³²² 16 U.S.C. §§ 1131-1136 (1982), discussed *infra* section IX.

³²³ 16 U.S.C. §§ 1531-1543 (1982), discussed *infra* notes 1548-50.

³²⁴ 16 U.S.C. §§ 1271-1287 (1982), discussed *infra* section VIII (C).

³²⁵ 16 U.S.C. §§ 1241-1249 (1982).

³²⁶ 42 U.S.C. §§ 4321-4370 (1982).

³²⁷ See *infra* text accompanying notes 1863-93.

³²⁸ 33 U.S.C. §§ 1251-1376 (1982), discussed *infra* section V(B)(1).

³²⁹ 16 U.S.C. §§ 3101-3233 (1982).

FISCAL NOTE

REQUEST:

Revision Date: 4/22/87
Title: An act relating to multiple use of state land
Sponsor: Coghill, Faiks, et. al.
Requestor: House Resources

Agency Affected: Natural Resources
BRU: Land and Water Management
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The Department of Natural Resources expects no additional funding requirements from this legislation.

Prepared by: Lawrence Z. Ostrovsky Phone: 465-2400
Division: Commissioner's Office Date: _____

Approved by Commissioner: *Dennie Gorsch* Date: 3-7-88
Agency: Natural Resources

Distribution (by preparer):

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