

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672
5008 HRES SB 136 - SB 159

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STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

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JUNEAU, ALASKA 99801-7788
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STEVE COWPER, GOVERNOR

April 9, 1987

The Honorable Jack Coghill
Chairman, Senate Resources Committee
Alaska State Legislature
P.O. Box 7
Juneau, AK 99811

Dear Senator Coghill:

Subject: CSSS 136, an act relating to multiple use of state land and water.

Position: The Department of Natural Resources recommends passage of CSSS 136.

Background: In Section 1, CSSS 136 amends the current definition of multiple use contained in AS 33.04.910(a) to include management of state land, making the most judicious use of the land for all of the resources, but allowing for use of the land for less than all of the resources if there is incompatibility of uses.

Additionally, Section 8 deletes the definition of multiple use which is currently in Title 41, and substitutes the new definition contained in AS 33.04.910 in its place.

Recommendation: The Department of Natural Resources supports the changes as currently set out in CSSS 136. These changes accurately reflect the department's current land planning and classification process. This process supports the multiple use concept through a rigorous resource value acreage program, which, by nature, recognizes and considers all competing and non-competing resource uses and users.

This legislation, in the opinion of the Department, still allows for classification of land into primary and secondary values, with the use of secondary values permitted when their use does not conflict with those uses designated primary. Uses which are not compatible with the primary management intent will still be excluded.

20/134

Senator Coghill

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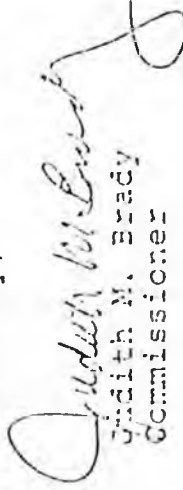
April 9, 1987

The second issue which this legislation addresses is the consolidation and reduction of multiple use designations. In the opinion of the Department, it is essential that we manage our land guided by consistent principles. The title to the land proposed by Congress is unclear. The title preferable to the current multiple use stipulation is in title 11 (the Forest Resources and Recreation Act). The proposed title is defining those which are suitable for resource uses, including those which are suitable for multiple use, including ecologically important wildlife, natural scenic, scientific and historic values. In the opinion of the Department, a single multiple use stipulation throughout title 36 and 11 is preferable to the status quo - different stipulations in different titles.

Multiple use is the management goal that the Department aspires to. The proposed definition contained in CSSE 136 provides a workable guide to land managers which should be followed consistently in our substate network. As Alaska prepares to engage Pacific rim and other foreign markets, our land use mandate should be as clear and consistent as possible.

Therefore, the Department of Natural Resources supports passage of CSSE 136. As always, my staff and I stand available to assist the committee or provide additional information.

Sincerely,


Judith M. Brady
Commissioner

cc: Committee Members
Bill Sponsors
George Sullivan
Rod Swobe

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: SB 136
 Publish Date: _____

REQUEST:
 Revision Date: 4/13/87
 Title: An act relating to multiple use of state land
 Sponsor: Council, Parks, et al
 Requestor: Senate Resources

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

EXPENDITURE/REVENUE: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
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
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)

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

Prepared by: Larry Z. Ostrovsky Phone: 465-2400
 Division: Commissioner's Office Date: 4/13/87
 Approved by Commissioner: [Signature] Date: 4-14-87
 Agency: Natural Resources

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

Tony Gasbarro
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Fairbanks AK 99701

ALASKA STATE SOCIETY
OF
AMERICAN FORESTERS



COOK INLET CHAPTER
JUNEAU CHAPTER
KETCHIKAN CHAPTER
YUKON RIVER CHAPTER
SITKA CHAPTER
STIKINE RIVER CHAPTER

5 March 1987

MAR 9
1987

Senator Jack Coghill
P.O. Box V
Juneau, Alaska 99811

Dear Senator Coghill:

The Alaska State Society of American Foresters appreciates the opportunity to comment on both SB 136, "An Act relating to multiple use of state land and water" and SB 137, "An Act relating to the definition of 'multiple use'". I have enclosed a copy of our national society's position on "Multiple Use of Forestlands" hoping that it will be useful to you and your committee as both bills are discussed.

The Alaska State Society of American Foresters supports the concept of multiple use on State lands and encourages the adaptation of a sound and clear definition of multiple use. We would emphasize that multiple use does not necessarily mean that all land must be managed for all uses. Furthermore, a specific area of land may be managed with emphasis on a specific resource (i.e. timber, wildlife or recreation). Other resources may be managed as a secondary benefit but the potential for the secondary resource may not be maximized if conflicts occur between resources. Resource priorities should be set through a planning process on any land base with consideration given for land capabilities and society's needs. In total resource planning and management, the application of the multiple use concept will benefit all society.

Sincerely,

Tony Gasbarro
State Chairman
Alaska Society of American Foresters



Multiple Use of Forestlands

Forests occupy some 3/4 billion acres, or 1/3 of the land area of the United States. Demands on forestlands for goods and services are increasing rapidly and are expected to increase still faster in the future. Conflicts in use have become accentuated in recent years by requests to administrative, legislative, and judicial bodies to influence and regulate public and private forest management. Such conflicts are especially sharp where interest groups believe that the use demands of other interest groups compete with their own.

Diversity of Use Demands on Forestlands

Forests receive, store, and make available most of the nation's usable water. They satisfy the nation's requirements for wood—a major, renewable, and highly versatile raw material. Forest vegetation stabilizes soil, has a moderating effect on local climate, reduces sound and air pollutants, and helps maintain atmospheric oxygen-carbon dioxide balances. Recreation, encompassing a wide variety of individual and group activities, has become a major use of forestlands. Forests, and the streams and lakes they help to sustain, provide the habitat for wildlife and fish, which are also major, renewable resources. Forestlands provide forage to help feed browsing wildlife and domestic livestock. Some forestlands are an important source of minerals, and others provide space for utility lines, transportation corridors, reservoirs, and other land-consuming uses.

What Multiple Use Is

Increasing demands on limited forestlands can be met with coordination of uses on specific areas. Foresters have developed and applied the concept of multiple use whereby land is managed for a variety of purposes that utilize, without impairment, the capabilities of the land to meet different demands simultaneously. Properly implemented, multiple use sustains

production and avoids environmental deterioration. The multiple-use strategy takes effective advantage of capabilities of diverse portions of a forest to meet both current and projected demands.

Many benefits accrue on a forest regardless of the management strategy employed. For example, a forest managed exclusively for recreation can provide water, climatic, and wildlife benefits. Similarly, one managed exclusively for timber can provide water, climatic, wildlife, and recreation benefits. It is extremely difficult to visualize any exclusive forest use that does not also provide other benefits. The supply of forestlands is inadequate to meet all demands, but the multiple-use strategy normally provides the largest sum of social, economic, and spiritual benefits.

Who Plans and Manages for Multiple Use?

Use and management of forestlands and forest resources are determined in large measure by the objectives, policies, and means of the landowner, whether the people of a political unit, shareholders of a corporation, or an individual. Uses should be professionally planned, and all planning should consider all potential capabilities to meet different demands on a sustained basis; compatibility among uses; and costs and benefits of different use combinations over a period of time. Forestry professionals have special education and experience to determine the net benefits that forests are capable of producing—information that is basic to the planning of uses.

Plans should incorporate the landowners' objectives and should be based on accurate information about the resources involved. Planning is a continuing process, and landowners—who for government lands include the general public—should participate along with foresters. When plans have been decided on, forestry professionals should implement them by prescribing and super-

A Position of the Society of American Foresters

Approved by the Council of the Society of American Foresters, November 14, 1983. Originally adopted on June 25, 1973, and subsequently renewed on September 1, 1977, and November 20, 1980. A position of the Society of American Foresters expires three years after the date of its adoption unless, after thorough review, its continuance is approved.

vising the necessary specific practices.

How Multiple Use is Implemented

In application, the multiple-use concept involves managing a specific forest area for various benefits and may result in (1) exclusive use on some portions, (2) the emergence of primary and secondary uses on other portions, and (3) a general-use category where no one use justifies specific designation. An exclusive use is one for which an area is reserved and managed for one purpose, with other managed uses excluded. A primary use is one for which an area is predominantly managed but permits secondary managed uses. A secondary use is a managed use other than that for which the land area is predominantly managed. An incidental use is one for which a forest is not deliberately managed, but which occurs automatically. In the general-use category, forestlands are deliberately managed for specified objectives, but no assignment of priorities is made.

Much of the forestland managed under the multiple-use concept is in a general-use category, because com-

patibility at existing levels of demand does not require the designation of primary or exclusive uses. However, lands in the general-use category are often considered to be recreation lands by recreation interests, wildlife habitat by wildlife interests, watershed lands by water interests, mineral lands by mining interests, and timberlands by timber interests. As demands increase and conflicts arise, establishing land-use priorities becomes a valuable procedure for implementing the multiple-use concept. Priorities should be based on the objectives and needs of the landowner, reviewed periodically, and, where necessary, changed to reflect changing conditions of resources and changing needs.

Establishing Use Priorities

Use limitations are often established on public forestlands by legislation, as for wilderness areas or parks. Priorities on both public and private forestlands administered under the multiple-use concept (exclusive use, primary use, or secondary use) are generally determined by the land administrators or managers, governed by the objectives and poli-

cies of the landowner. When substantial doubt or controversy arises, these priorities may best be decided by the landowners themselves. When landowners establish priorities, they should consider the knowledge of forestry professionals as to land capabilities and the degree of compatibility among uses at various levels of demand.

Accomplishing the Objectives of Forestland Ownership

In applying the multiple-use concept, primary and secondary uses emerge on specific portions of forest areas. The expertise of forestry professionals is required to determine, within the objectives of ownership, which is the primary use; how it can best be implemented; and, where desirable, how it can be modified to accommodate secondary and incidental uses. To best accomplish the objectives of the landowner, multiple-use forestlands—whether managed for exclusive, primary, and secondary uses, or left in a general-use category—should be managed for the greatest sum of net benefits over time. ■

Alaska State Legislature

Senate Resources Committee



Sen. John B. (Jack) Coghill, Chairman
Sen. Paul Fischer, Vice-Chairman
Sen. Lloyd Jones
Sen. Artiss Sturgulewski
Sen. Jim Duncan
Sen. Fred Zharoff
Sen. Dick Eliason

Box V
Juneau, Alaska 99811
(907) 465-4907

MEMORANDUM

TO: Senate Resource Committee Members

FROM: Senate Resource Committee Staff

RE: SB 136; An Act relating to the multiple use of State Land and Water.

DATE: March 16, 1987

List of packet information:

- 1) Sponsor Memo; Senator Coghill
- 2) An overview of the federal Classification and Multiple Use Act of September 19, 1964; from "Mineral Title Examination" (1984) by Dr. Terry S. Maley.
- 3) Public Law 88-607: Classification and Multiple Use Act.
- 4) 43 CFR; federal regulations pertaining to multiple use.

Staff has been working with the Department of Natural Resources to alleviate agency concerns with the wording of this bill. It is staffs understanding that DNR is also working with interest groups to develop language that implements the intent of SB 136, without causing major revisions of current procedures and policies.

March 16, 1987

The bill as written is legal services adaptation of an Alaska Minerals Commission recommendation found on page 8 of their "Initial Report."

"THE COMMISSION RECOMMENDS THAT:

2. The Legislature amend Alaska Statute 38.05.300 as follows:
Classification of lands. (a) The commissioner shall, where considered necessary and proper, classify land for surface use. This section does not prevent reclassification of land, where the public interest warrants reclassification, nor does it preclude multiple use of land whenever different uses are compatible. State land, water or land and water area may not, except by act of the state legislature, be closed to multiple use or to mineral entry if the area involved contains more than 640 acres."

Staff discussions with legal drafting indicated that the question of compatibility with other surface uses would be best addressed through the definition of multiple use. This resulted in SB 137.

THE AUTHOR

Terry Maley received B.S. and M.S. degrees in geology from Oregon State University and a Ph.D. in economic geology from the University of Idaho. He has taught graduate-level courses in mineral law and mineral title at several universities and has presented mineral law courses nationwide to more than 1000 mineral industry professionals since 1978. Most courses have been awarded continuing legal education units by several state bar associations. Dr. Maley also speaks frequently at educational seminars sponsored by state bar associations. He has served four years as Administrator of the Idaho Division of Earth Resources with responsibility over all state research and regulatory programs concerning geology and mineral resources. He has worked for the Bureau of Land Management in Washington, D.C., Arizona, Nevada and most currently in the Idaho state office with responsibilities over casework involving mineral leases, mineral in character classifications and mining claims. Dr. Maley has authored 30 articles and 3 books and was the 1982 recipient of the Gold Quill Award for the outstanding paper published in the *Journal of the American Society of Farm Managers and Rural Appraisers*. His most recent paper "Mineral Law Since NEPA" was published by the *Idaho Law Review* in 1982.

Mineral Law (?)

Ownership of Submerged Land

- Submerged Lands
- I. Navigable Waters
- II. Tidal Waters & the Grants of Swamp and Ox

Public Land Records and Surveys

- Public Land Surveys
- I. Introduction
- II. Monuments' Co
- III. Plats and Field
- IV. Terminology Us
- V. Subdivision of T
- VI. Writing Legal I
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- VIII. Survey of Mean
- IX. Land Descriptio

Public Land Records

Federal Actions Affecting Mining

- Withdrawals
- I. PreFLPMA Withd:
- II. Withdrawals unde
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- Effect of Withdrawals on
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- Federal Actions Affecting
- I. Alaska Native
- II. Classification
- III. Exchanges
- IV. Indian Lands
- V. Material Sale
- VI. Military Withc
- VII. Multiple Mine
- VIII. National Fore
- IX. National Park
- X. Powersite Wit.

II. Classification and Multiple Use Act

The Classification and Multiple Use Act of September 19, 1964 (78 Stat. 986, 43 USC 1411) authorizes the Secretary of Interior to review the public lands to determine which lands shall be classified as suitable for disposal and which lands he considers to contain such values as to make them more suitable for retention in Federal ownership. See applicable regulations in 43 CFR 2461 and 2462. A notice of a proposed classification involving more than 2,560 acres will be published in the *Federal Register* and in a newspaper having general circulation in the area of the affected lands. After receiving comments on the published notice, the government may classify the lands any time after the expiration of 60 days following the publication of the proposed classification in the *Federal Register*. Once the actual classification is made, it is publicized in the same manner as the proposed classification. 43 CFR 2462.2.

Classification Segregates from Mineral Entry

"Publication of notice in the *Federal Register* by the Secretary of the Interior of a proposed classification under this subchapter shall have the effect of segregating such land from settlement, location, sale, selection, entry, lease, or other formal disposal under the public land laws, including the mining and mineral leasing laws, except to the extent that the proposed classification or subsequent notification thereof specifies that the land shall remain open for one or more of such forms of disposal under the public land laws." 43 USC 1414. However, publication will not change the "applicability of the public land laws governing the use of the lands under lease, license, or permit or governing the disposal of their mineral and vegetative resources, other than under the mining laws." 43 CFR 2462.4.

Termination of Classification

There are four ways by which the segregative effect of a proposed classification may be terminated (43 CFR 2462.4):

1. Classification of the lands within 2 years of publication of the notice of proposed classification in the *Federal Register*;
2. Publication in the *Federal Register* of a notice of termination of the proposed classification;
3. An Act of Congress;
4. Expiration of a 2-year period from the date of publication of the notice of proposed classification without continuance under the Classification and Multiple Use Act, or

expiration of an additional period, not exceeding 2 years, if the required notice of proposed continuance is given.

The segregative effect of a classification for sale or other disposal may be terminated in one of the following ways:

1. Disposal of the lands;
2. Publication in the *Federal Register* of a notice of termination of the classification;
3. An Act of Congress;
4. Expiration of 2 years from the date of publication of the proposed classification without disposal of the land and without the notice of proposed continuance under the Act.

Mining Claims Located After Segregation are Null and Void

Mining claims located after the land has been segregated from appropriation under the mining laws by notice of proposed classification under the Classification and Multiple Use Act of 1964 (43 US 1411-18) published in the *Federal Register* are properly declared null and void *ab initio*. *Rudolph Chase and Raymond W. Voss*, 8 IBLA 351 (1972).

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4. Expiration of a 2-year period from the date of publication of the notice of proposed classification without continuance under the Classification and Multiple Use Act, or

expiration of an additional period, not exceeding 2 years, if the required notice of proposed continuance is given.

The segregative effect of a classification for sale or other disposal may be terminated in one of the following ways:

1. Disposal of the lands;
2. Publication in the *Federal Register* of a notice of termination of the classification;
3. An Act of Congress;
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Public Law 33-607

AN ACT

To authorize and direct that certain lands exclusively administered by the Secretary of the Interior be classified in order to provide for their disposal or interim management under principles of multiple use and to produce a sustained yield of products and services, and for other purposes.

Enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That, consistent with and supplemental to the Taylor Grazing Act of June 28, 1934, as amended (48 Stat. 1269; 43 U.S.C. 315), and pending the implementation of recommendations to be made by the Public Land Law Review Commission:

(a) The Secretary of the Interior shall develop and promulgate regulations containing criteria by which he will determine which of the public lands and other Federal lands, including those situated in the State of Alaska exclusively administered by him through the Bureau of Land Management shall be (a) disposed of because they are (1) required for the orderly growth and development of a community or (2) are chiefly valuable for residential, commercial, agricultural (exclusive of lands chiefly valuable for grazing and raising forage crops), industrial, or public uses or development or (b) retained, at least during this period, in Federal ownership and managed for (1) domestic livestock grazing, (2) fish and wildlife development and utilization, (3) industrial development, (4) mineral production, (5) occupancy, (6) outdoor recreation, (7) timber production, (8) watershed protection, (9) wilderness preservation, or (10) preservation of public values that would be lost if the land passed from Federal ownership. No such regulation shall become effective until the expiration of at least thirty days after the Secretary or his designee has held a public hearing thereon. Before such public hearing is held, a notice of at least thirty days shall have been given through publication in the Federal Register and notification to the President of the Senate and the Speaker of the House of Representatives, both of whom shall receive with the notice a copy of the proposed regulation.

(b) The Secretary of the Interior shall, as soon as possible, review the public lands as defined herein, in the light of the criteria contained in the regulations issued with this section to determine which lands shall be classified as suitable for disposal and which lands he considers to contain such values as to make them more suitable for retention in Federal ownership for interim management under the principles enunciated in this section. In making his determinations the Secretary shall give due consideration to all pertinent factors, including, but not limited to, ecology, priorities of use, and the relative values of the various resources in particular areas.

(1) None of the land subject to this Act shall be given a designation or classification unless such designation or classification is authorized by statute or defined in regulations promulgated by the Secretary of the Interior.

SEC. 2. At least sixty days prior to taking the following action the Secretary of the Interior or his designee shall give such public notice of the proposed action as he deems appropriate, including publication in the Federal Register and in a newspaper having general circulation in the area or areas in the vicinity of the affected land:

(a) Classification for sale or other disposal under any statute of a tract of land in excess of two thousand five hundred and sixty acres.

(b) Classification by the Bureau of Land Management of an area in excess of two thousand five hundred and sixty acres

when the action will exclude from the area permanently, or for a substantial period of time, one or more uses enumerated in section 4 of this Act.

SEC. 3. The Secretary of the Interior shall develop and administer for multiple use and sustained yield of the several products and services obtainable therefrom those public lands that are determined to be suitable for interim management in accordance with regulations promulgated pursuant to this Act.

SEC. 4. Publication of notice in the Federal Register by the Secretary of the Interior of a proposed classification under this Act shall have the effect of segregating such land from settlement, location, sale, election, entry, lease, or other formal disposal under the public land laws, including the mining and mineral leasing laws, except to the extent that the proposed classification or subsequent notification thereof specifies that the land shall remain open for one or more of such forms of disposal under the public land laws. The segregative effect of such proposed classification shall continue for a period of two years from the date of publication unless classification has theretofore been completed in accordance with the provisions of this Act and the regulations to be promulgated hereunder, or unless the Secretary of the Interior shall terminate it sooner. Lands classified for sale or other disposal shall be offered for sale or such other disposal within two years of the date of publication of the proposed classification and if not so offered for sale or other disposal the segregative effect shall cease at the expiration of two years from the date of publication. The proposed classification or proposed sale or other disposal may be continued beyond the two-year period if notice of such proposed continuation, including a statement of necessity for continued segregation, is submitted to the President of the Senate and the Speaker of the House of Representatives and published in the Federal Register not more than ninety days nor less than thirty days prior to the expiration of the two-year period specified herein; and thereupon the segregative effect shall be extended for such additional period as is specified in the notice, not exceeding two years, unless Congress or the Secretary of the Interior terminates the segregation at any earlier date.

SEC. 5. As used in this Act, the following terms shall have the following meanings:

(a) The term "public lands" means any land: (1) withdrawn or reserved by Executive Order Numbered 6910 of November 26, 1934, as amended, or 6964 of February 5, 1935, as amended, or (2) within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, or (3) located in the State of Alaska, which are not otherwise withdrawn or reserved for a Federal purpose.

(b) "Multiple use" means the management of the various surface and subsurface resources so that they are utilized in the combination that will best meet the present and future needs of the American people; 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; 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 or use that will give the greatest dollar return or the greatest unit output.

(c) "Sustained yield of the several products and services" means the achievement and maintenance of a high level annual or regular periodic output of the various renewable resources of land without impairment of the productivity of the land.

Sec. 6. The purposes of this Act are declared to be supplemental to the purposes for which any of the Federal lands in section 1 of this Act have been designated, acquired, withdrawn, reserved, held, or administered. This Act shall not be construed as a repeal, in whole or in part, of any existing law, including, but not limited to, the mining and mineral leasing laws.

Sec. 7. Nothing herein contained shall be construed as—

(a) Restricting prospecting, locating, developing, mining, entering, leasing, or patenting the mineral resources of the lands to which this Act applies under law applicable thereto pending action inconsistent therewith under this Act

(b) Restricting the entry and settlement of lands open to entry and settlement under the public land laws pending action inconsistent therewith under this Act

(c) Restricting the Secretary of the Interior from disposing of lands under applicable statutes after the land has been classified in accordance with this Act.

(d) Affecting the jurisdiction or responsibilities of the several States with respect to the lands referred to herein.

Sec. 8. The authorizations and requirements of this Act shall expire June 30, 1969, except that the segregation prior to June 30, 1969, of any public lands from settlement, location, sale, selection, entry, lease, or other form of disposal under the public land laws shall continue for the period of time allowed by this Act.

Approved September 19, 1964.

Public Law 83-608

AN ACT

To provide temporary authority for the sale of certain public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That pending the implementation of recommendations to be made by the Public Land Law Review Commission, in addition to any other authority that he may have, the Secretary of the Interior is authorized and directed to dispose of public lands that have been classified for disposal in accordance with a determination that (a) the lands are required for the orderly growth and development of a community or (b) the lands are chiefly valuable for residential, commercial, agricultural (exclusive of land chiefly valuable for grazing and raising forage crops), industrial, or public use, or development. Such disposals shall be in tracts not exceeding five thousand one hundred and twenty acres each to qualified governmental agencies at the appraised fair market value thereof as determined by the Secretary of the Interior or to qualified individuals through competitive bidding at not less than the appraised fair market value as determined by the Secretary of the Interior.

Sec. 2. At least ninety days prior to offering lands for sale in accordance with this Act, the Secretary of the Interior shall notify the head of the governing body of the political subdivision of the State having jurisdiction over zoning in the geographic area within which the lands are located or, in the absence of such political subdivision, the Governor of the State, in order to afford the appropriate body with the opportunity of zoning for the use of the land in accordance with local

planning and development. No sale shall be conducted under the authority of this Act until zoning regulations have been enacted by the appropriate local authority.

Sec. 3. At least thirty days before entering into an agreement with a governmental agency or of the opening of bids from individuals, notice of the offering of lands for sale in accordance with this Act shall be furnished by the Secretary of the Interior through a newspaper of general circulation in the area in which the lands are situated and by publication of the notice in the Federal Register.

Sec. 4. All patents or other evidences of title issued under this Act shall contain a reservation to the United States of all mineral deposits which shall thereupon be withdrawn from appropriation under the public land laws including the mining and mineral leasing laws. Patents and other evidences of title may contain such reservations and reasonable restrictions as are necessary in the public interest, but no restriction to insure proper development of the lands after they have passed from Federal ownership shall be imposed.

Sec. 5. For the purposes of this Act the following terms have the following meaning:—

(a) "Public land" means any public lands which are withdrawn by Executive Order Numbered 6940, dated November 26, 1954, or amended, or by Executive Order Numbered 6961, dated February 2, 1955, as amended, or pursuant to section 1 of the Act of June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315), and not otherwise reserved, or which are vacant, unappropriated, and unreserved public lands in Alaska.

(b) "Qualified governmental agency" means any of the following, including their lawful agents and instrumentalities: (A) the State, county, municipality, or other local government subdivision within which the land is located and (B) any municipality within convenient access to the lands if the lands are within the same State as the municipality.

(c) "Qualified individual" means (A) any individual who is a citizen or otherwise a national of the United States (or who has declared his intention to become a citizen) aged twenty-one years or more; (B) any partnership or association, each of the members of which is a qualified individual as defined in subparagraph (A); and (C) any corporation organized under the laws of the United States or of any State thereof, and authorized to hold title to real property in the State in which the land is located.

Sec. 6. Ninety per centum of the proceeds from lands sold in the State of Alaska pursuant to this Act shall be transferred to the State of Alaska in consideration for which the State shall surrender its right to select an equal acreage of land pursuant to section 6(b) of the Alaska Statehood Act (72 Stat. 339).

Sec. 7. The authority granted by this Act shall expire June 30, 1969, except that sales concerning which notice has been given in accordance with section 3 hereof prior to June 30, 1969, may be consummated and patents issued in connection therewith after June 30, 1969.

Approved September 19, 1964.

Registration of a 16-37-31

1964-1965, 1964-1965

Public Law 83-608, 1964-1965, at Secretary of the Interior, Washington, D.C. 20540

Registration to local zoning authority.

1964-1965, 1964-1965, at Secretary of the Interior

1964-1965, 1964-1965

1964-1965, 1964-1965

1964-1965, 1964-1965

1964-1965, 1964-1965

ions of this section are applicable to any administrative review other than that provided in section 7 or to appeal under provisions of Parts 1840 and 1850 of this title.

245.6 Effect of final order.

A final order of the Secretary continues in full force and effect until the lands remain subject to classification under the authorities in Subpart 2400 until an authorized officer revokes or modifies it. If it is so revoked or modified, all classifications and petition-applications for the lands not consistent with the classification of the lands will not be valid. Any payments submitted in connection with the application will be returned. If the classification is revoked or modified, the land may be opened to entry on an equal-opportunity basis after public notice in accordance with applicable regulations for the purpose for which it may be classified.

(1) Nothing in this section, however, shall prevent the Secretary of the Interior, personally and not through a delegate, from vacating or modifying a classification order of the Secretary. In the event that the Secretary vacates or modifies a final order within sixty days of the date it became final, any preference right of a petitioner-applicant will be restored.

245.7 Right to occupy or settle.

The filing of a petition-application does not give a person the right to occupy or settle upon the land. A person shall be entitled to possession and use of land only after his entry, selection, or location has been allowed, or a lease has been issued. Settlement on the land prior to the time it is classified constitutes a trespass.

245.8 Preference right of petitioner-applicant.

Where public land is classified for entry under section 7 of the Taylor Grazing Act or under the Small Tract Act pursuant to a petition-application filed under this part, the petitioner-applicant is entitled to a preference right of entry, if qualified. If, however, it should be necessary thereafter for any reason to reject the application of the preference right claimant, the

next petitioner-applicant in order of filing shall succeed to the preference right. If there is no other petitioner-applicant the land may be opened to application by all qualified individuals on an equal-opportunity basis after public notice or the classification may be revoked by the authorized officer.

PART 2460—BUREAU INITIATED CLASSIFICATION SYSTEM

Subpart 2461—Multiple-Use Classification Procedures

Sec.

- 2461.0-1 Purpose.
- 2461.1 Proposed classifications.
- 2461.2 Classifications.
- 2461.3 Administrative review.
- 2461.4 Changing classifications.
- 2461.5 Segregative effect.

Subpart 2462—Disposal Classification Procedure—Over 2,560 Acres

- 2462.0-3 Authority.
- 2462.1 Publication of notice of, and public hearings on, proposed classification.
- 2462.2 Publication of notice of classification.
- 2462.3 Administrative review.
- 2462.4 Segregative effect of publication.

Subpart 2461—Multiple-Use Classification Procedures

SOURCE: 35 FR 9564, June 13, 1970, unless otherwise noted.

§ 2461.0-1 Purpose.

Formal action to classify land for retention for multiple use management will be governed by the following procedures:

§ 2461.1 Proposed classifications.

(a) Proposed classifications will be clearly set forth on a map by the authorized officer, and on the Land Office records.

(1) Notice of proposed classifications involving more than 2,560 acres will be, and those involving 2,560 acres or less may be, published in the FEDERAL REGISTER and an announcement in a newspaper having general circulation in the area or areas in the vicinity of the affected lands.

(2) Notice of the proposals will be sent to authorized users, licensees, lessees, and permittees, or their selected representatives, the head of the governing body of the political subdivision of the State, if any, having jurisdiction over zoning in the geographic area in which the lands are located, the governor of that State, the BLM multiple use advisory board in that State, and the District advisory board and to any other parties indicating interest in such classifications.

(3) The notice will indicate where and when the map and Land Office records may be examined. The notice will specify the general location of the lands, the acreage involved, and the extent to which the land is proposed to be segregated from settlement, location, sale, selection, entry, lease, or other form of disposal under the public land laws, including the mining and mineral leasing laws. The notice of proposed classification will specify the period during which comments will be received, which will not be less than 60 days from date of publication of the notice.

(4) The authorized officer will hold a public hearing on the proposal if (i) the proposed classification will affect more than 25,000 acres or (ii) he determines that sufficient public interest exists to warrant the time and expense of a hearing.

§ 2461.2 Classifications.

Not less than 60 days after publication of the proposed classification, a classification will be made by the authorized officer, and a notice of classification published in the FEDERAL REGISTER and recorded in the Land Office records and on a map which will be filed in the local BLM District Office. Such map will be available for public inspection.

§ 2461.3 Administrative review.

For a period of 30 days after publication of the classification in the FEDERAL REGISTER, the classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior.

§ 2461.1 Changing classifications.

Classifications may be changed, using the procedures specified in this subpart.

§ 2461.5 Segregative effect.

Segregative effect of classifications and proposed classifications:

(a) Publication in the FEDERAL REGISTER of a notice of proposed classification pursuant to § 2461.1(a) or of a notice of classification pursuant to § 2461.2 will segregate the affected land to the extent indicated in the notice.

(b) The segregative effect of a proposed classification will terminate in one of the following ways:

(1) Classification of the lands within 2 years of publication of the notice of proposed classification in the FEDERAL REGISTER;

(2) Publication in the FEDERAL REGISTER of a notice of termination of the proposed classification;

(3) An Act of Congress;

(4) Expiration of a 2-year period from the date of publication of the notice of proposed classification without continuance as prescribed by the Classification and Multiple Use Act, or expiration of an additional period, not exceeding 2 years, if the required notice of proposed continuance is given.

(c) The segregative effect of a classification for retention will terminate in one of the following ways:

(1) Reclassification of the lands for some form of disposal;

(2) Publication in the FEDERAL REGISTER of a notice of termination of the classification;

(3) An Act of Congress;

(4) Expiration of the classification.

Subpart 2462—Disposal Classification Procedure—Over 2,560 Acres

SOURCE: 35 FR 9564, June 13, 1970, unless otherwise noted.

§ 2462.0-3 Authority.

Section 2 of the Classification and Multiple Use Act of September 19, 1954 (78 Stat. 936, 43 U.S.C. 1412), requires the Secretary of the Interior to take certain actions when he proposes

classification for sale or other disposal under any statute of a tract of more than 2,500 acres.

21 Publication of notice of, and public hearings on, proposed classification.

The authorized officer shall publish notice of his proposed classification in the FEDERAL REGISTER and an announcement in a newspaper having general circulation in the area or areas in the vicinity of the affected land.

The notice shall include the legal description of the affected land, the laws under which the lands would be disposed of together with such other information as the authorized officer deems pertinent. Copies of the notice will be sent to the head of the governing body of the political subdivision of the State, if any, having jurisdiction over zoning in the geographical area within which the affected lands are located, the governor of that State and the BLM multiple use advisory board in that State, the land-use planning committee and land-use planning committees, if any, of the county, in which the affected lands are located, the authorized user or users of the lands and their selected representatives, the petitioner-applicants involved, and by other party the authorized officer determines to have an interest in the proper use of the lands. The authorized officer will hold a public hearing on the proposal if (a) the proposed classification will affect more than 5,000 acres or (b) he determines that sufficient public interest exists to warrant the time and expense of a hearing.

2162.2 Publication of notice of classification.

After having considered the comments received as the result of publication, the authorized officer may classify the lands any time after the expiration of 60 days following the publication of the proposed classification in the FEDERAL REGISTER. The authorized officer shall publicize the classification in the same manner as the proposed classification was publicized, indicating in the notice the differences, if any, between the proposed classification and the classification.

2162.3 Administrative review.

For a period of 30 days after publication in the FEDERAL REGISTER of a notice of classification for disposal, the classification shall be subject to the exercise of supervisory authority by the Secretary of the Interior for the purpose of administrative review. If, 30 days from date of publication, the Secretary has neither on his own motion, on motion of any protestant or the State Director exercised supervisory authority for review, the classification shall become the final order of the Secretary. The exercise of supervisory authority by the Secretary shall automatically vacate the classification and reinstate the proposed classification together with its segregative effect. In this event the final departmental decision shall be issued by the Secretary and published in the FEDERAL REGISTER.

2162.4 Segregative effect of publication.

(a) Publication in the FEDERAL REGISTER of a notice of proposed classification pursuant to § 2462.1 or of a notice of classification pursuant to § 2462.2 will segregate the affected land from all forms of disposal under the public land laws, including the mining laws except the form or forms of disposal for which it is proposed to classify the lands. However, publication will not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral and vegetative resources, other than under the mining laws.

(b) The segregative effect of a proposed classification will terminate in one of the following ways:

(1) Classification of the lands within 2 years of publication of the notice of proposed classification in the FEDERAL REGISTER;

(2) Publication in the FEDERAL REGISTER of a notice of termination of the proposed classification;

(3) An Act of Congress;

(4) Expiration of a 2-year period from the date of publication of the notice of proposed classification without continuance as prescribed by the Classification and Multiple Use Act of September 19, 1964 (78 Stat. 986, 43

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U.S.C. 1411-18), or expiration of an additional period, not exceeding 2 years, if the required notice of proposed continuance is given.

(c) The segregative effect of a classification for sale or other disposal will terminate in one of the following ways:

(1) Disposal of the lands;

(2) Publication in the FEDERAL REGISTER of a notice of termination of the classification;

(3) An Act of Congress;

(4) Expiration of 2 years from the date of publication of the proposed classification without disposal of the land and without the notice of proposed continuance as prescribed by the Classification and Multiple Use Act; or

(5) Expiration of an additional period, not exceeding 2 years, if the required notice of proposed continuance is given.

PART 2470—POSTCLASSIFICATION ACTIONS

Subpart 2470—Opening and Allowance

Sec.

2470.1 Opening of lands to disposal.

2470.2 Allowance and entry.

Subpart 2470—Opening and Allowance

2470.1 Opening of lands to disposal.

After lands have been classified for disposal, the authorized officer shall, at the appropriate time, open the lands to those forms of disposal consistent with the classification.

135 FR 9565 June 13, 1970)

2470.2 Allowance and entry.

(a) After lands are classified pursuant to the regulations of this part, and opened for entry or other disposal, all the laws and regulations governing the particular kind of entry, location, selection, or other disposal must be complied with in order for title to vest or other interests to pass.

(b) After lands are classified for disposal under the regulations of this subpart, the lands shall be offered for sale or other disposal consistent with

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the classification. If a petitioner applicant does not have a preference right under § 2450.8, the lands shall be opened on an equal-opportunity basis.

135 FR 9565 June 13, 1970)

Group 2500—Disposition; Occupancy and Use

NOTE: The information collection requirements contained in Parts 2520, 2530, 2540 and 2560 of Group 2500 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004-0094, 1004-1010, 1004-0311, 1004-0023, 1004-0024, 1004-0028, 1004-0029 and 1004-0039. The information is being collected to permit the authorized officer to determine whether certain petitions or applications for use and occupancy of the public lands should be granted. The information will be used to make that determination. A response is required to obtain a benefit.

140 FR 40889, Sept. 12, 1983)

PART 2510—HOMESTEADS

Subpart 2511—Original Homesteads

Sec.

2511.0 7 Cross references.

2511.0 8 Lands subject to entry.

2511.0 9 Mortgage loans

2511.1 Applicants.

2511.2 Initiation of claims.

2511.3 Procedures.

2511.3 1 Petitions and applications.

2511.3 2 Showing required of applicant.

2511.3 3 Payments; form of renittance; receipts; notice.

2511.3 4 Proof.

2511.3 5 Amendments; exercise of equitable powers.

2511.4 Requirements for proof.

2511.4 1 Habitable house.

2511.4 2 Residence.

2511.4 3 Cultivation.

2511.4 4 Agricultural entries of withdrawn coal lands.

2511.4 5 Noncompliance.

2511.5 Rights of widows, heirs, or devisees.

2511.5 1 On death of entryman.

2511.5 2 Heirs of contestants.

Subpart 2512—Additional Entries

2512.1 After proof on original claim after March 2, 1889.

2512.2 For land contiguous to original entry (Act of April 26, 1904, as amended).

SB 136

cc members'
files

Multiple Use

- Title 38
- Title 41
- FLPMA - 1976
- MUSA - 1960
- ONTARIO
- draft Planning handbook

(b) A municipality has standing to petition the commissioner for the adoption of a regulation, or for the amendment or repeal of an existing regulation, or to appeal a decision of the commissioner with respect to classification, management, or disposal of land made under authority of a regulation adopted under (a) of this section with respect to state land outside the corporate boundaries of the municipality to protect any interest which the municipality is authorized to regulate outside its boundaries under AS 29.48.037.

(c) If the regulations adopted by the commissioner under (a) of this section fail to provide for a process by which decisions of the commission may be appealed, an interested person may petition for reconsideration of a decision. The petition shall contain the information required to be submitted by AS 44.62.220 and shall be acted upon by the commissioner in the manner provided in AS 44.62.230. For purposes of this section, a municipality is an interested person with respect to its interests in land defined in (b) of this section. (§ 5 ch 181 SLA 1978; am § 94 ch 6 SLA 1984)

Effect of amendments. — The 1984 amendment, in subsection (a), deleted the former last three sentences, relating to draft regulations and to new and revised regulations, and, in the remaining language, substituted "believed" for "he believes are."

Sec. 38.04.910. Definitions. In this chapter, unless the context otherwise requires,

(1) "commissioner" means the commissioner of the Department of Natural Resources;

(2) "director" means the director of the division of lands of the Department of Natural Resources;

(3) "fair market value" means the price at which a willing seller and a willing buyer will trade;

(4) "multiple use" means the management of state land and its various resource values so that it is used in the combination that will best meet the present and future needs of the people of Alaska, 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; it includes

(A) the use of some land for less than all of the resources, and

(B) a combination of balanced and diverse resource uses that takes into account the short-term and long-term needs of present and 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 historic values;

(5) "official cadastral survey" means a United States public land survey or a survey executed under survey instructions issued by the division for the purpose of preparing a cadastral survey plat, and

approved and accepted by the division for the state's official records;

(6) "official control survey" means a position marked on the ground by triangulation or traverse stations established in conformity with standards adopted by United States Coastal and Geodetic Survey for first, second and third order work, whose geodetic positions have been rigidly adjusted on the North American datum of 1927 and approved by the division;

(7) "short-term lease" means a lease for a term of ^{ten} ~~five~~ years or less;

(8) "state park" means an area of state land designated by law to be managed for public use and enjoyment of recreational, scenic, cultural, historical, wilderness, and similar values, and includes roadside rests and recreational beaches, state monuments and historic sites, state recreation areas and state parks, including marine parks;

(9) "state trail" means an area designated by law to be managed as a public historic or recreational trail including but not limited to

(A) trails designated under AS 41.21.850 — 41.21.860, wilderness trails and campsites; and

(B) trails and footpaths designated under AS 41.21.864 — 41.21.872,

(10) "sustained yield" means the achievement and maintenance in perpetuity of a high level annual or regular periodic output of the various renewable resources of the state land consistent with multiple use;

(11) "wild and scenic river" means a free-flowing river or stream designated as provided in 16 U.S.C. 1271-1287 (Wild and Scenic Rivers Act, 82 Stat. 906). (§ 5 ch 181 SLA 1978; am § 95 ch 6 SLA 1984)

Cross references. — For state parks and recreation areas, see AS 41.21; for state monuments and historic sites, see AS 41.35.030.

Effect of amendments. — The 1984 amendment rewrote paragraph (8).

NOTES TO DECISIONS

Sustained yield principle. — The "sustained yield principle" as used in Alaska Const., art. VIII, § 4, accords with the definition set forth in paragraph (10) of this section, and the added language in the "sustained yield" definition of AS 41.17.950 that it "does not require that timber be harvested in a nondeclining

yield basis over a rotation period" should be read as permitting timber cutting at a level that cannot be sustained over a forest rotation period only in unusual circumstances. Southeast Alaska Conservation Council, Inc. v. State, Sup. Ct. Op. No. 2662 (File No. 5855), 665 P.2d 544 (1983).

Chapter 05. Alaska Land Act.

Article

1. Administration (§§ 38.05.005 — 38.05.040)
2. Sale of Lands (§§ 38.05.045 — 38.05.069)
3. Leasing of Lands Other than for the Extraction of Natural Resources (§§ 38.05.070 — 38.05.105)
4. Disposal of Timber and Materials (§§ 38.05.110 — 38.05.120)
5. Reservation of Rights to Alaska (§§ 38.05.125 — 38.05.130)

Sec. 41.17.950. Definitions. In this chapter, unless the context otherwise requires,

- (1) "board" means the Board of Forestry established in AS 41.17.043;
- (2) "broadcast chemicals" includes pesticides, herbicides, fungicides, fertilizers, poisons, and any other substances:
 - (A) used for silvicultural management or related purposes;
 - (B) not native to the ecosystem in which they are being applied; and
 - (C) having a foreseeable adverse impact on the welfare of renewable resources, as determined by the commissioner of environmental conservation;
- (3) "commissioner" means the commissioner of natural resources;
- (4) "department" means the Department of Natural Resources;
- (5) "division" means the division of forestry;
- (6) "forest land" means land stocked or having been stocked with forest trees of any size and not currently developed for nonforest use, regardless of whether presently available or accessible for commercial purposes, and includes any such land under state, municipal, or private ownership;
- (7) "forest landowner" means a person who owns forest land;
- (8) "multiple use" means:
 - (A) the management of all the various resources of forest land so that they are used in the combination that will best meet the needs of the citizens of Alaska, making the most judicious use of the land for some or all of these resources or related values, benefits, and services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions;
 - (B) that some land will be used for less than all of the resources; and
 - (C) harmonious and coordinated management of the various resources, each with the other, without significant impairment of the productivity of the land and water, 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;
- (9) "operations" means timber harvesting or activities associated with timber harvesting or forest development unless exempted under AS 41.17.900(a)-(c);
- (10) "operator" means a person who is engaged in timber harvesting or activities associated with timber harvesting or forest development, or who contracts with others to conduct operations for that person, except a person who is engaged in an operation as an employee with wages or piecework as the sole compensation;
- (11) "person" includes a joint venture as well as the entities set out in AS 01.10.000(1);
- (12) "significant impairment of the productivity of the land and water" means any activity which may foreseeably result in prolonged or substantial impairment of renewable resources or prolonged or substan-

tial reduction of the continuing capability of the land or produce renewable resources at their natural or historic level;

- (13) "silviculture" means the art of producing and tending the application of the knowledge of silvics in the treatment and the theory and practice of controlling and managing:
 - (A) yield, composition, and growth;
 - (B) stand structure, composition, and growth;
- (14) "state forest" means an area which is retained in state ownership in order to:
 - (A) provide a base for sustained yield management of renewable resources; and
 - (B) permit a variety of beneficial uses;
- (15) "sustained yield" means the achievement and maintenance of a high level annual or regular periodic production of various renewable resources of forest land and water without significant impairment of the productivity of the land and water, and requires that timber be harvested in a non-declining yield rotation period; and
- (16) "timber owner" means a person who owns timber or who has the rights to timber, but does not own the land. (AS 41.17.010 ch 108 SLA 1978; am § 88 ch 59 SLA 1982)

Revisor's notes. — In 1983 paragraphs (12) — (16) were reorganized to place the terms defined in alphabetical order.

Effect of amendments. — The 1982 amendment substituted "forest, land, and water" for "forest, land, and water" in paragraph (5).

NOTES TO DECISIONS

The "sustained yield principle" as used in Alaska Const. art. VIII, § 4 accords with the definition set forth in AS 38.04.910(10), and the added language in the definition of "sustained yield" in this section that it "does not require that timber be harvested in a nondeclining yield basis over a rotation period" should be read as permitting the level that cannot be sustained over a rotation period only in instances. *Southeast Alaska Council, Inc. v. State*, 585 P.2d 2662 (File No. 6855).

Chapter 20. Parks and Recreational Fa

[Renumbered as AS 41.21.010 — 41.21.990]

Chapter 21. Parks and Recreational Fa

Article

- 1 Administration (§§ 41.21.010 — 41.21.040)
- 2 State Parks (§§ 41.21.110 — 41.21.167)
- 3 Alaska Marine Parks (§§ 41.21.300 — 41.21.306)
- 4 State Recreation Areas (§§ 41.21.410 — 41.21.490)
- 5 Wildlife Preserves (§§ 41.21.610 — 41.21.630)
- 6 Roadside Rests, Beaches (§§ 41.21.800 — 41.21.805)

- Sec. 500. Existing rights-of-way.
- Sec. 510. Effect on other laws.
- Sec. 511. Coordination of applications.

TITLE VI—DESIGNATED MANAGEMENT AREAS

- Sec. 601. California desert conservation area.
- Sec. 602. King range.
- Sec. 603. Bureau of land management wilderness study.

TITLE VII—EFFECT ON EXISTING RIGHTS: REPEAL OF EXISTING LAWS; SEVERABILITY

- Sec. 701. Effect on existing rights.
- Sec. 702. Repeal of laws relating to homesteading and small tracts.
- Sec. 703. Repeal of laws related to disposals.
- Sec. 704. Repeal of withdrawal laws.
- Sec. 705. Repeal of laws relating to administration of public lands.
- Sec. 706. Repeal of laws relating to rights-of-way.
- Sec. 707. Severability.

TITLE I—SHORT TITLE, DECLARATION OF POLICY, AND DEFINITIONS

SHORT TITLE

01 SEC. 101. This Act may be cited as the "Federal Land Policy and Management Act of 1976".

DECLARATION OF POLICY

01 SEC. 102. (a) The Congress declares that it is the policy of the United States that—

(1) the public lands be retained in Federal ownership, unless as a result of the land use planning procedure provided for in this Act, it is determined that disposal of a particular parcel will serve the national interest;

(2) the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts;

(3) public lands not previously designated for any specific use and all existing classifications of public lands that were effected by executive action or statute before the date of enactment of this Act be reviewed in accordance with the provisions of this Act;

(4) the Congress exercise its constitutional authority to withdraw or otherwise designate or dedicate Federal lands for specified purposes and that Congress delineate the extent to which the Executive may withdraw lands without legislative action;

(5) in administering public land statutes and exercising discretionary authority granted by them, the Secretary be required to establish comprehensive rules and regulations after considering the views of the general public; and to structure adjudication procedures to assure adequate third party participation, objective administrative review of initial decisions, and expeditious decisionmaking;

(6) judicial review of public land adjudication decisions be provided by law;

(7) goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis

of multiple use and sustained yield unless otherwise specified by law;

(8) the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use;

(9) the United States receive fair market value of the use of the public lands and their resources unless otherwise provided for by statute;

(10) uniform procedures for any disposal of public land, acquisition of non-Federal land for public purposes, and the exchange of such lands be established by statute, requiring each disposal, acquisition, and exchange to be consistent with the prescribed mission of the department or agency involved, and reserving to the Congress review of disposals in excess of a specified acreage;

(11) regulations and plans for the protection of public land areas of critical environmental concern be promptly developed;

(12) the public lands be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands including implementation of the Mining and Minerals Policy Act of 1970 (84 Stat. 1876, 30 U.S.C. 21a) as it pertains to the public lands; and

(13) the Federal Government should, on a basis equitable to both the Federal and local taxpayer, provide for payments to compensate States and local governments for burdens created as a result of the immunity of Federal lands from State and local taxation.

(b) The policies of this Act shall become effective only as specific statutory authority for their implementation is enacted by this Act or by subsequent legislation and shall then be construed as supplemental to and not in derogation of the purposes for which public lands are administered under other provisions of law.

DEFINITIONS

SEC. 103. Without altering in any way the meaning of the following terms as used in any other statute, whether or not such statute is referred to in, or amended by, this Act, as used in this Act—

(a) The term "areas of critical environmental concern" means areas within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.

(b) The term "holder" means any State or local governmental entity, individual, partnership, corporation, association, or other business entity receiving or using a right-of-way under title V of this Act.

(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.

(d) The term "public involvement" means the opportunity for participation by affected citizens in rulemaking, decisionmaking, and planning with respect to the public lands, including public meetings or hearings held at locations near the affected lands, or advisory mechanisms, or such other procedures as may be necessary to provide public comment in a particular instance.

(e) The term "public lands" means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except—

(1) lands located on the Outer Continental Shelf; and

(2) lands held for the benefit of Indians, Aleuts, and Eskimos.

(f) The term "right-of-way" includes an easement, lease, permit, or license to occupy, use, or traverse public lands granted for the purpose listed in title V of this Act.

(g) The term "Secretary", unless specifically designated otherwise, means the Secretary of the Interior.

(h) The term "sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use.

(i) The term "wilderness" as used in section 603 shall have the same meaning as it does in section 2(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131-1136).

(j) The term "withdrawal" means withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land, other than "property" governed by the Federal Property and Administrative Services Act, as amended (40 U.S.C. 472) from one department, bureau or agency to another department, bureau or agency.

(k) An "allotment management plan" means a document prepared in consultation with the lessees or permittees involved, which applies to livestock operations on the public lands or on lands within National Forests in the eleven contiguous Western States and which:

(1) prescribes the manner in, and extent to, which livestock operations will be conducted in order to meet the multiple-use, sustained-yield, economic and other needs and objectives as determined for the lands by the Secretary concerned; and

(2) describes the type, location, ownership, and general specifications for the range improvements to be installed and maintained on the lands to meet the livestock grazing and other objectives of land management; and

Post, p. 2776.

Post, p. 2785.

(3) contains such other provisions relating to livestock grazing and other objectives found by the Secretary concerned to be consistent with the provisions of this Act and other applicable law.

(i) The term "principal or major uses" includes, and is limited to, domestic livestock grazing, fish and wildlife development and utilization, mineral exploration and production, rights-of-way, outdoor recreation, and timber production.

(m) The term "department" means a unit of the executive branch of the Federal Government which is headed by a member of the President's Cabinet and the term "agency" means a unit of the executive branch of the Federal Government which is not under the jurisdiction of a head of a department.

(n) The term "Bureau" means the Bureau of Land Management.

(o) The term "eleven contiguous Western States" means the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

(p) The term "grazing permit and lease" means any document authorizing use of public lands or lands in National Forests in the eleven contiguous western States for the purpose of grazing domestic livestock.

TITLE II—LAND USE PLANNING; LAND ACQUISITION AND DISPOSITION

INVENTORY AND IDENTIFICATION

SEC. 201. (a) The Secretary shall prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values (including, but not limited to, outdoor recreation and scenic values), giving priority to areas of critical environmental concern. This inventory shall be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values. The preparation and maintenance of such inventory or the identification of such areas shall not, of itself, change or prevent change of the management or use of public lands.

(b) As funds and manpower are made available, the Secretary shall ascertain the boundaries of the public lands; provide means of public identification thereof including, where appropriate, signs and maps; and provide State and local governments with data from the inventory for the purpose of planning and regulating the uses of non-Federal lands in proximity of such public lands.

43 US

LAND USE PLANNING

SEC. 202. (a) The Secretary shall, with public involvement and consistent with the terms and conditions of this Act, develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands. Land use plans shall be developed for the public lands regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses.

(b) In the development and revision of land use plans, the Secretary of Agriculture shall coordinate land use plans for lands in the National Forest System with the land use planning and management programs of and for Indian tribes by, among other things, considering the policies of approved tribal land resource management programs.

43 US

Public Law 86-517

AN ACT

To authorize and direct that the national forests be managed under principles of multiple use and to produce a sustained yield of products and services, and for other purposes.

June 12, 1960
[H. R. 10572]

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. 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 forest lands or to affect the use or administration of Federal lands not within national forests.

National forests.
Management.

30 Stat. 34.

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.

Multiple use;
sustained yield.

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.

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.

Definitions.

(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.

Approved June 12, 1960.

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Appendix 1

*From Guidelines of Land Use Planning
Ontario (Canada) Ministry of Natural Resources
1980*

Terminology

AMENITY	A pleasant feature; something that makes life easier and more pleasant or interesting. This term is used in planning to indicate the features or developments whose benefits are difficult to quantify in economic terms.
BENEFIT	Anything for the good of a person or thing. Common measures of benefits are jobs, dollars earned and user days of recreation.
CAPABILITY	The natural ability of an area to provide continuous opportunity for benefits under an assumed level of management.
CAPACITY	The upper limit to which an area of land, or water, may be used or developed without an undesirable change taking place in the environment. Also called carrying capacity.
COMPATIBILITY AND CONFLICT	When two uses can occur on the same general area at the same time they are said to be compatible uses. When uses cannot occur together they are said to be in conflict. Example of uses that could be compatible are forestry and upland wildlife production. Uses in conflict are forestry and wilderness preservation.
COSTS	The financial implications of a proposal, the price paid in dollars.
ENVIRONMENT	All of the natural and man made systems, conditions and commodities of a planning area.
LAND USE	The human use of the planning area. This may vary from very intensive use in urban areas to very extensive use in wildland areas.

LAND USE PLAN A Ministry of Natural Resources land use plan is a document which indicates how the Ministry plans to use Crown land and how the Ministry intends to influence the use of private land in order to achieve its objectives.

MANAGEMENT The judicious use of means to achieve ends. Management may have various levels of intensity. If a high degree of technology is used or if very careful tending is given, the management is high level. Where haphazard care is given with little attention to detail, the level of management is low.

MULTIPLE USE A resource management or planning concept applied to very large areas to indicate that all basic uses are accommodated. This may include single use areas which are necessary to achieve certain objectives. The concept of multiple use should be applied to a whole planning area rather than to any particular part of it.

PLANNING AREA The area for which a planning process is done and for which a land use plan is made.

PUBLIC PARTICIPATION The citizens concerned with the planning area take part in the planning process rather than react to decisions made.

OBJECTIVE A quantifiable end result to be achieved.

POLICY The decision concerning the objectives to be achieved and the means of achieving them. For land use planning we are mainly concerned with the objectives and targets.

RESOURCE Any commodity that meets a need.

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another. For example, the area described by the boundaries of a particular vegetation type may be split by soil or ownership boundaries. Therefore, the boundaries must be generalized. The aim of this process is to retain the important characteristics of the units without allowing them to proliferate until they become impractical to use. This is where the artistry comes in.

There is no simple method for designing these generalized units. The greatest aids in doing so will be knowledge of both the physical characteristics and the land use issues for the region. In areas where there is no conflict, the units can be relatively large and variable. In the Alaska Range portion of the Susitna Plan, for example, some units exceed 100,000 acres in size. In the Bristol Bay plan, some units were larger than a million acres. In areas where the issues, ownership, or distribution of resources is more complex, units will have to be smaller to allow adequate flexibility in designing alternatives. Some units in the Petersville Road area were less than 20 acres in size.

There is some disagreement as to whether analysis units should be purely biological-physical units or whether they should include political and social considerations such as current land use and land status. In ADNR's area plans it was found impractical to ignore these concerns. These factors greatly influence land management, and in order for the alternatives to reflect the issues, they must be incorporated in the units. There is no advantage to keeping status boundaries out of the analysis units when they will certainly show up in the alternatives--it will just result in subdivision of the units. The necessity of ensuring that the analysis units can be used to express the eventual land use designations combined with the need to limit the total number of units used makes it essential to include more than biological and physical data in their design.

2. Application of land management prescriptions

To build the regionwide alternatives, one or more management prescriptions are applied to each unit in keeping with the alternative's theme. These prescriptions may be designations of primary and secondary land uses, management guidelines, and/or levels of intensity of use.

In the past, ADNR plans have used primary and secondary land use designations that parallel the state land classification system. The U.S. Forest Service and U.S. Fish and Wildlife Service use intensity levels instead. In the Kenai N.W.R. Plan, for example, levels of use ranged from "intensive use" to "wilderness management". These levels apply to all types of resource use rather than placing a priority on development of a particular resource or group of resources.

ADNR'S designation system sometimes has led to confusion over how primary and secondary uses are differentiated and managed, whether or not retention lands are under multiple use management, whether uses that are not specifically listed are permitted, and how primary surface designations affect mineral entry. On the other

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hand, the current system has several benefits. First, the connection between the designations and the required implementation task of classifying the land is clear. Second, the primary and secondary designations convey a lot of information about the relative importance of different uses. Finally, the level of intensity system is difficult to apply where there are often many co-equal resource values. For example, the levels of intensity may translate directly to the proportion of timber harvested on the National Forests, but they may not clearly describe more complex combinations of many uses that receive approximately equal emphasis on most state lands.

In general, it is desirable to retain the primary/secondary use designation system for the area plans. However, the problems with the system noted above must be addressed through other means, e.g., better explanation of secondary uses, changes in map keys to clarify the intent to manage most lands for multiple use, and changes in designation maps and charts to clarify the connection between surface and subsurface designations. In tideland areas, and in areas where there already are clear designations, for example, for management plans within existing area plans, an "intensity of use" system merits further consideration. As described by the USFS, the application of management prescriptions is simply a matter of selecting the most appropriate designation(s) from a finite list of possibilities, such as one of four or five possible timber harvesting levels. However, it is desirable to tailor prescriptions to individual units when it will result in more appropriate management. Within the bounds of "realism" described in 3. above, the creativity of the planning team should be the only limitation on the realm of possible solutions offered in the alternatives.

In order to ensure that agency expertise is applied to developing optimal alternatives, planning team members should help design the portions of the alternatives that coincide with their agency objectives. Each team member should write a brief description of the best possible way to allocate and manage the type of lands they are concerned with in order to implement the theme of the alternative. For example, the representative from DOPOR should outline systems of recreation lands to complement the themes. These descriptions should provide a long-term vision of land management that provides an optimum mix of uses rather than simply maximizing production or use of any single resource. For example, an alternative whose theme is the creation of opportunities for private ownership and development of land might best be met by including areas of open space near communities and keeping some valuable lands in contiguous publicly-owned tracts to help provide jobs, rather than simply offering all lands for sale. Conversely, an alternative emphasizing forest development might include areas for communities to house people working on timberlands. Planning team members may want to write a background paper describing their own ideal alternative prior to beginning the alternative development process. This will help to identify agency concerns that should be addressed in the issues and alternatives.

A last note is that alternatives will not describe every land management detail. They will be simpler than a full plan because they are intended to be discussion and education tools rather than final products. They should outline the responses to the list of planning questions and then give a sufficient description of the general management direction to allow people to understand the likely outcome of implementing each alternative and to respond to the alternatives intelligently. The analysis of the alternatives and the public and agency response to them will form the basis for developing the draft and final plans.

E. Estimate effects of alternatives

In order to proceed from a group of alternatives to a preferred alternative or draft plan, each alternative must first be examined to predict the likely outcome of its implementation. The product of this step is a list of attributes for comparing the alternatives to each other.

Where possible, results are described in quantitative terms that show the amount an alternative will contribute to meeting specific objectives. These objectives come from the original goals and objectives defined for the plan (see section ____). The original objectives thus become criteria for evaluating the alternatives. For example, if a goal is to increase per capita income by diversifying the regional economy, and an associated objective is to provide a sustained yield of X mmbf of sawtimber, the analysis of the alternatives should include an estimate of the annual yield of sawtimber that would be produced under each alternative.

The goals and objectives or the planning questions also may include factors that cannot be quantified accurately. An objective of some state plans may be to allow for a diversity of lifestyles or to protect a particular lifestyle. While some portions of lifestyle issues are quantifiable--e.g., adequate supplies of fuelwood--others are better described in qualitative or relative terms. The brochures for the Tanana and Susitna plan alternatives have some examples of this type of analysis. The American Planning Association's booklet Evaluating Alternative Plans also discusses ways of estimating effects.

The final stage in estimating effects is displaying them for public and agency review. It is desirable to prepare a brochure/booklet that shows the alternative themes, management prescriptions--mapped designations where appropriate and a description of major policies, estimates of effects (quantitative and qualitative), and responses to planning questions. Examples of how this can be done are found in the USFS Chugach National Forest Final EIS, the Kenai N.W.R. Plan (USFWS), the Susitna and Tanana Plan alternative brochures, the Bristol Bay EIS, and the American Planning Association booklet Evaluating Alternative Plans. Such a brochure is in addition to the full-length description of the alternatives and their evaluation.

F. Evaluate alternatives relative to each other

Step E describes the way in which the outcome of each alternative is predicted. Step F describes the comparison of the different outcomes to each other. Once the effects of the alternatives have been

visions of this section are applicable shall be entitled to any administrative review other than that provided in this section or to appeal under provisions of Parts 1840 and 1850 of this chapter.

150.6 Effect of final order.

(a) A final order of the Secretary shall continue in full force and effect as long as the lands remain subject to classification under the authorities listed in Subpart 2400 until an authorized officer revokes or modifies it. Until it is so revoked or modified, all applications and petition-applications for the lands not consistent with the classification of the lands will not be allowed. Any payments submitted herewith will be returned. If the order is revoked or modified, the land shall be opened to entry on an equal-opportunity basis after public notice in accordance with applicable regulations or the purpose for which it may be classified.

(b) Nothing in this section, however, shall prevent the Secretary of the Interior, personally and not through a delegate, from vacating or modifying a final order of the Secretary. In the event that the Secretary vacates or modifies a final order within sixty days of the date it became final, any preference right of a petitioner-applicant will be restored.

§ 2450.7 Right to occupy or settle.

The filing of a petition-application gives no right to occupy or settle upon the land. A person shall be entitled to the possession and use of land only after his entry, selection, or location has been allowed, or a lease has been issued. Settlement on the land prior to that time constitutes a trespass.

§ 2450.8 Preference right of petitioner-applicant.

Where public land is classified for entry under section 7 of the Taylor Grazing Act or under the Small Tract Act pursuant to a petition-application filed under this part, the petitioner-applicant is entitled to a preference right of entry, if qualified. If, however, it should be necessary thereafter for any reason to reject the application of the preference right claimant, the

next petitioner-applicant in order of filing shall succeed to the preference right. If there is no other petitioner-applicant the land may be opened to application by all qualified individuals on an equal-opportunity basis after public notice or the classification may be revoked by the authorized officer.

PART 2460—BUREAU INITIATED CLASSIFICATION SYSTEM

Subpart 2461—Multiple-Use Classification Procedures

Sec.

- 2461.0-1 Purpose.
- 2461.1 Proposed classifications.
- 2461.2 Classifications.
- 2461.3 Administrative review.
- 2461.4 Changing classifications.
- 2461.5 Segregative effect.

Subpart 2462—Disposal Classification Procedure—Over 2,560 Acres

- 2462.0-3 Authority.
- 2462.1 Publication of notice of, and public hearings on, proposed classification.
- 2462.2 Publication of notice of classification.
- 2462.3 Administrative review.
- 2462.4 Segregative effect of publication.

Subpart 2461—Multiple-Use Classification Procedures

SOURCE: 35 FR 9564, June 13, 1970, unless otherwise noted.

§ 2461.0-1 Purpose.

Formal action to classify land for retention for multiple use management will be governed by the following procedures

§ 2461.1 Proposed classifications.

(a) Proposed classifications will be clearly set forth on a map by the authorized officer, and on the Land Office records.

(1) Notice of proposed classifications involving more than 2,560 acres will be, and those involving 2,560 acres or less may be, published in the FEDERAL REGISTER and an announcement in a newspaper having general circulation in the area or areas in the vicinity of the affected lands.

(2) Notice of the proposals will be sent to authorized users, licensees, lessees, and permittees, or their selected representatives, the head of the governing body of the political subdivision of the State, if any, having jurisdiction over zoning in the geographic area in which the lands are located, the governor of that State, the BLM multiple use advisory board in that State, and the District advisory board and to any other parties indicating interest in such classifications.

(3) The notice will indicate where and when the map and Land Office records may be examined. The notice will specify the general location of the lands, the acreage involved, and the extent to which the land is proposed to be segregated from settlement, location, sale, selection, entry, lease, or other form of disposal under the public land laws, including the mining and mineral leasing laws. The notice of proposed classification will specify the period during which comments will be received, which will not be less than 60 days from date of publication of the notice.

(4) The authorized officer will hold a public hearing on the proposal if (i) the proposed classification will affect more than 25,000 acres or (ii) he determines that sufficient public interest exists to warrant the time and expense of a hearing.

§ 2461.2 Classifications.

Not less than 60 days after publication of the proposed classification, a classification will be made by the authorized officer, and a notice of classification published in the FEDERAL REGISTER and recorded in the Land Office records and on a map which will be filed in the local BLM District Office. Such map will be available for public inspection.

§ 2461.3 Administrative review.

For a period of 30 days after publication of the classification in the FEDERAL REGISTER, the classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior.

§ 2461.4 Changing classifications.

Classifications may be changed, using the procedures specified in this subpart.

§ 2461.5 Segregative effect.

Segregative effect of classifications and proposed classifications:

(a) Publication in the FEDERAL REGISTER of a notice of proposed classification pursuant to § 2461.1(a) or of a notice of classification pursuant to § 2461.2 will segregate the affected land to the extent indicated in the notice.

(b) The segregative effect of a proposed classification will terminate in one of the following ways:

(1) Classification of the lands within 2 years of publication of the notice of proposed classification in the FEDERAL REGISTER;

(2) Publication in the FEDERAL REGISTER of a notice of termination of the proposed classification;

(3) An Act of Congress;

(4) Expiration of a 2-year period from the date of publication of the notice of proposed classification without continuance as prescribed by the Classification and Multiple Use Act, or expiration of an additional period, not exceeding 2 years, if the required notice of proposed continuance is given.

(c) The segregative effect of a classification for retention will terminate in one of the following ways:

(1) Reclassification of the lands for some form of disposal;

(2) Publication in the FEDERAL REGISTER of a notice of termination of the classification;

(3) An Act of Congress;

(4) Expiration of the classification.

Subpart 2462—Disposal Classification Procedure—Over 2,560 Acres

SOURCE: 35 FR 9564, June 13, 1970, unless otherwise noted.

§ 2462.0-3 Authority.

Section 2 of the Classification and Multiple Use Act of September 19, 1954 (73 Stat. 936, 43 U.S.C. 1412), requires the Secretary of the Interior to take certain actions when he proposes

classification for sale or other disposal under any statute of a tract of land in excess of 2,500 acres.

262.1 Publication of notice of, and public hearings on, proposed classification.

The authorized officer shall publish notice of his proposed classification

in the FEDERAL REGISTER and an announcement in a newspaper having general circulation in the area or areas in the vicinity of the affected land. The notice shall include the legal description of the affected land, the laws under which the lands would be disposed of together with such other information as the authorized officer deems pertinent. Copies of the notice will be sent to the head of the governing body of the political subdivision of the State, if any, having jurisdiction over zoning in the geographical area within which the affected

lands are located, the governor of that State and the BLM multiple use advisory board in that State, the land-use planning officer and land-use planning committees, if any, of the county, in which the affected lands are located, the authorized user or users of the lands or their selected representatives, all petitioner-applicants involved, and any other party the authorized officer determines to have an interest in the proper use of the lands. The authorized officer will hold a public hearing on the proposal if (a) the proposed classification will affect more than 25,000 acres or (b) he determines that sufficient public interest exists to warrant the time and expense of a hearing.

262.2 Publication of notice of classification.

After having considered the comments received as the result of publication, the authorized officer may classify the lands any time after the expiration of 60 days following the publication of the proposed classification in the FEDERAL REGISTER. The authorized officer shall publicize the classification in the same manner as the proposed classification was publicized, indicating in the notice the differences, if any, between the proposed classification and the classification.

262.3 Administrative review.

For a period of 30 days after publication in the FEDERAL REGISTER of a notice of classification for disposal, the classification shall be subject to the exercise of supervisory authority by the Secretary of the Interior for the purpose of administrative review. If, 30 days from date of publication, the Secretary has neither on his own motion, on motion of any protestant or the State Director exercised supervisory authority for review, the classification shall become the final order of the Secretary. The exercise of supervisory authority by the Secretary shall automatically vacate the classification and reinstate the proposed classification together with its segregative effect. In this event the final departmental decision shall be issued by the Secretary and published in the FEDERAL REGISTER.

262.4 Segregative effect of publication.

(a) Publication in the FEDERAL REGISTER of a notice of proposed classification pursuant to § 2462.1 or of a notice of classification pursuant to § 2462.2 will segregate the affected land from all forms of disposal under the public land laws, including the mining laws except the form or forms of disposal for which it is proposed to classify the lands. However, publication will not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral and vegetative resources, other than under the mining laws.

(b) The segregative effect of a proposed classification will terminate in one of the following ways:

(1) Classification of the lands within 2 years of publication of the notice of proposed classification in the FEDERAL REGISTER;

(2) Publication in the FEDERAL REGISTER of a notice of termination of the proposed classification;

(3) An Act of Congress;

(4) Expiration of a 2-year period from the date of publication of the notice of proposed classification without continuance as prescribed by the Classification and Multiple Use Act of September 19, 1964 (78 Stat. 986, 43

U.S.C. 1411-18), or expiration of an additional period, not exceeding 2 years, if the required notice of proposed continuance is given.

(c) The segregative effect of a classification for sale or other disposal will terminate in one of the following ways:

(1) Disposal of the lands;

(2) Publication in the FEDERAL REGISTER of a notice of termination of the classification;

(3) An Act of Congress;

(4) Expiration of 2 years from the date of publication of the proposed classification without disposal of the land and without the notice of proposed continuance as prescribed by the Classification and Multiple Use Act; or

(5) Expiration of an additional period, not exceeding 2 years, if the required notice of proposed continuance is given.

PART 2470—POSTCLASSIFICATION ACTIONS

Subpart 2470—Opening and Allowance

Sec.

2470.1 Opening of lands to disposal.

2470.2 Allowance and entry.

Subpart 2470—Opening and Allowance

2470.1 Opening of lands to disposal.

After lands have been classified for disposal, the authorized officer shall, at the appropriate time, open the lands to those forms of disposal consistent with the classification.

(35 FR 9565 June 13, 1970)

2470.2 Allowance and entry.

(a) After lands are classified pursuant to the regulations of this part, and opened for entry or other disposal, all the laws and regulations governing the particular kind of entry, location, selection, or other disposal must be complied with in order for title to vest or other interests to pass.

(b) After lands are classified for disposal under the regulations of this Subpart, the lands shall be offered for sale or other disposal consistent with

the classification. If a petitioner applicant does not have a preference right under § 2450.9, the lands shall be opened on an equal-opportunity basis.

(35 FR 9565 June 13, 1970)

Group 2500—Disposition; Occupancy and Use

Note: The information collection requirements contained in Parts 2520, 2530, 2540 and 2560 of Group 2500 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004 9094, 1004 1010, 1004 0311, 1004 0023, 1004 0025, 1004 0026, 1004 0029 and 1004 0039. The information is being collected to permit the authorized officer to determine whether certain petitions or applications for use and occupancy of the public lands should be granted. The information will be used to make that determination. A response is required to obtain a benefit.

(48 FR 40889, Sept. 12, 1983)

PART 2510—HOMESTEADS

Subpart 2511—Original Homesteads

Sec.

2511.0-7 Cross references.

2511.0-8 Lands subject to entry.

2511.0-9 Mortgage loans.

2511.1 Applicants.

2511.2 Initiation of claims.

2511.3 Procedures.

2511.3-1 Petitions and applications.

2511.3-2 Showing required of applicant.

2511.3-3 Payments; form of remittance; receipt; notice.

2511.3-4 Fraud.

2511.3-5 Amendments; exercise of equitable powers.

2511.4 Requirements for proof.

2511.4-1 Habitable house.

2511.4-2 Residence.

2511.4-3 Cultivation.

2511.4-4 Agricultural entries of withdrawn coal lands.

2511.4-5 Noncompliance.

2511.5 Rights of widows, heirs, or dependents.

2511.5-1 On death of entryman.

2511.5-2 Heirs of contestants.

Subpart 2512—Additional Entries

2512.1 After proof, on original claim (Act of March 2, 1889).

2512.2 For land contiguous to original entry (Act of April 25, 1904, as amended).

Maske

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

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SENATE BILL NO. 136 (Resources)
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 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:

*conflicts w/ CSSB 196 (Res)
3/17-18 (where land shall be classified acc. to a plan).*

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.

10 * Sec. 3. AS 41.17.950(8) is amended to read:

11 (8) "multiple use" has the meaning given in AS 38.04.910
12 [MEANS

13 (A) THE MANAGEMENT OF ALL THE VARIOUS RESOURCES OF
14 FOREST LAND SO THAT THEY ARE USED IN THE COMBINATION THAT WILL
15 BEST MEET THE NEEDS OF THE CITIZENS OF ALASKA, MAKING THE MOST
16 JUDICIOUS USE OF THE LAND FOR SOME OR ALL OF THESE RESOURCES OR
17 RELATED VALUES, BENEFITS, AND SERVICES OVER AREAS LARGE ENOUGH TO
18 PROVIDE SUFFICIENT LATITUDE FOR PERIODIC ADJUSTMENTS IN USE TO
19 CONFORM TO CHANGING NEEDS AND CONDITIONS;

20 (B) THAT SOME LAND WILL BE USED FOR LESS THAN ALL OF
21 THE RESOURCES; AND

22 (C) HARMONICUS AND COORDINATED MANAGEMENT OF THE
23 VARIOUS RESOURCES, EACH WITH THE OTHER, WITHOUT SIGNIFICANT
24 IMPAIRMENT OF THE PRODUCTIVITY OF THE LAND AND WATER, WITH CON-
25 SIDERATION BEING GIVEN TO THE RELATIVE VALUES OF THE VARIOUS
26 RESOURCES, AND NOT NECESSARILY THE COMBINATION OF USES THAT WILL
27 GIVE THE GREATEST DOLLAR RETURN OR THE GREATEST UNIT OUTPUT];

*falls out
begin.*

*cliff
renewal*

S B

137

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

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JUNEAU, ALASKA 99811
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Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House Resources Standing Committee 3-8-88

FISCAL NOTE

REQUEST: _____

Revision Date: 3/8/88
Title: An act relating to state land withdrawn from mineral location, etc.
Sponsor: Cochill, Faiks, et. al.
Requestor: House Resources

Agency Affected: Natural Resources
BRU: Geological and Geophysical Surveys
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	35	35	35	35	35	35
TRAVEL	5	5	5	5	5	5
CONTRACTUAL	25	25	25	25	25	25
SUPPLIES	5	5	5	5	5	5
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	70	70	70	70	70	70

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	70	70	70	70	70	70
FEDERAL FUNDS						
OTHER						
TOTAL	70	70	70	70	70	70

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) The fiscal consequences of SB 137 are difficult to quantify precisely because the projected offer is directly related to the amount of land withdrawn from mineral entry in any one calendar year and the amount of resource information readily available for each parcel.

Prepared by: Wyatt Gilbert Phone: 465-2520
Division: Geological and Geophysical Surveys Date: 3/8/88

Approved by Commissioner: Jennie Gomb Date: 3-8-88
Agency: Natural Resources

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Senate Bill 137

Bill Analysis

One can give a general estimate needed to track the withdrawals and to carry out a minimum field analysis and sampling program. The projected expenditures for each fiscal year are as follows:

100 - 35.0	6 months' salary and benefits for Geol. IV
200 - 5.0	Travel to withdrawal and field per diem
300 - 25.0	Helicopter expenses (18.0) Geochemical, mineral and petrographic analyses (7.0)
400 -- 5.0	Field supplies and equipment (3.0) Office supplies (2.0)

MEMORANDUM

State of Alaska

DEPARTMENT OF NATURAL RESOURCES - Division of Land & Water Management

TO: Ned Farquhar

DATE: February 9, 1988

Lennie Gorsuch
Lennie Gorsuch
Deputy Commissioner

FILE NO.:

THRU: Jerry Gallagher, Director
Division of Mining
Jerry Gallagher

TELEPHONE NO.: 762-2692

SUBJECT: Review of Mineral Order

FROM: Margaret Hayes
Director

In response to your request for information, we have these comments on the proposal to reexamine existing mineral closing orders (MCO's) to determine if individual closing orders can be removed or adjusted. As we understand it, the study would serve several purposes. It would (1) provide us with an in-house audit of mineral closing orders, (2) verify the legal descriptions, (3) allow the Department to review the original justifications and determine if they are still applicable, (4) remove or adjust MCO's where they no longer apply, and (5) lend credibility to those orders that remain in place as a result of the review.

The review should focus on MCO's that are not scheduled for reexamination. Many MCO's are scheduled for reexamination through DNR plan review.

The cost of this review is estimated as follows:

	<u>DLWM</u>	<u>DOM</u>	
Personal services	21.5*	21.5*	
Travel	0	0	
Contractual (publications cost)	3.0	0	
Commodities	<u>1.0</u>	<u>1.0</u>	
TOTAL	25.5	22.5	(48.0)

*Includes a geologist grade 16 for Division of Mining (part time) and a Natural Resource Officer (part time) for Division of Land and Water Management.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

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

OFFICE OF THE COMMISSIONER

April 13, 1987

The Honorable Jack Coghill
Chairman, Senate Resources Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Coghill:

Subject: CSSB 137, an act relating to state land withdrawn from mineral location or mining.

Position: The Department of Natural Resources recommends passage of CSSB 137, with modification to Section 1(e), page 1, lines 24-26.

Background: CSSB 137 calls for the Commissioner of Natural Resources to provide a report to the Governor and Legislature detailing state land closed to mineral location and mining during the previous calendar year.

Additionally, the bill states that a section closed to mineral location and mining by the Commissioner shall remain closed until the Commissioner issues an order altering its status, or the Legislature disapproves of the closure.

In Section 1(e), lines 24-26, of CSSB 137, the proposed language states that "[a]n act of the legislature disapproving a closure by the commissioner may direct the commissioner on future management of the area involved." Such language appears to pre-empt the authority of the Commissioner of Natural Resources. In the opinion of the Department, a preferable substitute would be as follows: "[a]n act of the legislature disapproving a closure by the commissioner may make recommendations to the commissioner on future management of the area involved."

Section 1(f) of CSSB 137 calls for a mineral assessment report for each area that exceeds 5,120 acres for which a report to the Legislature is prepared.

Senator Coghill

-2-

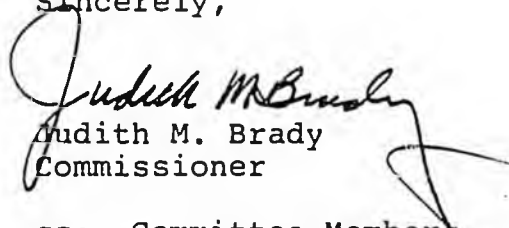
April 13, 1987

Finally, under Section 1(g), the commissioner is required to submit a report, every 10 years, concerning land that is withdrawn from mineral location or mining and may make recommendations regarding existing closures.

Recommendation: With the suggested language change in Section 1(e), the Department of Natural Resources supports CSSB 137 and recommends its passage.

I would be pleased to make my staff available to the committee for additional information or further work with the committee staff.

Sincerely,


Judith M. Brady
Commissioner

cc: Committee Members
Bill Sponsors
George Sullivan
Rod Swope

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____
 Revision Date: 4/13/87
 Title: An act relating to state land withdrawn from mineral location, etc.
 Sponsor: Cochill, Faiks, et al
 Requestor: Senate Resources

Bill Version: SB 137
 Publish Date: _____

Agency Affected: Natural Resources
 BRU: Geological and Geophysical Surveys
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	35	35	35	35	35	35
TRAVEL	5	5	5	5	5	5
CONTRACTUAL	25	25	25	25	25	25
SUPPLIES	5	5	5	5	5	5
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	70	70	70	70	70	70

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	70	70	70	70	70	70
FEDERAL FUNDS						
OTHER						
TOTAL	70	70	70	70	70	70

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The fiscal consequences of SB 137 are difficult to quantify precisely because the projected offer is directly related to the amount of land withdrawn from mineral entry in any one calendar year and the amount of resource information readily available for each parcel.

Prepared by: Wyatt Gilbert Phone: 465-2520
 Division: Geological and Geophysical Surveys Date: 4/13/87

Approved by Commissioner: [Signature] Date: 4/15/87
 Agency: Natural Resources

Distribution (by preparer):

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

AMENDMENT TO CSSB 200(Res)

Delete lines 17-26 and insert:

Sec. 27.09.048. EXTENSION OR MODIFICATION OF LOAN. The department may grant an extension on a loan or may modify the conditions of a loan when the borrower is able to show, to the commissioner's satisfaction, that the borrower has been prevented from mining by circumstances beyond the miner's control, such as a poor mining season or legal injunctions against the federal or state government. An extension or modification may not include any reduction in the amount or rate of interest charged under the loan or a cancellation of interest due under the loan, although payment of the interest and principal of the loan may be extended or postponed beyond the original term of the loan. During the period of any extension, interest may continue to accrue or may be suspended, at the commissioner's discretion.

MCO = classification?
regulation?

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

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 137 (Resources) 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 state land withdrawn from mineral
7 location or mining."

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

9 * Section 1. AS 38.05.185 is amended by adding new subsections to read:

10 (d) The commissioner shall submit a report to the legislature
11 and to the governor within the first 10 days of the convening of each
12 regular session of the legislature detailing the state land closed to
13 mineral location and mining during the previous calendar year. The
14 report shall include

- 15 (1) the known resource values of the area;
16 (2) the reason for the closure;
17 (3) the effective date of the closure; and
18 (4) the legal description of the land involved in the
19 closure.

20 (e) Each area closed under (a) of this section remains closed to
21 mineral location and mining until the commissioner issues an order
22 altering the status of the land or until the closure is disapproved by
23 act of the legislature. In addition to an act of the legislature
24 disapproving a closure by the commissioner, the legislature may by
25 resolution make recommendations to the commissioner on future manage-
26 ment of the area involved.

27 (f) Each report prepared under (d) of this section that reports
28 on an area of more than 5,120 acres shall include a mineral assessment
29 report for the area.

1 (g) Every 10 years, the commissioner shall submit a report to
2 the governor and the legislature concerning state land that is at that
3 time withdrawn from mineral location or mining, including state land
4 withdrawn from multiple use by the legislature. The commissioner may
5 make recommendations in each report regarding existing closures of
6 state land.

7 * Sec. 2. Notwithstanding AS 38.05.185(g), as enacted by sec. 1 of this
8 Act, the first report to the governor and legislature shall be delivered to
9 the legislature five years after the effective date of this Act.

S B

159

HOUSE COMMITTEE REPORT

(9)

Date referred: 3/13/87

FURTHER REFERRALS: Finance

DATE: 4/24/87

The Resources Committee has considered SB 159

"An Act amending an appropriation to the Alaska Power Authority for the Bradley Lake Hydroelectric Project; and providing for an effective date."

RECOMMENDS:

- replace with _____ 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 GTE

Mike Yavane

SIGNING OTHER RECOMMENDATIONS:

Herb Smith No rec.

Dick Shultz No Rec

Cliff Davidson no rec

Bill Koonce - do not pass

Jan GTE

Chairman's signature



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

P. O. Box 7, State Capitol
Juneau, Alaska 99811-3100
Mail Stop 3100
(907) 465-3991

March 18, 1987

MEMORANDUM

TO: Representative Sam Cotten

FROM: *Ginny Pay* and *Gretchen Keiser*
Legislative Analysts

RE: Railbelt Energy Analysis
Research Request 87.114

As presented in the House Research Agency Railbelt Energy Analysis outline, this memorandum covers Railbelt energy demand and the Bradley Lake project feasibility analysis. The first section of the memorandum provides information on Railbelt energy demand and utility capacity. This discussion is followed by an examination of the Bradley Lake feasibility analysis prepared by the Division of Policy in the Governor's Office. The final section recalculates Bradley Lake net benefits based on revised projections of Railbelt energy demand and capacity requirements and other assumptions incorporated in the Division of Policy's analysis.

SUMMARY OF FINDINGS

This analysis of Railbelt energy demand is based on an examination of projected peak demand, capacity reserve requirements, capacity retirement schedules, the Alaska Department of Revenue's statewide population forecast, and Public Utility Regulatory Policy Act (PURPA) facilities planned in the Railbelt area.¹ Because of the influence of population on energy demand, there is no basis for forecasting a near-term increase in energy consumption while population in the Railbelt is declining (page 3).

Actual 1986 net generation and peak demand were seven percent less than APA projections. Our forecast, for the years 1987 through 2010, incorporates this initial decline in energy consumption. It

¹Public Utility Regulatory Policy Act (PURPA) electrical power production in this memorandum generally refers to small power production and cogeneration facilities as defined and regulated by Chapter 1 of the Federal Energy Regulatory Commission, PURPA of 1978.

also incorporates further reductions in energy demand as a result of near-term population declines. The APA forecast, prepared in 1985, has not been subsequently adjusted for lower actual use in 1986. The APA forecast for required production capacity overestimated required capacity by 12.1 percent in 1986 and is 33.9 percent above our adjusted forecast by the year 2001 (pages 3-6).

For the Railbelt as a whole, existing electrical production capacity (plus PURPA generators) will satisfy peak and reserve requirements until the year 2000. There will be over 28 percent more capacity than required for reserve margins until 2000 as a result of: 1) past power plant construction based on earlier population growth projections; and 2) lower reserve requirements as a result of integrating stand-alone systems (pages 6-18).

Following revisions to assumptions regarding the costs to complete Bradley Lake and the projected Cook Inlet gas prices and escalation rates, the Division of Policy's analysis concluded that Bradley Lake is still economically feasible and is likely to be less expensive than alternative gas generation over the 50-year period of analysis (pages 18-20).

The division's assumptions regarding gas prices appear to be reasonable. However, we disagree with the division's fundamental assumption regarding future Railbelt energy demand and their conclusion that additional capacity will be needed by 1991. We believe the division's analysis addresses the issue as "which is the less expensive option to construct excess capacity?" instead of "what is the least cost means of meeting projected Railbelt demand for electrical power?" (page 20).

Following revisions to assumptions regarding gas plant fuel efficiencies and cost to complete Bradley Lake, we recalculated the net savings of Bradley Lake under three scenarios. The base case scenario, which assumes (as the Division of Policy did) that new power is needed by 1991, projects Bradley Lake net savings of \$86 million--virtually identical to those projected by the Division of Policy. Our second scenario, which delays Bradley Lake or gas plant construction until power is needed, indicates that Bradley Lake would not be economically feasible if completion of the project were delayed until Railbelt energy demand warranted new capacity in the late 1990s (pages 21-24).

Our third scenario--which compares Bradley Lake if constructed as currently scheduled with a gas plant constructed when power is needed in the late 1990s--projects considerably lower Bradley Lake net savings of \$36 million. The positive net savings indicate that

the project should proceed, although from a public policy perspective, the relatively low net savings increase the risk that in retrospect we will have made a poor decision if forecast gas prices are only slightly lower than assumed (page 23).

The analysis is sensitive to changes in other assumptions to varying degrees. The analysis is most sensitive to assumptions which directly affect annual fuel costs--including the gas turbine fuel efficiency assumption (pages 24-27).

RAILBELT ENERGY DEMAND AND CAPACITY REQUIREMENTS

This analysis of Railbelt energy demand is based on an examination of projected and peak demand, capacity reserve requirements, and retirement schedules that were developed by the Alaska Power Authority (APA). The demand projections and capacity retirement schedules were prepared by the APA based on estimates obtained from Railbelt utilities. In addition, we examined the Department of Revenue's (DOR) historic and forecast population numbers and information from the Alaska Public Utilities Commission (APUC) on Public Utility Regulatory Policy Act (PURPA) facilities planned in the Railbelt region.

Our analysis also looks at electrical energy demand and power plant capacity from a regional rather than individual utility standpoint. This perspective is used because the existing Alaska Inter-tie Agreement and proposed Bradley Lake Project Power Sales Agreement provide an interconnected, organizational framework and facilities for energy planning in the Railbelt as a region as opposed to stand-alone public utilities. Furthermore, the Railbelt Energy Fund is intended to provide energy services to residents of the region rather than to individual utilities in the Railbelt.

Energy Demand

In analyzing Railbelt energy demand, we reviewed historic net generation and the APA's projected demand (Attachment A). These trends were examined in light of historic and projected state population figures (Table 1) and actual 1986 net generation and peak demand (Table 2).² The historic energy generation and population figures, as well as numerous models of energy demand, indicate that population is a primary variable in determining energy demand levels. Because of the influence of population on energy demand, there is no basis for forecasting a near-term increase in energy consumption while population in the Railbelt is declining. We, therefore, adjusted the energy demand forecast to reflect this projected population decline.

²The Alaska Department of Revenue historic and forecasted number of Permanent Fund Dividend check recipients is used as a proxy for state population trends.

TABLE 1
ALASKA STATE POPULATION* 1981 - 1999

YEAR	DIVIDEND RECIPIENTS (in thousands)
1981	430.1
1982	478.8
1983	486.8
1984	483.1
1985	520.9
1986	530.8
1987	527.2
1988	525.8
1989	528.1
1990	530.3
1991	532.5
1992	534.6
1993	536.8
1994	538.9
1995	541.1
1996	543.3
1997	545.5
1998	547.8
1999	549.9

* Based on the number of Permanent Fund
dividend check recipients.

Source: Alaska Department of Revenue,
March 1987.

Prepared by the House Research Agency,
March 1987 (POP; 861217-29).

Actual 1986 net generation and peak demand were seven percent below APA projections. We substituted actual 1986 energy usage for the APA forecast in Table 2. In subsequent years, population projections were used as an indicator of the direction and magnitude of changes in energy demand.³ The Department of Revenue forecasts a decline in population between 1986 and 1989; the Alaska population is not expected to return to 1986 levels until approximately 1991.⁴ Based on this forecast, Table 2 shows a similar decline in Railbelt energy demand for the year 1987 through 1989.

Beginning in 1990, demand increases proportionally to the slight 0.5 percent annual increase in population until the year 2000. This projection closely coincides with Chugach Electric Association's revised demand forecast of 0.55 percent annual growth as presented in the Division of Policy's feasibility analysis. Projected electrical energy demand for the years 1991 through 2010 is based on a 0.5 percent compounded growth rate.

Utility Capacity and Retirement Schedules

Information on current Railbelt standing capacity and retirement is presented in Tables 3 - 5 for the subregions of Anchorage, the Kenai Peninsula, and Fairbanks. These tables are identical to those prepared by the APA with the exception of the addition of three PURPA power plants planned in the Anchorage area and one PURPA power plant planned in the Fairbanks area. Plant retirement schedules have not been altered because the utilities believe these November 1985 Susitna hydroelectric project retirement projections continue to be valid.⁵

The utilities' retirement schedule of installed capacity is referred to as conditional retirement. It is the anticipated date that generating turbines require replacement or rebuilding. Conditional retirement is influenced by both physical and economic factors. Physical factors include the level of facility usage and the consequent "wearing out" of equipment. Because it is possible to completely or partially rebuild natural gas turbines, their retirement schedules can be incrementally adjusted. These conditional retirement dates can, therefore, be influenced significantly by economic and technological factors such as the price of natural gas and fuel efficiency of equipment.

³Because the majority of the state's population resides in the Railbelt, we believe these statewide numbers are a reliable indicator of changes in the Railbelt population.

⁴The 1986 number is based on the number of residents who claimed a Permanent Fund Dividend check for that year. They could, however, have left the state before the end of calendar year 1986.

⁵Richard Emerman, Economist, Alaska Power Authority, Anchorage, personal communication, March 4, 1987.

TABLE 3
 POWER PRODUCTION CAPACITY AND RETIREMENT IN ANCHORAGE

Unit name	Unit Owner	Principal Fuel	Generating Capacity (MW)	Retirement Date
Eklutna	APAd	Hydro	30.0	----
AML PCT#1	AML P	NG	16.2	1990
AML PCT#2	AML P	NG	16.2	1990
AML PCT#3	AML P	NG	19.9	1991
AML PCT#4	AML P	NG	33.8	1992
AML PCC#56	AML P	NG	47.5	1999
AML PCC#76	AML P	NG	109.3	1999
AML PCT#8	AML P	NG	87.0	2009
BEL CT#1	CEA	NG	16.1	1994
BEL CT#2	CEA	NG	16.1	1994
BEL CT#3	CEA	NG	49.5	1999
BEL CT#4	CEA	NG	10.0	1996
BEL CT#5	CEA	NG	67.3	1999
BEL CC#68	CEA	NG	100.6	2007
BEL CC#78	CEA	NG	100.6	2007
INT CT#1	CEA	NG	14.3	1996
INT CT#2	CEA	NG	14.3	1996
INT CT#3	CEA	NG	19.9	1996
PURPA#1*	MSE	Peat	20.0	2025
PURPA#2*	MSV	WC	20.0	2025
PURPA#3**	SGI	Coal	50.0	2027

* Anticipated start-up date is 1990.

** Anticipated start-up date is 1992.

Legend: APAd= Alaska Power Administration
 AMLP= Anchorage Municipal Light and Power
 CEA= Chugach Electric Association
 MSE= MatSu Energy
 MSV= MatSu Valley
 SGI= SGI, Inc.
 CT= Combustion Turbine
 NG= Natural Gas
 WC= Wood Chips

Source: Alaska Power Authority, February 1987; Alaska Public Utilities Commission, March 1987.

Prepared by the House Research Agency, March 1987 (Anchorage; 861217-29).

TABLE 4
POWER PRODUCTION CAPACITY AND RETIREMENT ON THE KENAI PENINSULA

Unit Name	Unit Owner	Principal Fuel	Generating Capacity (MW)	Retirement Date
BERNCT#1	CEA	NG	8.9	1988
BERNCT#2	CEA	NG	18.4	1997
BERNCT#3	CEA	NG	27.2	2004
BERNCT#4	CEA	NG	27.2	2004
COOPER LAKE	CEA	Hydro	17.4	----
SOLDOTCT#1	AEG&T	NG	38.5	2011
SELDIC#1-4	HEA	OIL	2.1	2000
SEVIC#1-3	SES	OIL	5.5	1995

Legend: CEA= Chugach Electric Association
AEG&T= Alaska Electric Generation and
Transmission Cooperative
HEA= Homer Electric Association
SES= Seward Electric System
CT= Combustion Turbine
NG= Natural Gas
IC= Internal Combustion

Source: Alaska Power Authority, February 1987; Alaska Public Utilities Commission, March 1987.

Prepared by the House Research Agency, March 1987 (Kenai; 861217-29).

TABLE 5
 POWER PRODUCTION CAPACITY AND RETIREMENT IN FAIRBANKS

Unit Name	Unit Owner	Principal Fuel	Generating Capacity (MW)	Retirement Date
CHENST#1	FMUS	Coal	5.1	2000
CHENST#2	FMUS	Coal	2.0	2000
CHENST#3	FMUS	Coal	1.5	2000
CHENCT#4	FMUS	Oil	6.1	1987
CHENST#5	FMUS	Coal	20.0	2005
CHENCT#6	FMUS	Oil	26.1	2006
FMUSIC#1	FMUS	Oil	2.8	1992
FMUSIC#2	FMUS	Oil	2.8	1992
FMUSIC#3	FMUS	Oil	2.8	1992
HEALST#1	GVEA	Coal	25.0	2002
HEALIC#2	GVEA	Oil	2.6	1997
NOPOCT#1	GVEA	Oil	60.9	2006
NOPOCT#2	GVEA	Oil	60.9	2007
ZENCT#1	GVEA	Oil	18.0	2001
ZENCT#2	GVEA	Oil	18.0	2002
DSLIC#1-8	GVEA	Oil	14.7	1996
PURPA#1**	AEM	WC	25.0	2025

*Chena Units #1-4 Not Currently Operating

** Anticipated start-up date is 1990.

Legend: FMUS= Fairbanks Municipal Electric Association
 GVEA= Golden Valley Electric Association
 AEM= AEM, Inc.
 ST= Steam Turbine
 CT= Combustion Turbine
 IC= Internal Combustion
 WC= Waste Coal

Source: Alaska Power Authority, February 1987; Alaska Public Utility Commission, March 1987.

Prepared by the House Research Agency, March 1987 (Fairbanks; 861217-29).

In general, declines in energy demand tend to postpone the retirement of equipment because the facility is used less, thereby decreasing physical wear. In addition, declines in the price of natural gas reduce the overall cost of plant operation which reduces the desirability of capital investments that increase operational efficiency. The reverse would also be true--increased usage accelerates the physical wearing out of equipment and higher fuel costs makes investment in newer, more efficient equipment relatively more cost-effective than the incremental rebuilding of less efficient equipment. Because these retirement schedules are "moving targets", time constraints for this analysis prevent a thorough examination of these schedules.

The Railbelt generating capacity, net of retirement, was altered to include four planned PURPA facilities in the Railbelt area. Three of these plants (PURPA # 1 - 3, Table 3) are to be built in the Anchorage area; the fourth (PURPA # 4, Table 5) is to be built in the Fairbanks area. The APUC currently has dockets open for these facilities which are scheduled to come on line in approximately 1990. At least two of these PURPA facility corporations have entered into power sales discussions with utilities in the Railbelt.⁶ Because of the stage of development of these plants, their estimated 115 megawatts of installed capacity was included in our capacity calculations.⁷

The APA's reserve capacity calculations were also adjusted in our analysis. Reserve capacity in the continental United States is usually set at 15 to 20 percent of peak demand for a totally integrated system (i.e., one which makes possible the sharing of capacity through transmission lines). The contiguous states are also divided into seven reliability councils which provide an organizational structure for the sharing of generating capacity. The ability to share power also allows the sharing of reserve capacity and results in the relatively small percentage of peak demand reserve capacity.

At the opposite end of the reserve capacity spectrum are stand-alone systems, which are common in Alaska. For smaller stand-alone systems such as a one-diesel generator in a rural community, 100 percent backup is not unusual. For larger communities with multiple generators which are not integrated with other power facilities, reserve capacity equal to the capacity of the largest single generator is the general rule. With the development of an integrated system through the construction of interties, the Railbelt has the ability to reduce required reserve capacity.⁸

⁶Michael Travella, Utilities Engineer, Alaska Public Utilities Commission, personal communication, March 6, 1987.

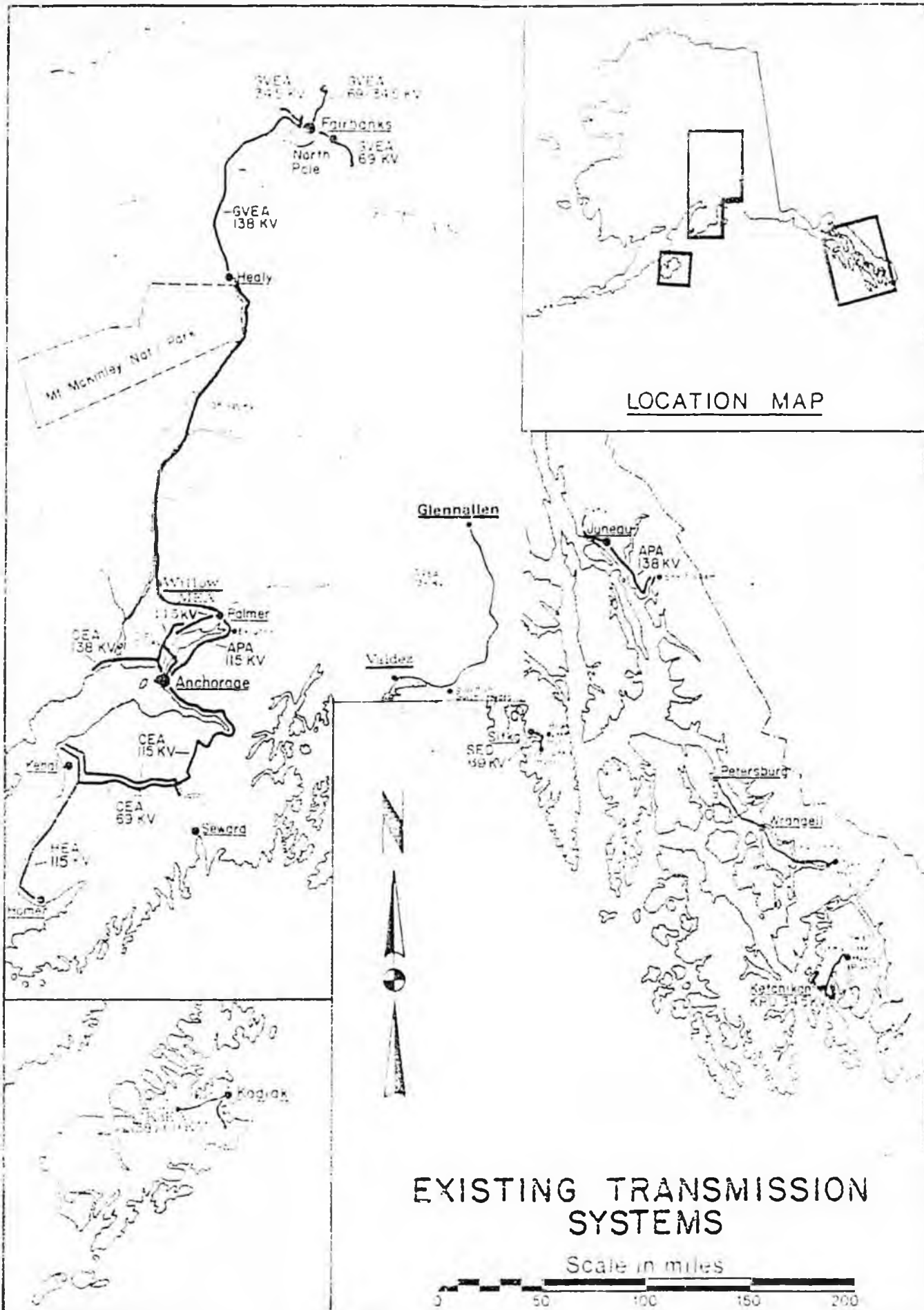
⁷These electrical power generating facilities and the Federal Energy Regulatory Commission, Public Utilities Regulatory Policies Act of 1978 (PURPA) may warrant further analysis, which this agency can conduct upon request.

⁸Michael Travella, Utilities Engineer, Alaska Public Utilities Commission, personal communication, March 10, 1987.

All utilities in the Railbelt are currently connected via an intertie system (Figure 1). Following the completion of the Anchorage-Fairbanks intertie, the Alaska Intertie Agreement was signed in December 1985 by Chugach Electric Association, Alaska Municipal Light and Power, Golden Valley Electric Association, Fairbanks Municipal Utility System, and the Alaska Electrical Generation and Transmission Corporation. In this agreement, each utility agreed to a required 30 percent reserve margin. Based on this intertie agreement, the fact that the Railbelt is now an integrated system, and a comparison with national standards, we believe that a 30 percent reserve capacity margin is a reasonable and conservative reserve capacity margin. This analysis, therefore, uses a 30 percent reserve requirement rather than the 40 percent used by the APA.⁹

⁹Our analysis also calculated required reserve capacity on a subregional basis (i.e., Anchorage, Kenai, and Fairbanks). This implies that utilities in a subregion will share their reserve capacity via the ability to share power over interties. The APA used this same approach in their Railbelt energy requirements forecast (Table A.2, Attachment A).

FIGURE 1



Source: "Alaska Electric Power Statistics, 1960-1984," Alaska Power Authority, 1985.

Sept. 1985

Capacity vs. Demand

Combining our demand forecast with utility capacity and retirement schedules for the Railbelt and for the Anchorage, Kenai Peninsula, and Fairbanks subregions (Figures 2 - 5), the required schedules for additional capacity are apparent. For the Railbelt as a whole, existing capacity (plus planned PURPA generators) satisfies projected peak and reserve demand until the year 2000.¹⁰ Electrical generation capacity exceeds required reserve by more than 28 percent until the year 2000 as a result of: 1) past plant construction based on earlier population growth projections; and 2) lower reserve requirements as a result of integrating stand-alone systems. Similarly for the Anchorage subregion, there is adequate capacity until the year 2000.¹¹ On the Kenai Peninsula, there is sufficient capacity until the year 2005; there is also substantial excess capacity until 1998. In the Fairbanks area, existing capacity can provide energy services until 2007. There will be approximately 65 percent excess capacity (over required reserve) in Fairbanks until 2003.¹²

A comparison of our demand analysis with APA's forecast (Table 2) shows that APA's forecast is 18.6 percent higher in 1988 and diverges to 33.9 percent higher in 2001. These differences occur primarily because the APA 1) does not take into account a decline in population and energy demand from 1986 through 1989 and 2) overestimates reserve capacity requirements. The implication of these results is that 90 megawatts of additional electrical generation capacity are not required in the Railbelt until the late 1990s.

¹⁰Capacity is sufficient to meet projected Railbelt power requirements until 2000 even without the 115 MW expected to be generated by the PURPA power facilities.

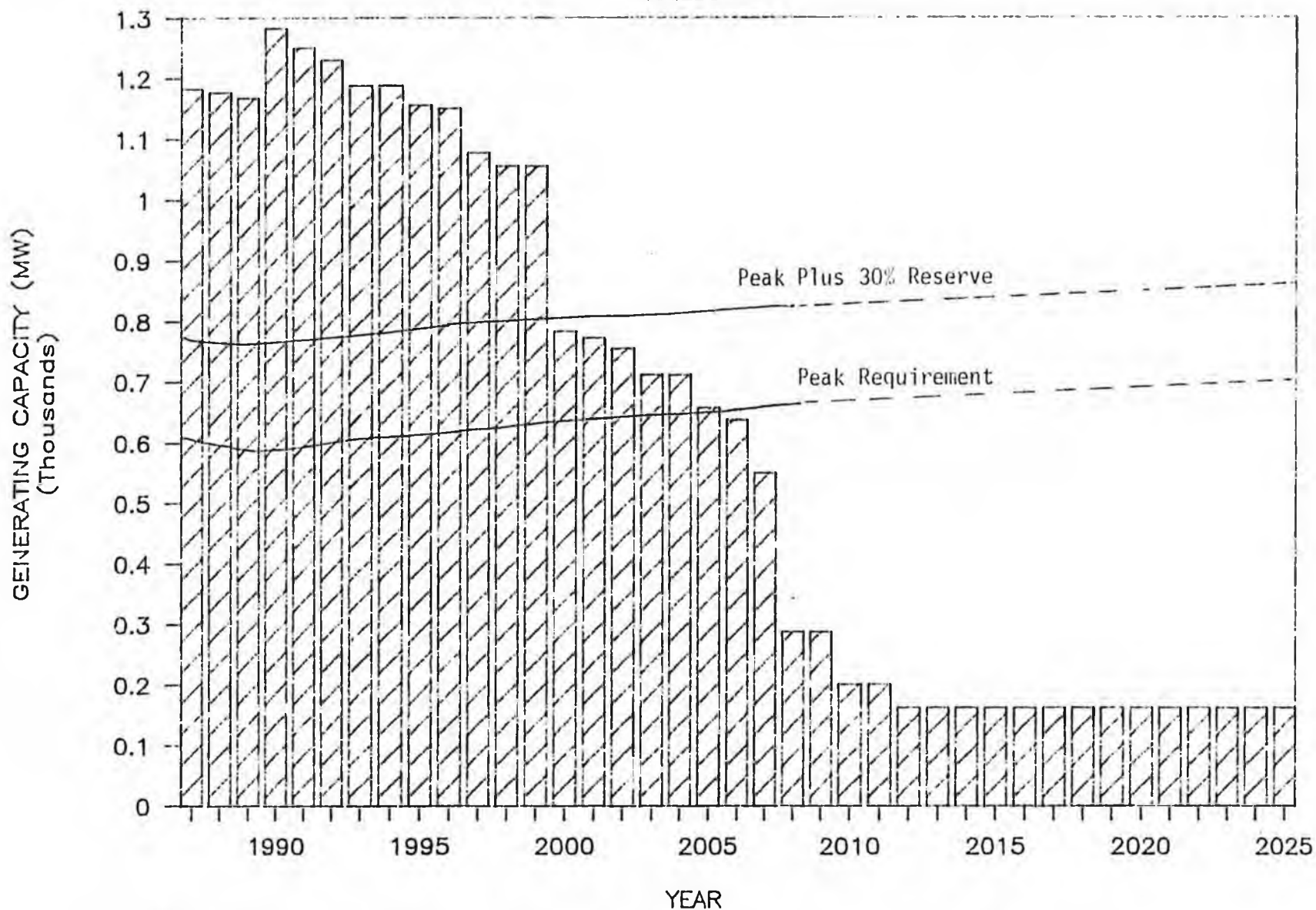
¹¹There is some discrepancy between the retirement dates for the two CEA 100.6 MW gas turbines. The APA schedule their retirement on a 30-year lifespan (2007) while CEA plans retirement in 1997 and 1999. Because of the excess production capacity in Anchorage and the rest of the Railbelt, however, this discrepancy does not alter the year 2000 result. If, however, PURPA power is not included, additional capacity would be required in 1998. In our benefit-cost analysis, we used the year 1998.

¹²Discussions with Chuck Canterbury, Fort Richardson, Public Affairs Office for the Alaska Division (March 11, 1987), indicate that the military has no intention of purchasing power from utilities in Fairbanks. They have purchased a small amount in the past to more conveniently service two buildings. In the past, until the decline in the price of fuel oil, GVEA has purchased military power.

FIGURE 2

GENERATING CAPACITY NET OF RETIREMENT

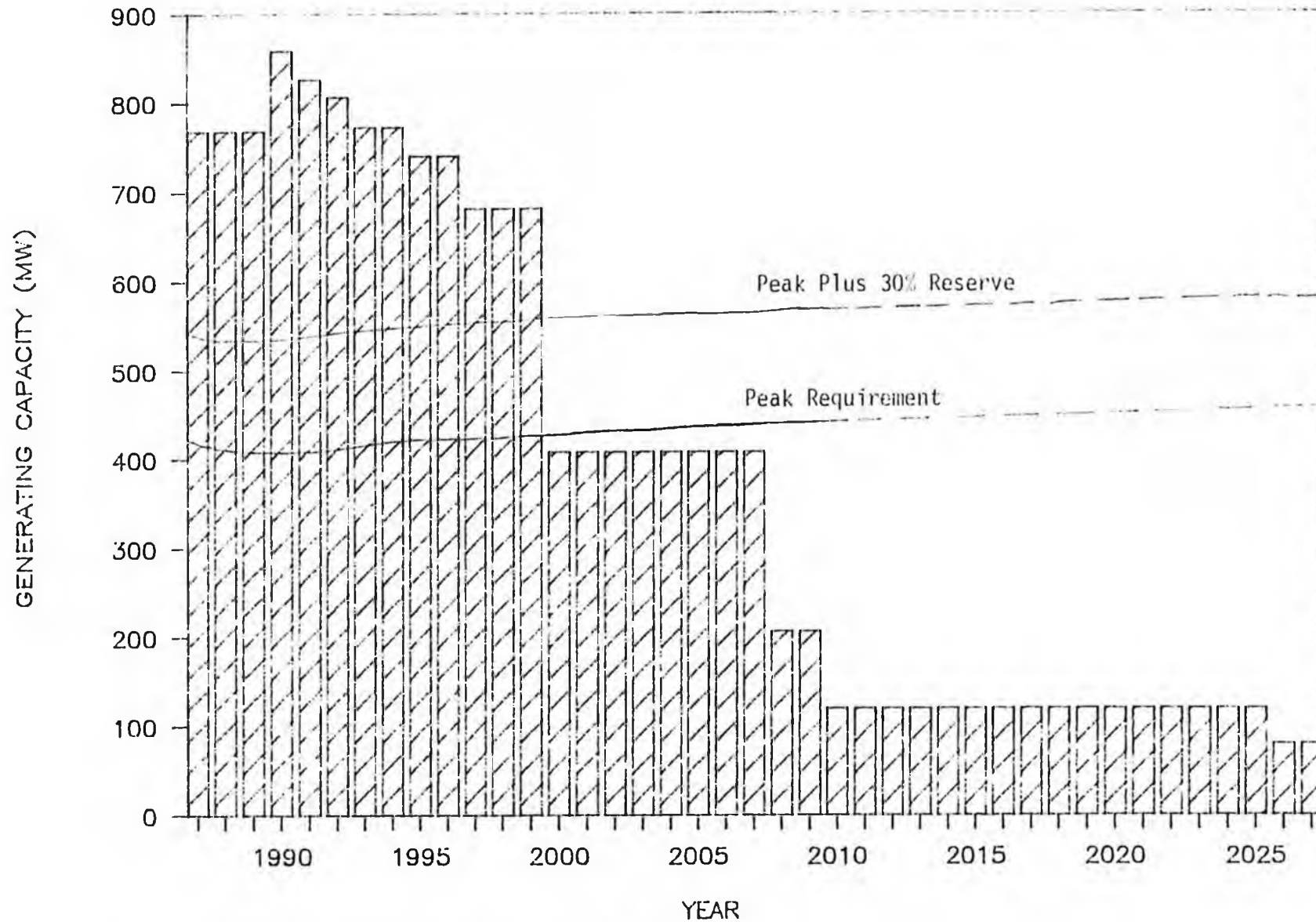
RAILBELT



Prepared by the House Research Agency, March 1987.

FIGURE 3

GENERATING CAPACITY NET OF RETIREMENT ANCHORAGE

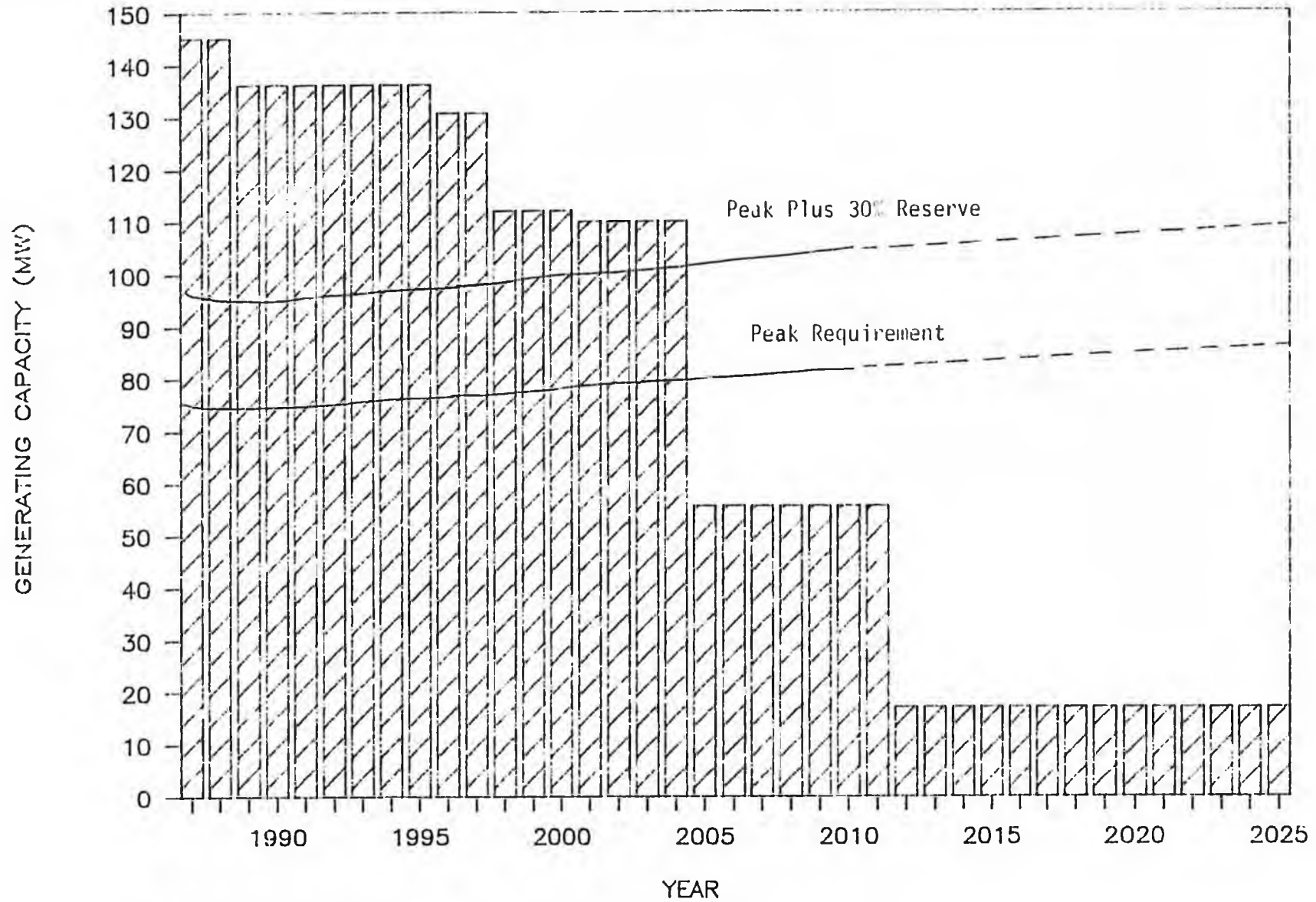


Prepared by the House Research Agency, March 1987

FIGURE 4

GENERATING CAPACITY NET OF RETIREMENT

KENAI

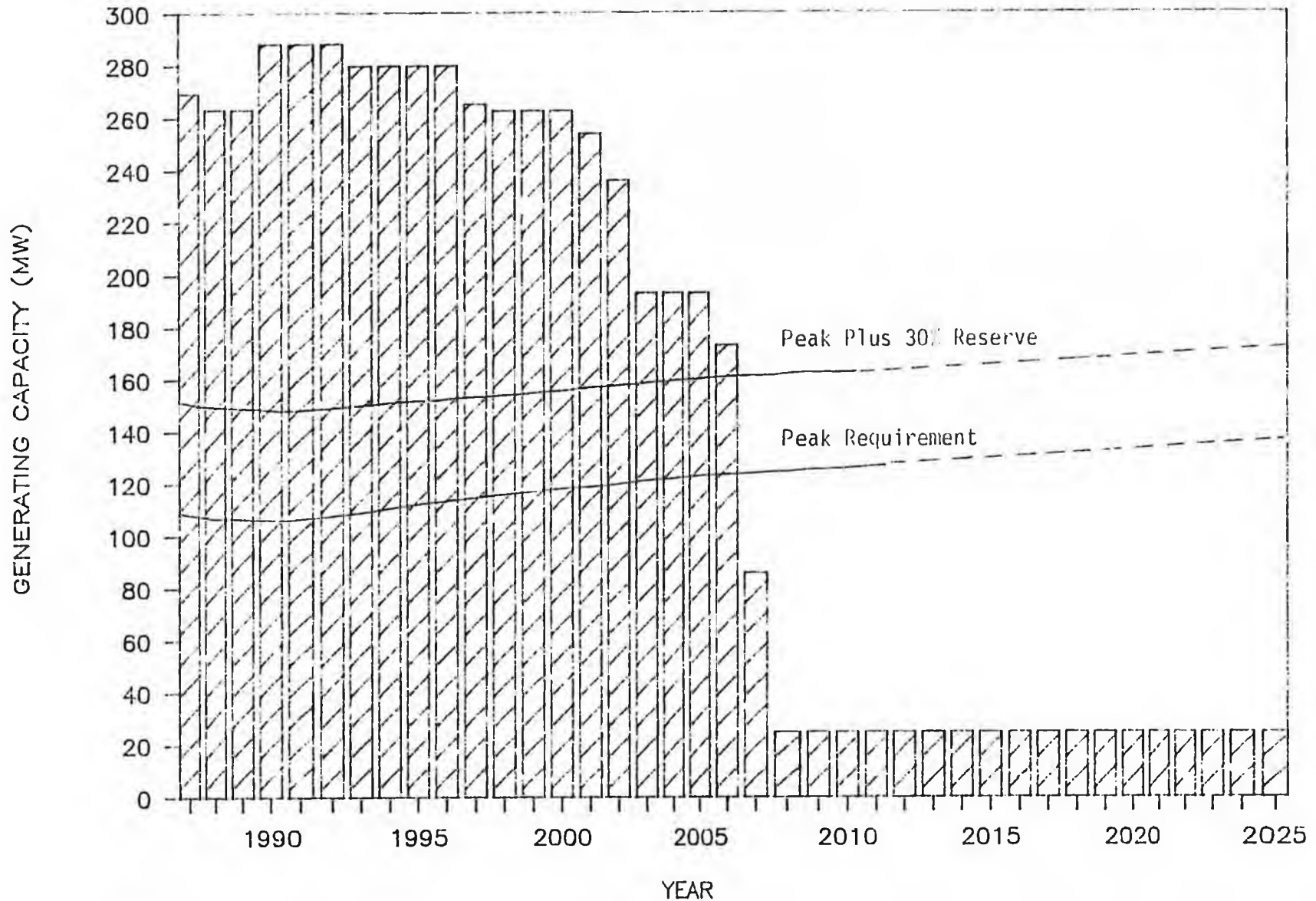


Prepared by the House Research Agency, March 1987.

FIGURE 5

GENERATING CAPACITY NET OF RETIREMENT

FAIRBANKS



Prepared by the House Research Agency, March 1987.

The feasibility analysis of the Division of Policy was based on the assumption that additional increments of generation capacity are necessary in 1991. Our examination of the Bradley Lake project economic feasibility refers to the scenario under this assumption as the "base case." As a result of our energy demand analysis, we also consider two other options as follows: 1) delaying both the Bradley Lake project and the construction of alternative natural gas facilities until they are needed in 1998; and 2) completing the Bradley Lake project as currently scheduled, while delaying gas plant construction until 1998.

Our capacity and demand analysis does not take into account the potential for further energy demand reductions through load management, more efficient use of energy, technological improvements, and energy conservation. It is likely that future capacity construction could be delayed past the year 2000 through improved energy management and utilization. This, however, would be unlikely if the State subsidizes capacity construction because the subsidization of power production and consumption often results in the inappropriate or wasteful use of energy resources.

ECONOMIC FEASIBILITY OF BRADLEY LAKE: THE DIVISION OF POLICY'S ANALYSIS

In this section, we review the February 25, 1987 feasibility analysis prepared by Jack Kreinheder of the Division of Policy (DP) in the Governor's Office. The DP analysis was directed toward the decision of whether to complete the Bradley Lake project at its marginal cost--defined as the total project cost less costs incurred or obligated to date [sunk costs]--or to suspend or abandon the project and pursue gas generation or other alternatives. As indicated by DP, a marginal cost analysis is appropriate at this time because the Bradley Lake sunk costs could not be applied toward gas generation if Bradley were terminated; the gas generation alternative would have to be constructed from scratch.

Simply put, the analysis compares the cost to complete Bradley Lake with the cost of providing the equivalent 90 megawatts of power under a gas generation alternative.¹³ Costs in both cases are presented in 1986 dollars. The analysis assumes that a 90 MW gas turbine alternative would be constructed in 1989 and 1990 if Bradley Lake were not completed. The net benefits of finishing Bradley Lake are expressed as savings in millions of 1986 dollars, once the costs of the gas alternative have been subtracted from the Bradley Lake costs.

¹³-----
The Division of Policy analysis revises an August 1986 Stone and Webster Engineering feasibility prepared for the Alaska Power Authority (APA). The DP incorporated different assumptions for Bradley Lake costs and natural gas prices and calculated net benefits using the APA's model.

The DP concluded that Bradley Lake "is still economically feasible and that completing the project is likely to provide lower long-term power costs than alternative gas generation." However, the projected net benefits of Bradley Lake are much lower than those calculated under earlier analyses, primarily because of the dramatic decline in current and projected Cook Inlet natural gas prices. The key assumptions underlying DP's conclusion are discussed below.

Costs to complete Bradley Lake. The costs of the Bradley Lake project have been adjusted downward to take into account the following:

- sunk costs estimated at roughly \$75 million, including \$45 million already spent on the project and \$30 million as a midpoint estimate of project termination expenses and site restoration costs which would be required by FERC if Bradley Lake were terminated;
- projected savings of \$28 million on the total construction cost due to lower inflation and lower construction costs. The Alaska Power Authority's preliminary revised cost estimate for Bradley Lake is \$328 million, compared with the original 1983 estimate of \$356 million; and
- estimated savings of \$30 million in financing costs because of the APA's use of short-term, variable rate notes, coupled with arbitrage earnings on the reinvestment of the note proceeds.

The above items result in a \$133 million reduction in the cost of completing Bradley Lake. As DP's analysis indicates, the original project costs of \$408 million (\$356 million construction + \$52 million financing costs) can be reduced by almost one-third to a cost of about \$275 million to complete Bradley Lake.

Cook Inlet Natural Gas Prices. As you are aware, natural gas prices have declined dramatically since the original 1983 Stone and Webster Engineering feasibility analysis of the Bradley Lake project. Gas received under Enstar's 1982 gas contract--which ties the gas price to the price of fuel oil at Tesoro's Nikiski refinery--has declined 37 percent from \$2.32/mcf (in 1982) to \$1.47/mcf (in January 1987). As indicated in the Division of Policy's analysis, the key questions are: 1) what is the likely price of gas under new Cook Inlet gas contracts; and 2) what is the most probable rate, or range of rates, at which gas prices will increase in the future.

The DP analysis calculated Bradley Lake net savings under a range of base gas prices (\$1.10 to \$1.70/mcf) and a range of real price escalation rates (0 to 2 percent).¹⁴ Chugach Electric Association (CEA) recently paid \$1.70/mcf in short-term contracts with Beluga field producers; the consensus places the upper limit for the base price of new gas supplies at \$1.70/mcf. The DP suggests that a base price of \$1.50/mcf appears to be a good mid-range figure. With respect to real escalation rates, views vary but the DP analysis referenced forecasts of gas prices by the Department of Revenue and CEA. According to Revenue's December 1986 petroleum revenue forecast, Cook Inlet gas prices are expected to track crude oil prices, which assume an average 2.0 percent real escalation rate between 1987 and 2003. The CEA's gas price forecasts are fairly close to Revenue's.

In summary, the DP analysis calculated a series of projected net benefits which incorporate the lower cost to complete Bradley Lake as well as a range of base gas prices under real escalation rates ranging from 0 to 2 percent. Attachment B presents the DP projections of net savings; the economic feasibility of Bradley Lake (even under the lower cost estimate) remains very sensitive to gas prices and their rate of escalation. For example, at a base price of \$1.60/mcf and two percent real escalation, Bradley Lake is estimated to be \$85 million cheaper in 1986 dollars than the gas alternative. At a one percent real escalation rate and a base price of \$1.60/mcf, however, Bradley net savings drop by about \$55 million. As noted by the division, each 10 cent/mcf change in base gas prices alters the Bradley net savings by about \$15 million. Despite the uncertainties, the division concludes that "...current gas price forecasts by the Department of Revenue and Chugach Electric suggest that Bradley Lake is still likely to be less expensive than [alternative] gas generation over the 50 year period of analysis."

A REEXAMINATION OF BRADLEY LAKE NET SAVINGS UNDER KEY ENERGY ASSUMPTIONS

Based on our review of the above analysis, we conclude that the Division of Policy's assumptions regarding the base gas prices and projected escalation rates appear reasonable. However, we question the division's fundamental assumption regarding future Railbelt energy demand and the timing of installation of additional capacity. Our analysis of Railbelt energy demand and capacity requirements indicates that, even without Bradley Lake, new gas

¹⁴The Division of Policy analysis does not add a delivery charge to the wellhead price of gas; it assumes that new gas generation will be located near a producing field (e.g., the Bernice Lake substation near Marathon's Steelhead platform). A 40 cent/mcf delivery charge (used in the August 1986 Stone and Webster feasibility) would increase costs of the gas alternative and enhance the projected net benefits of Bradley Lake by about \$65 million.

generation will probably not be needed until the late 1990s. This conclusion stems from: 1) lower near-term energy demand forecasts due to population declines; and 2) lower reserve capacity requirements because of existing regional interties. In light of this conclusion, we believe that the division's analysis must be reexamined.

In this section, we first present our analysis of Bradley Lake net benefits, expressed as savings, under three scenarios:¹⁵

1. The base case incorporates the Division of Policy's implicit assumption that 90 MW of additional gas generation will be needed in 1991 if Bradley Lake is not completed. We altered the division's cost to complete Bradley Lake to be \$283 million--the revised construction cost of \$328 million minus the \$45 million already spent on construction. If the decision were made to abandon Bradley Lake and proceed with gas generation, the cost of the gas alternative would include the estimated \$30 million in Bradley Lake termination and site restoration costs.
2. Assuming that 90 MW of new power is not needed until the late 1990s, the second scenario provides a comparison of Bradley Lake and the gas alternative if construction of both were delayed and power commenced in 1998. The cost to complete Bradley Lake includes expenses to mothball the project in 1987 and reactivate the project in the mid-1990s. As above, the gas alternative includes the cost of termination and site restoration at Bradley Lake as well as gas plant construction costs in 1996-97. Since neither project would begin producing power until 1998 under this scenario, we extend the period of analysis until the year 2048 in order to provide a 50-year period of costs for analysis.
3. The third scenario assumes that the Bradley Lake project is completed under the current schedule at an estimated cost of \$283 million. However, we believe that the decision to complete Bradley Lake must be weighed against alternative gas generation which would be constructed later in the 1990s and begin producing power in 1998 when it was needed. While this feasibility analysis does not provide a year-for-year comparison, it does present a calculation of today's decision to complete Bradley Lake. In effect, this scenario calculates the merits of the public policy decision to proceed with Bradley Lake.

¹⁵Detailed tables for each of these scenarios are included in Attachment C.

Base Case Scenario. Based on an analysis of Chugach Electric Association's projections, the Division of Policy concluded that new gas generation will likely be installed by 1990 if Bradley Lake were not completed. Under this scenario, Chugach Electric indicates that a new 87 MW gas plant would likely be constructed and become part of the base load capacity, thereby delegating older, less fuel efficient turbines to peak loading.¹⁶

We recalculated the net present costs of Bradley Lake and the gas generation alternative under this base case of power needed (from either source) by 1991. In the process of verifying the APA/DP model, we made slight modifications to the spreadsheet formulas but did not alter the analytical approach. Our base case scenario, however, incorporates two notable changes in underlying assumptions. First, we believe that the gas generation's fuel efficiency should reflect the effective heat rate of a new gas turbine (approximately 11,500 Btu/kwh), rather than the 13,000 Btu/kwh rate used in the APA/DP model. It is appropriate to compare "new" Bradley Lake power with power produced at the fuel efficiency of a new turbine, rather than under a blended, less efficient rate (of 13,000 Btu/kwh) based on the combined use of new and old turbines.

The second change incorporated into the APA/DP model was to alter the cost to complete Bradley Lake to equal \$283 million. This represents the preliminary revised construction cost (\$328 million) minus the expenses to date (\$45 million). If the decision were made to terminate Bradley Lake, an estimated \$30 million in termination and site restoration expenses would be incurred in order to then proceed with the gas generation alternative. We, therefore, include these Bradley Lake termination and site restoration costs as a cost to the gas alternative.

As shown in Table 6, the Bradley Lake net savings under our base case scenario equal \$85.8 million--virtually the same as those presented by the Division of Policy. The cost savings gained through greater gas turbine fuel efficiencies incorporated into our base case are cancelled by the termination and site restoration costs added to the gas alternative if the decision were made to abandon Bradley and proceed with gas generation.

¹⁶Tom Martin, Director of Planning, Chugach Electric Association, personal communication, March 9, 1987.

TABLE 6
 BRADLEY LAKE NET SAVINGS UNDER VARIOUS SCENARIOS
 (Million \$)

SCENARIO	----- NET PRESENT COST -----		BRADLEY LAKE NET SAVINGS
	GAS ALTERNATIVE	BRADLEY LAKE	
I. Base Case w/Power in 1991	\$330.4	\$244.6	\$85.8
IA. Base Case under Revised Demand Forecast	315.7	229.9	85.8
II. Construction Delay w/Power in 1998	280.6	406.7	(126.0)
III. Bradley Lake now vs Gas Plant in 1998	280.6	244.6	36.0

Note: All scenarios assume a base price of \$1.60/mcf; zero delivery charge; 2.0 percent escalation rate; 11,500 Btu/kwh heat rate; 4.5 percent inflation; and \$400/kw gas plant construction costs.

The base case scenario incorporates the flawed assumption that 90 MW of additional power will be needed in 1991. Our demand analysis concludes, instead, that an additional increment of production capacity will not be needed until the late-1990s. Therefore, the construction of either Bradley Lake or the gas alternative would result in the early retirement of existing generation capacity. It is assumed that Bradley Lake or a new, more efficient gas turbine would result in lower costs through the displacement of older, less efficient gas generation production. Because the cost reductions are the same for both types of new power, Bradley Lake net savings do not change for this base case under revised demand forecast scenario (Table 6). The net present costs, however, decline by roughly \$15 million for both Bradley Lake and the gas alternative.

Delay Construction Scenario. The net savings of Bradley Lake become negative under our second scenario in which construction of both Bradley Lake and the gas plant alternative are delayed several years until Railbelt energy demand catches up with existing capacity and new generating capacity

is warranted. As shown in Table 6, the net present cost of Bradley Lake (if construction were delayed until 1994-1997) nearly doubles from \$245 million in our base case to \$407 million.

Under this scenario, we assume Bradley Lake construction costs of \$415 million during the period 1994-97 [i.e., the 1987 estimated cost to complete Bradley of \$283 million, inflated at 4.5 percent annually plus an estimated \$30 million in additional expenses (administration, licensing, and contracting)]. We estimate that the project would require \$554 million in long-term taxable bonds, issued in 1993 at 10 percent interest, in order to cover construction costs as well as four years of debt service payments prior to project revenues commencing in 1998. Bradley Lake costs would increase dramatically due to the loss of the favorable short-term financing presently in place. On the other hand, the net present cost of the gas alternative drops if construction is delayed--primarily because fuel savings during the period of delay more than offset the gas plant's increased financing costs (which are relatively minor compared with those for Bradley Lake).¹⁷ As shown in Table 6, the Bradley Lake net savings under this scenario are projected to be a negative \$126 million. On the basis of this analysis, it does not appear to be economically feasible to delay Bradley Lake and reactivate the project in the mid-1990s.

Bradley Lake in 1991 vs Delayed Gas Construction Scenario. Our third scenario calculates the net present cost of Bradley Lake constructed under the current schedule and the net present cost of the gas plant alternative if it were delayed until needed. The net savings to be gained from completing Bradley Lake decline to about \$36.0 million. From a public policy perspective, we suggest that this scenario presents a mathematical formulation of the real question: What is the benefit (or cost) of proceeding with Bradley Lake at this time, despite forecasts which suggest that the project is not needed for several years? Based on this analysis, the positive net savings of Bradley Lake indicate that the project should proceed. However, the net savings are not outstanding--and in retrospect could become marginal or negative if gas base prices and/or price escalation rates are lower than assumed.

Net Savings under Various Assumptions

We recalculated the net savings projected for the Bradley Lake project under varying assumptions (gas plant construction costs, turbine heat rate, inflation rate, and discount rate) in order to determine the sensitivity of the analysis to changes in these assumptions. Table 7 summarizes the net savings as these assumptions are varied under the base case scenario and the "Bradley Lake now vs. delayed gas construction" scenario which we believe to be most accurate representation of the current public policy choice.

¹⁷-----
We assume that gas plant construction in the mid-1990s would be financed by taxable revenue bonds at a 10 percent interest rate. The 10 percent interest rate was assumed for delayed gas plant construction in both the second and third scenarios.

TABLE 7
 BRADLEY LAKE NET SAVINGS UNDER VARYING ASSUMPTIONS
 (Millions \$)

SCENARIO/ASSUMPTION	----- NET PRESENT GAS ALTERNATIVE COST -----	BRADLEY LAKE	BRADLEY LAKE NET SAVINGS
Scenario I: Base Case w/ Power in 1991	\$330.4	\$244.6	\$85.8
Construction Costs of \$350/kw	325.0	244.6	80.4
Heat Rate of 13,000 Btu/kwh	359.9	244.6	115.2
Inflation Rate at 5.0 percent	327.9	231.5	96.4
Discount Rate 3.0 percent	369.3	264.0	105.2
4.0 percent	297.4	227.2	70.2
12.0 percent	100.8	88.5	12.3

Scenario III: Bradley Lake now vs Gas Plant in 1998	280.6	244.6	36.0
Construction Costs of \$350/kw	275.1	244.6	30.5
Heat Rate of 13,000 Btu/kwh	304.5	244.6	59.9
Inflation Rate of 5.0 percent	278.4	231.5	46.8
Discount Rate 3.0 percent	318.8	264.0	54.8
4.0 percent	248.4	227.2	21.2
5.0 percent	197.8	197.4	0.5

Note: Both scenarios assume a base gas price of \$1.60/mcf; zero delivery charge; 2.0 percent escalation rate; 11,500 Btu/kwh heat rate; 4.5 percent inflation; and \$400/kw gas plant construction costs.

The Division of Policy's analysis assumed that **construction costs for a gas plant** would run \$400/kw (in 1986 dollars). The range of construction costs is apparently estimated at \$350 to \$450/kw, based on construction costs experienced by Alaska Electric Generation & Transmission and Anchorage Municipal Light & Power during the past few years. Lowering the cost assumption to \$350/kw, however, has a fairly insignificant effect on the cost analysis. Under either scenario, the present cost of the gas alternative would be about \$5.5 million lower at a construction cost of \$350/kw.

As noted previously, we assumed a new gas turbine fuel efficiency ("heat rate") of 11,500 Btu/kwh in our three scenarios. On the other hand, the APA/DP model assumed a heat rate of 13,000 Btu/kwh to reflect newer gas turbines at 11,500 Btu/kwh (effective rate) operating as base capacity coupled with older, less existing turbines at 15,000-16,000 operating only when demand peaks. As shown in Table 7, using this higher, "blended" heat rate increases the fuel consumption under the gas alternative in both scenarios significantly and enhances the Bradley Lake net savings. The net savings analysis is very sensitive to the gas turbine fuel efficiency and other assumptions which directly affect annual fuel costs.

Annual Inflation Rate. The APA/DP model assumed 4.5 percent annual inflation over the 50-year period of analysis. In the January 1987 Revenue Sources report, the Department of Revenue projected an inflation rate of 3.89 percent in FY 87, 4.58 percent in FY 88-FY 92, 5.23 percent in FY 93 - FY 97, and 5.42 percent thereafter. If we substitute an annual inflation rate of 5.0%, the Bradley Lake net savings under both scenarios in Table 7 increase by about \$11 million. Higher inflation rates lower the net present costs of both the gas alternative and Bradley Lake. However, higher inflation favors Bradley Lake to a greater extent because most of Bradley Lake's annual costs are fixed debt service payments, which (in 1986 dollars) become cheaper in the future. In contrast, a smaller portion of the gas alternative's annual costs are fixed.

The Discount Rate. In order to calculate the net present cost during the 50-year period of analysis, one must employ a discount rate which adjusts future cash flows to a value in current dollars. The APA/DP model employed a discount rate of 3.5 percent, which is apparently the discount rate routinely used by the U.S. Army Corps of Engineers to reflect the historic real cost of government spending.

The gas alternative operational costs are higher in later years (even when adjusted to 1986 dollars) because gas prices are assumed to escalate at a real rate of 2.0 percent, whereas Bradley Lake costs (in 1986 dollars) decline over the period of analysis. A **lower discount rate** emphasizes the relative weight of future costs and enhances the outlook of Bradley Lake. For example, under both scenarios shown in Table 7, Bradley Lake net savings increase by about \$19 million when the discount rate is reduced to 3.0 percent.

On the other hand, a higher discount rate tends to lower the net savings of Bradley Lake because it deemphasizes future expenditures. For example, a discount rate of 4.0 percent lowers the net savings of Bradley Lake in both scenarios by about \$15 million. The sensitivity of the analysis to the discount rate becomes particularly significant when Bradley Lake's net savings are relatively low--as under the third scenario. A discount rate of 5.0 percent under this scenario produces zero net savings, whereas a 12.0 percent discount rate under the base case still results in a positive net benefit (see Table 7). The analysis indicates, however, that the net savings of Bradley Lake remain positive under discount rates within a reasonable range of 3.0 to 4.0 percent.

CONCLUSION

It has been stated that Bradley Lake was not conceived as an emergency power project needed to meet Railbelt energy demand. Instead, it was intended to provide the Railbelt with an alternate power source free from the vagaries of fossil fuel price escalation. As the price of natural gas has declined, however, the projected net savings of the Bradley Lake project have eroded considerably. Our analysis indicates that the public policy choice today is to either proceed with Bradley Lake as currently scheduled or abandon the project. Delaying Bradley for several years--so that Railbelt energy demand could "catch up" with capacity--would be too costly relative to a less expensive gas alternative.

If the Bradley Lake project is to be completed as scheduled, we conclude that it will probably provide net savings over the 50-year period of analysis. However, in order to more accurately project the benefits of the projects, we believe that an analysis computing the actual cost of all power consumed in the Railbelt under the different scenarios would be required. However, this type of analysis would require a great deal of data-gathering from the seven Railbelt utilities, the APUC, and the APA. The time-consuming nature and inherent difficulties of this type of analysis probably explain why it has not already been conducted.

At this time, we reiterate our conclusion that the Bradley Lake project will probably produce power more cheaply than gas generation over the 50-year period we analyzed. Nevertheless, the net savings are certainly less than the proposed State contribution of roughly \$164 million.¹⁸ Furthermore, the analysis is extremely sensitive to natural gas prices and their escalation. Because the projected net savings of Bradley Lake are now relatively low, there is a high risk that its completion would be a poor public policy decision if gas prices prove to be only slightly lower than assumed. The public risk grows considerably greater as the net savings projected for Bradley Lake decline. Beyond the initial State cash contribution, the Railbelt electric customers will ultimately bear the costs of today's decision regarding Bradley Lake power.

Attachments

¹⁸-----
The State contribution assumes the revised cost of \$328 million minus \$164 million (one-half of \$328 million) to be contributed by Railbelt utilities.

ATTACHMENT A

TABLE A.1

NET GENERATION OF ALASKA RAILBELT UTILITIES, 1976 - 1986

UTILITY	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986
Anchorage Municipal Light & Power (AMLP)	444.9	420.3	443.1	473.1	485.6	485.3	579.5	592.5	654.0	934.4	938.6
Chugach Electric Association (CEA)	1,054.5	1,179.7	1,308.6	1,401.0	1,434.1	1,467.7	1,718.4	1,781.8	1873.3	1,859.3	1,692.3
Alaska Power Administration (APAD)	118.0	203.5	160.1	171.1	184.3	222.7	147.9	149.9	164.6	150.0	154.8
Anchorage-Cook Inlet Subtotal	1,617.4	1,803.6	1,931.8	2,045.2	2,105.0	2,175.7	2,445.8	2,524.2	2,671.9	2,943.7	2,785.7
Fairbanks Municipal Utility System (FMUS)	123.3	128.5	124.7	124.7	125.6	126.1	140.7	146.9	140.2	101.0	96.8
Golden Valley Electric Association (GVEA)	344.7	353.5	341.5	322.9	317.7	316.9	350.3	346.2	401.1	408.0	420.6
Fairbanks Area Subtotal	468.0	481.7	466.2	447.6	443.3	443.0	491.1	493.1	541.3	509.0	517.4
RAILBELT TOTAL	2,085.4	2,285.3	2,398.0	2,492.8	2,548.3	2,618.7	2,936.9	3,017.3	3,233.2	3,452.7	3,303.1

Source: Alaska Power Authority, "Alaska Electric Power Statistics, 1960-1985,"; Railbelt Utilities.

Prepared by the House Research Agency, March 1987 (Demand; 861217-29).

Table A2

TOTAL RAILBELT
DEEPT REQUIREMENTS

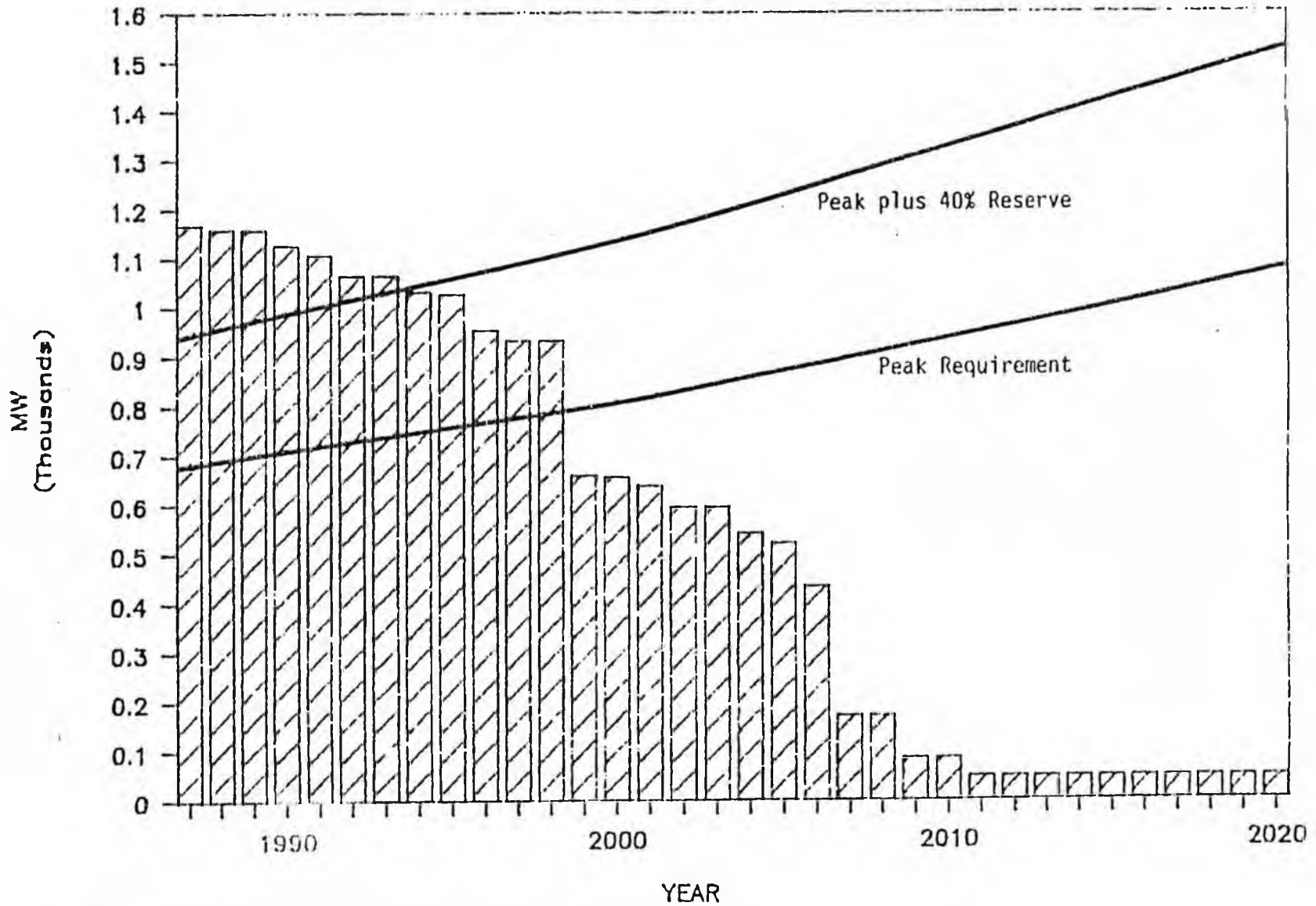
	1984	1987	1988	1987	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
WADSWORTH MUNICIPAL LIGHT AND POWER	859.8	861.6	865.7	861.7	882.1	884.3	872.6	917.4	924.5	915.3	954.8	913.0	927.0	1,011.6	1,037.6	1,064.1
COUGH ELECTRIC ASSOCIATION (INSTALL)	933.7	976.9	975.2	958.3	1,060.1	976.0	1,016.7	1,018.5	1,048.6	978.3	1,009.9	1,020.4	1,033.3	1,047.7	1,068.8	1,091.2
MOVER ELECTRIC ASSOCIATION	284.7	391.7	391.7	391.7	376.5	417.2	427.2	432.2	412.2	401.6	412.2	417.2	422.2	427.2	427.2	432.2
WATKINS ELECTRIC ASSOCIATION	478.1	475.2	474.0	474.5	425.9	432.7	433.7	442.8	470.3	471.3	472.1	479.5	483.1	486.2	510.4	527.6
CITY OF SEWARD	34.9	34.9	41.2	43.4	45.6	46.0	46.7	47.7	48.8	49.2	49.5	49.9	50.3	50.9	51.5	52.2
SYSTEM LOSSES	155.7	161.8	162.7	163.7	163.4	161.3	167.5	172.0	172.3	165.3	167.3	169.1	171.0	173.9	177.1	180.9
TOTAL (DEPT)	1969.2	2015.5	2017.2	2016.7	2011.5	2024.1	2061.7	2141.2	2150.2	2055.7	2110.9	2126.1	2154.9	2192.8	2254.9	2294.6
FAIRBANKS MUNICIPAL UTILITY SYSTEM	156.2	172.9	171.6	176.3	177.9	185.3	187.6	197.8	196.6	204.5	204.5	208.6	212.8	217.0	221.4	225.8
GOLDEN VALLEY ELECTRIC ASSOCIATION	521.5	521.0	541.2	512.2	577.3	592.7	636.6	674.9	641.7	658.9	676.5	676.6	713.2	722.3	752.6	772.1
MOVER ELECTRIC ASSOCIATION	429.0	425.0	425.0	420.0	424.3	475.0	525.0	510.0	490.0	479.4	490.0	475.0	475.0	500.0	525.0	510.0
COUGH ELECTRIC ASSN	356.7	391.7	391.7	396.7	376.5	417.2	427.2	432.2	412.2	401.6	412.2	417.2	417.2	422.2	427.2	432.2
WATKINS	33.3	33.3	33.3	33.3	37.8	37.8	37.8	37.8	37.8	37.8	37.8	37.8	37.8	37.8	37.8	37.8
WATKINS ELECTRIC ASSN (INSTALL)	478.1	475.2	474.0	474.5	429.2	432.7	433.7	442.8	470.3	471.3	472.1	479.5	483.1	486.2	510.4	527.6
COUGH ELECTRIC ASSN	478.1	475.2	474.0	474.5	425.9	432.7	433.7	442.8	470.3	471.3	472.1	479.5	483.1	486.2	510.4	527.6
WATKINS (BRACKET LOSS)	0.0	0.0	0.0	0.0	33.3	33.3	33.3	33.3	33.3	33.3	33.3	33.3	33.3	33.3	33.3	33.3
CITY OF SEWARD	34.9	34.9	41.2	43.4	45.6	46.0	46.7	47.7	48.8	49.2	49.5	49.9	50.3	50.9	51.5	52.2
TOTAL	3,539.9	3,652.3	3,682.0	3,720.2	3,781.9	3,851.6	3,913.0	4,003.4	4,054.1	4,021.5	4,077.9	4,132.5	4,199.0	4,294.9	4,377.0	4,472.2
CAPACITY REQUIREMENTS																
WADSWORTH MUNICIPAL LIGHT AND POWER	161.0	166.7	166.9	166.2	166.3	167.1	168.2	172.1	171.1	178.1	179.9	182.4	185.9	190.3	195.4	200.2
COUGH ELECTRIC ASSOCIATION <i>200.0</i>	191.3	195.4	197.0	197.1	198.1	195.6	199.0	202.2	200.8	191.3	193.5	195.6	198.0	201.2	204.8	209.1
FAIRBANKS MUNICIPAL UTILITY SYSTEM	29.3	30.0	30.6	31.2	32.1	33.4	34.4	35.4	34.5	37.6	38.7	39.9	41.1	42.3	43.6	44.9
GOLDEN VALLEY ELECTRIC ASSOCIATION	85.8	92.3	97.4	107.0	109.8	112.8	115.8	118.9	122.1	125.4	128.7	132.2	135.7	139.3	143.1	146.9
MOVER ELECTRIC ASSOCIATION	77.8	81.0	81.5	84.0	87.0	95.0	96.0	97.0	93.0	92.0	93.0	94.0	95.0	96.0	97.0	97.5
WATKINS ELECTRIC ASSOCIATION	90.3	91.9	91.5	93.6	95.5	91.4	97.5	99.3	105.8	94.9	95.7	96.5	97.0	97.5	98.7	101.2
SEWARD	7.0	7.0	10.0	11.0	12.4	12.5	12.7	13.3	13.6	13.7	13.8	13.9	14.0	14.1	14.2	14.3
TOTAL SYSTEM PEAK	616.7	670.3	681.9	690.1	701.2	712.8	722.6	738.2	747.7	733.0	743.3	754.4	765.7	780.9	797.7	811.1
RESERVE REQUIREMENTS																
WADSWORTH AREA	133.7	138.0	138.1	137.7	138.0	137.7	139.1	142.1	141.8	139.3	140.7	142.4	144.3	144.8	150.0	153.1
FAIRBANKS AREA	60.9	60.9	60.9	60.9	60.9	60.9	60.9	60.9	60.9	60.9	60.9	60.9	60.9	60.9	60.9	60.9
WATKINS PENINSULA	36.0	36.0	36.0	36.0	36.0	36.0	36.0	36.0	36.0	36.0	36.0	36.0	36.0	36.0	36.0	36.0
TOTAL RESERVE REQUIREMENT	230.6	234.9	235.0	234.6	234.9	234.6	236.0	239.0	238.7	236.2	237.6	239.3	241.2	241.7	246.9	250.0
TOTAL SYSTEM CAPACITY REQUIREMENT	847.3	905.2	916.9	924.7	936.1	947.4	961.6	977.2	986.4	969.2	980.9	993.7	1,006.9	1,022.6	1,044.6	1,061.1

Alaska Power Authority
January 1987

Note: This forecast is being used for: Preliminary Economic Assessment of Railbelt Transmission Alternatives

EXISTING CAPACITY NET OF RETIREMENTS

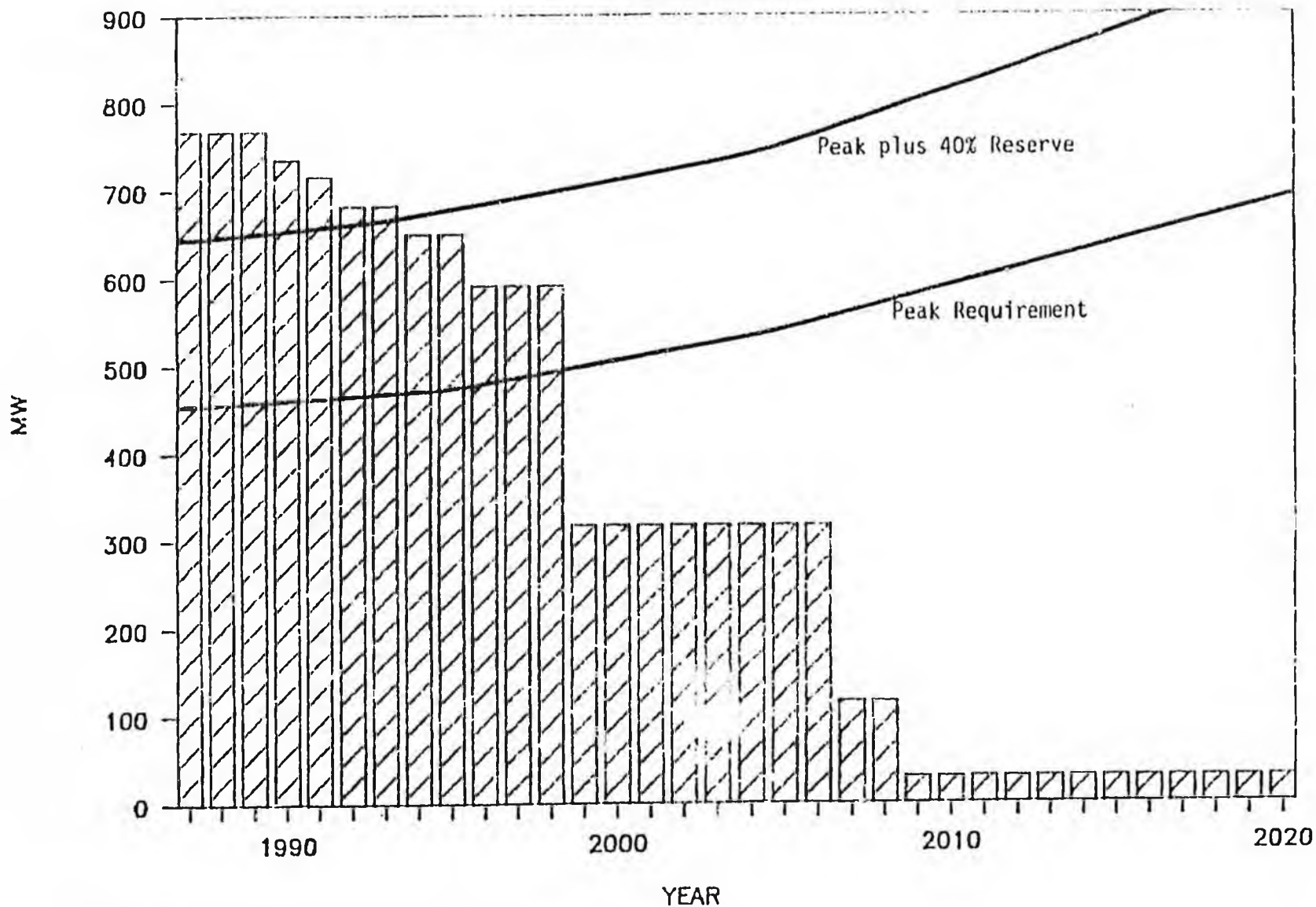
TOTAL RAILBELT



Prepared by the Alaska Power Authority, February 1987.

EXISTING CAPACITY NET OF RETIREMENTS

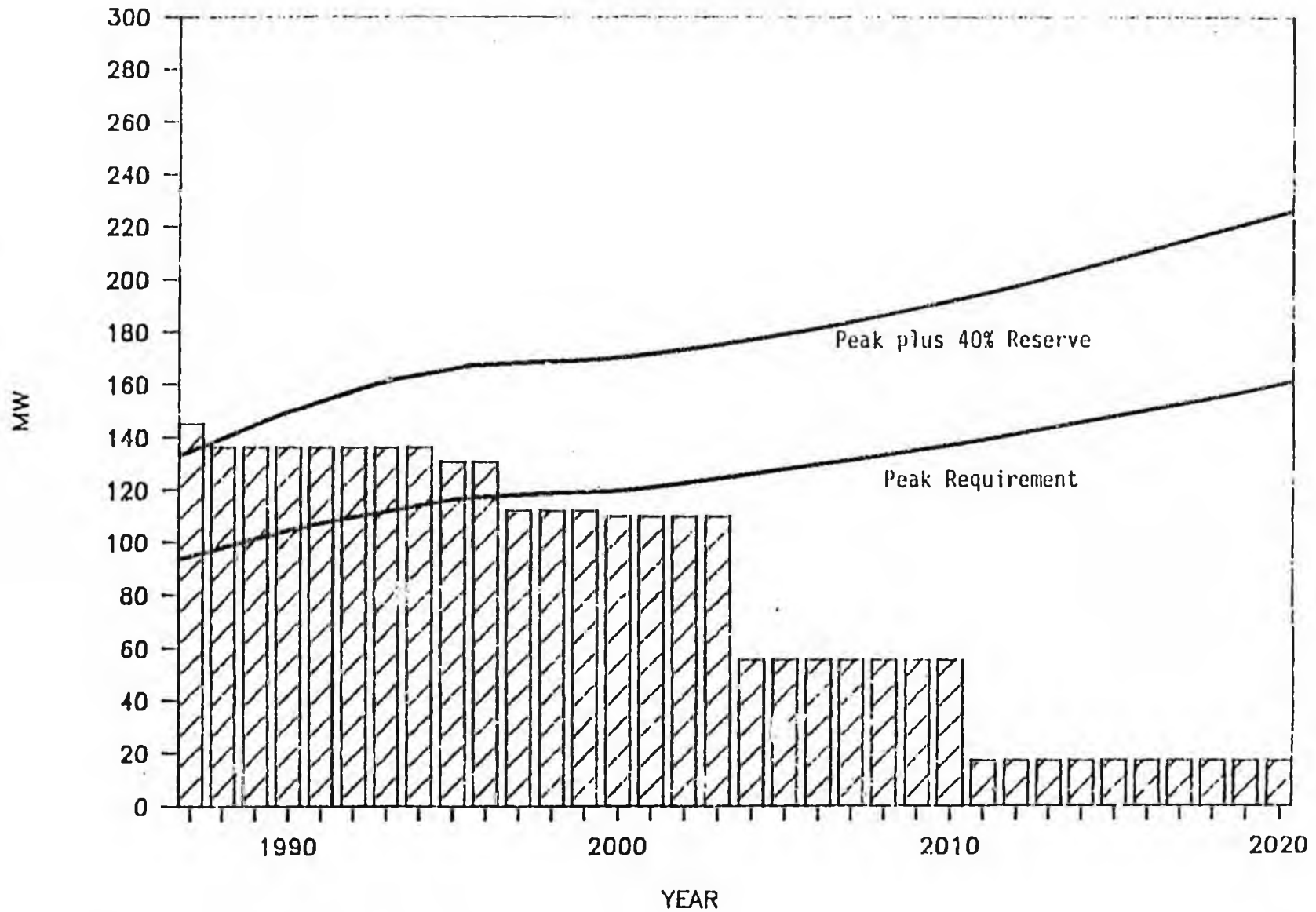
ANCHORAGE



Prepared by the Alaska Power Authority, February 1987.

EXISTING CAPACITY NET OF RETIREMENTS

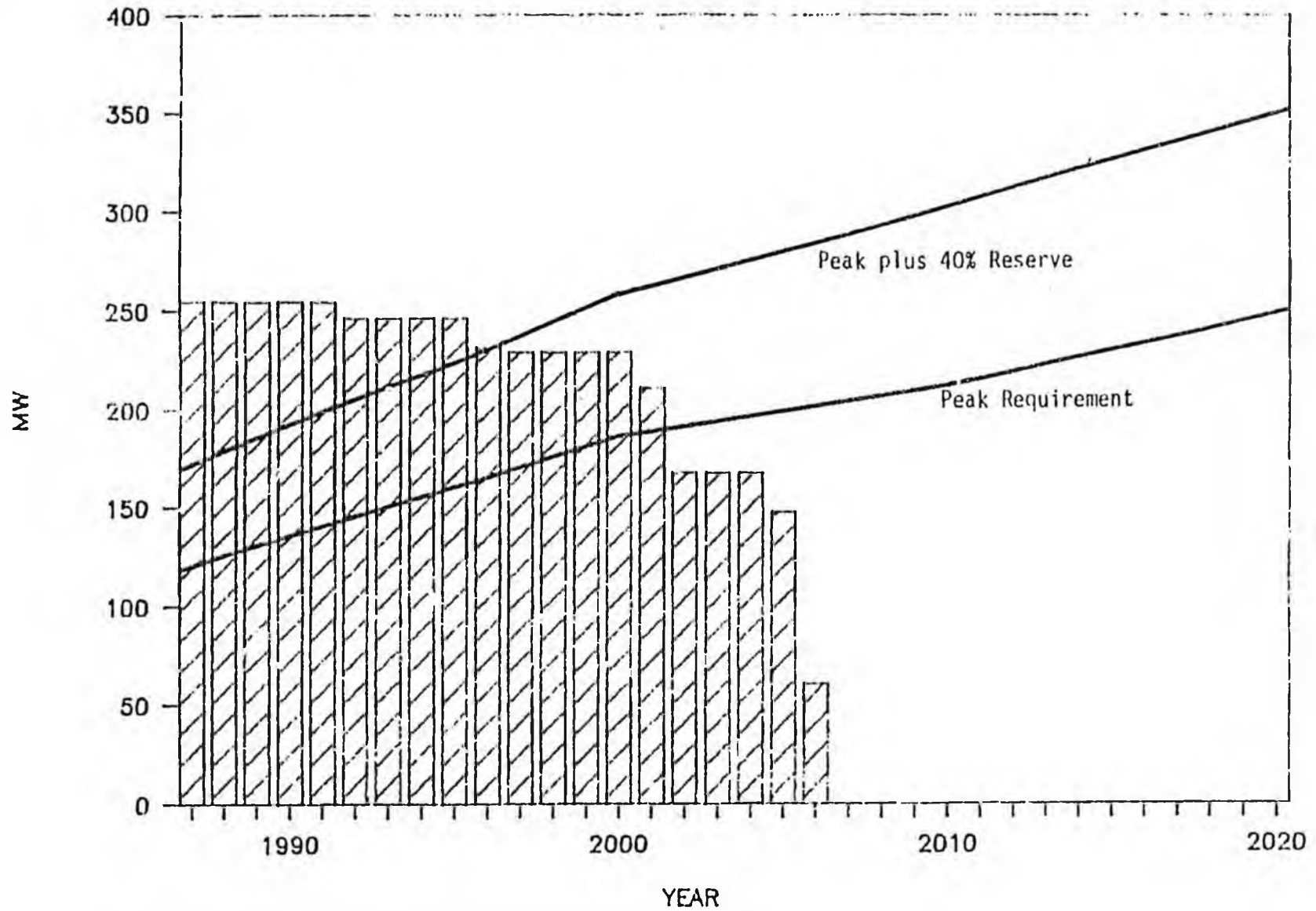
KENAI PENINSULA



Prepared by the Alaska Power Authority, February 1987.

EXISTING CAPACITY NET OF RETIREMENTS

FAIRBANKS



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ATTACHMENT B