

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672
5337 SJUD HB 185 - HB 217

909

statutes for clarity. It also amends the statutes to make it clear that they apply only to salmon hatchery projects. Sections 1 and 4 of the bill.

The bill repeals the mandatory six-year deferral on interest and principal contained in AS 16.10.525 (sec. 21 of the bill), but retains the authority to defer interest and principal for up to 10 years. Section 5 of the bill. This will allow earlier repayment requirements if they are considered financially feasible. This will also cure a problem that exists when the department grants a preconstruction loan to assess a proposed project, but the project is then considered unfeasible. Despite the fact that no project ever is built in such a case, the state currently cannot collect on its preconstruction loan, nor charge interest, for at least six years.

The bill also changes the statutory loan limits. At present, these limits are ambiguous. See 1986 Inf. Op. Att'y Gen. (Aug. 13; 663-87-0020). This bill sets loan limits in terms of the total amount that may be loaned for a single project. Sections 6 and 7 of the bill. Also, the bill repeals AS 16.10.540 (sec. 21 of the bill), which specifically authorizes voluntary assessments by fishermen as collateral to repay loans. First, such voluntary assessments represent no real collateral because of their voluntary nature. Second, if the department were to change its position and consider a voluntary assessment as sufficient collateral, proposed AS 16.10.518(a) would permit the use of a voluntary assessment as collateral. Third, current practice is for these organizations to assess fishermen through salmon enhancement taxes under AS 43.76, and the bill approves this practice and recognizes these assessments as valid collateral. Section 5 of the bill.

Finally, the hearing procedure provisions of the Administrative Procedure Act (APA), AS 44.62.330 -- 44.62.630, currently apply to the fisheries enhancement loan program (AS 16.10.500 -- 16.10.620). The reason for this application is unclear, since the 10 other loan programs administered by the Department of Commerce and Economic Development, division of investments and division of accounting and collections, are not subject to the APA. The department has adopted regulations providing for administrative adjudication of loan issues for all of its loan programs, and there is no apparent reason for this particular program to be subject to different rules. This bill amends the APA, by repealing AS 44.62.330(a)(46), to remove that part of the

APA's applicability to the fisheries enhancement loan program. Section 21 of the bill.

3. Veterans' Revolving Loan Program. AS 26.15 establishes the Alaska veterans' loan program. Originally, the Department of Commerce and Economic Development was authorized to make four types of veterans' loans: personal loans, housing loans, business loans, and multiple dwelling (condominium) loans. AS 26.15.040(a). The authority to make housing loans was repealed in 1980 (sec. 77, ch. 106, SLA 1980), and the same legislation provided that no business loans could be made after July 1, 1981. Sec. 71, ch. 106, SLA 1980. Although the authority to make personal and multiple dwelling loans still exists, neither type of loan has been made since 1982.

At present, there is no money available in the veterans' revolving fund for any additional loans. Only a small amount of money still comes into the fund, since most loans have been transferred to the Alaska Industrial Development Authority (AIDA) or recently sold to the Alaska Housing Finance Corporation (AHFC). Sec. 102, ch. 138, SLA 1986. The money in the revolving fund, in turn, has been reappropriated to the general fund. Sec. 118, ch. 105, SLA 1985; secs. 18 and 23, ch. 129, SLA 1986; secs. 39, 427, and 645, ch. 130, SLA 1986.

This bill repeals all lending authority under the veterans' loan program, but leaves intact those statutes dealing with management and collections (secs. 9, 10 and 21 of the bill). The sentence added to AS 26.15.040(e), limiting the total amount that an assignee of a loan can assume, is taken from AS 26.15.040(c), which is repealed in sec. 21 of the bill.

These repealers and amendments do not affect AHFC veterans' mortgages under AS 18.56.

4. Mining Loans. This bill repeals all lending authority under the mining loan program, but leaves intact those statutes dealing with management and collections (secs. 11, 12, and 21 of the bill). This program has historically had a very high loan default rate and has consequently cost the state a great deal of money. With revenues declining, I do not believe that this program should be continued.

5. Area Redevelopment. AS 41.30 sets up a program for redevelopment loans administered by the Alaska State Development Corporation. This program, and the corporation, are both currently inactive, and there are no outstanding loans.

The entire program is repealed under this bill. Section 21 of the bill.

6. Outdoor Recreational, Open Space, and Historic Properties Development Fund. AS 41.98.170 establishes an outdoor recreational, open space, and historic properties development fund administered by the Department of Natural Resources, division of parks and outdoor recreation. The fund may be used by the state to develop recreational sites and to acquire and preserve historic sites, buildings, and monuments (AS 41.98.170), and for grants and loans to municipalities for similar purposes. AS 41.98.175(a). However, there has been no loan made under this program, and none is anticipated. This bill repeals the lending authority under the program, but leaves the remainder of the program intact. Sections 13 and 21 of the bill.

7. Child Care Facility Revolving Loan Fund. This bill repeals the lending authority for the child care facility program, AS 44.33.240 -- 44.33.275, but still retains the necessary collection statutes. Sections 14, 15, and 21 of the bill.

8. Alternative Energy Revolving Loan Fund. This bill also repeals the lending authority for the alternative energy loan program, AS 45.88. The bill leaves intact those statutes dealing with management and collections. The bill also makes a technical amendment of AS 45.88.030(d), removing reference to "technology" in this subsection consistent with a 1979 amendment to the program (ch. 56, SLA 1979). Sections 16 and 21 of the bill.

9. Residential Energy Conservation Fund. This bill also repeals the lending authority for the residential energy conservation fund, AS 45.89, but leaves intact the statutes dealing with management and collection of existing loans. Sections 17 and 21 of the bill.

10. Tourism Revolving Fund. AS 45.90 provides a statutory scheme for tourism loans. However, in 1980 a session law was enacted to provide that no further loans would be made under the program after July 1, 1981. Sec. 71, ch. 106, SLA 1980. This bill repeals the lending authority statutes of the tourism revolving fund, but leaves intact those provisions of the statutes dealing with on-going management of the loan portfolio. Section 21 of the bill.

11. Fishery Product Revolving Loan Guarantee Fund. AS 45.-92 establishes a fishery product revolving loan guarantee

fund in the Department of Revenue. There is no outstanding loan under this program, and there is no money currently in the fund. This program is inactive, and this bill repeals it. Section 21 of the bill.

12. Forest Products Business Loan Guarantee Program. AS 45.94 establishes a forest products business loan guarantee fund in the Department of Revenue, under a statutory scheme similar to that of the fishery product revolving loan guarantee fund. No money has ever been appropriated to this fund, and it is therefore inactive. This bill repeals this program. Section 21 of the bill.

13. Small Business Loans. AS 45.95 establishes a small business loan program in the Department of Commerce and Economic Development. However, as with the tourism revolving fund, the legislature has prohibited making any further loans under this program. Sec. 71, ch. 106, SLA 1980. This bill repeals the statutory lending authority under this program, but leaves intact the loan management and collection statutes. Sections 18 and 21 of the bill.

14. Historical District Revolving Loan Fund. Finally, the bill repeals the lending authority under the historical district revolving loan fund. Sections 19, 20, and 21 of the bill.

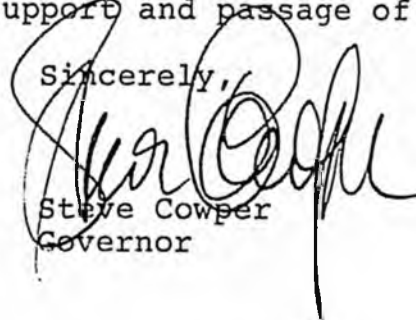
The bill also repeals secs. 3 and 4, ch. 156, SLA 1984, which provide that the balances in the tourism and small business revolving loan funds are appropriated annually to the general fund. Recent court decisions have called into question the validity of continuing appropriations such as these. Therefore, to avoid that question, and because I believe that annual appropriation of these balances would be a better approach, I am recommending the repeal of these continuing appropriations and the substitution of annual appropriations from the revolving funds. Thus, if this bill passes, the following language should be added to the budget bill, HB 75:

* Sec. _____. The cash balances of the Alaska World War II veterans' revolving fund (AS 26.15.090), the mining loan fund (AS 27.-09.010), the child care facility revolving loan fund (AS 44.33.240), the alternative energy revolving loan fund (AS 45.88.010), the residential energy conservation fund (AS 45.89.010), the tourism revolving fund (AS 45.90.010), the small business revolving

loan fund (AS 45.95.060), and the historical district revolving loan fund (AS 45.98.010), attributable to loans owned by those funds as of June 30 of the fiscal year, after any appropriations from the funds to the Department of Commerce and Economic Development for operating expenses, are appropriated from those funds to the general fund.

This bill cleans up the state loan statutes. It eliminates defunct loan programs that need not and should not remain in the statutes. I urge your support and passage of this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the typed name and title.

Steve Cowper
Governor

HB

196

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: CSHB 196(Fin)
Publish Date: HOUSE 5/1/87

Revision Date: _____
Title: Act relating to air carriers

Agency Affected: Comm. & Econ. Dev.
BRU: Consumer Protection

Sponsor: House Transportation
Requestor: _____

Components: Measurement Standards

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	[19.0]	[8.8]	[8.9]	[8.8]	[8.8]

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary) We have 107 air carriers and 436 aircraft registered in the current fiscal year. Research of last fiscal year's records indicates that approximately 14 air carriers and 122 additional aircraft will apply for certificates of compliance prior to the end of FY 87.

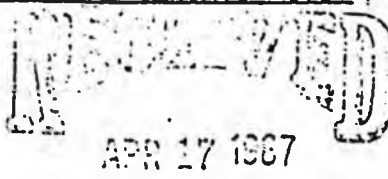
Revenue projections were based upon these figures and the assumption that the level of voluntary compliance will remain relatively constant.

Prepared by: Joe Swanson, Director Phone: 345-7750
Division: Measurement Standards Date: April 14, 1987

Approved by Commissioner: J. Anthony Smith, Commissioner Date: April 14, 1987
Agency: Department of Commerce and Economic Development

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary
- 5782W41487a



HB

198

STATE OF ALASKA



LYMAN F. HOFFMAN
REPRESENTATIVE

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HOUSE OF REPRESENTATIVES

DISTRICT 25

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PLATINUM
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APR 21 1988 1:10 pm

MEMORANDUM

TO: Senator Jay Kerttula
Chairman, Senate Judiciary Committee

FROM: Representative Lyman Hoffman *Lyman*

DATE: April 21, 1988

RE: Scheduling of CS SS HB 198 (Judiciary)

I request your favorable consideration for scheduling CS SS HB 198 (Judiciary), an act relating to the permissive and nonpermissive use of land, at your earliest convenience.

Attached please find the following documents:

- 1) Copy of CS SS HB 198 (Judiciary)
- 2) April 14th Fiscal Note
- 3) Briefing paper
- 4) Alaska Land Use Council Recommendations on Trespass
- 5) Trespass Problems on Native Land brief
- 6) Letters of support

If there are any additional questions concerning this legislation, please do not hesitate to contact me at your convenience.

Thank you.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

2

BILL VERSION: CSHB 198 (Jud.)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: April 14, 1988
Title: "An Act relating to the permissive and nonpermissive use of land."
Sponsor: House Judiciary
Requestor: House Judiciary

Agency Affected: Department of Law
BRU: Prosecution
Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The committee substitute for HB 198 removed all of the references to the criminal law and criminal penalties contained in the original version of the bill. Consequently, there will not be a fiscal impact on the Department of Law.

Prepared by: Richard I. Pegues, Director

Division: Administrative Services

Phone: 465-3672

Date: April 14, 1988

Approved by Commissioner: Grace Berg Schaible, Atty. Gen.

Agency: Department of Law

Date: April 14, 1988

Distribution (by preparer):

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

CSSSHE 198 BRIEFING PAPER

The bill amends Titles 09 and 11 to provide for the permissive use of unimproved land for recreational purposes, setting out the rights and responsibilities of landowners and users, and protecting landowners from certain liability.

Need for the bill is generated by the complex and time-consuming process of transferring federal public domain to private and state ownership. Trespass often occurs because of the complexity of landownership patterns in Alaska and the common misconception that any open and unused land is public land.

SECTION BY SECTION ANALYSISSection 1.

Adds a new section to Alaska Statute 09.45.730. It recognizes the right to enter another's land to conduct geophysical exploration as a valuable interest which warrants protection by law. A mineral explorer who goes onto another person's land to gather geotechnical data or take mineral resources without permission from the landowner is a geophysical trespasser. This new section establishes treble damages for such trespass, unless said trespass is unintentional or involuntary or the defendant had probable cause to believe he was not on another's land. In the latter case, only actual damages may be assessed. This provision.

compliments the current law covering the unlawful taking of trees.

Section 2.

This section amends Alaska Statute 09.45.795 by limiting the liability of an owner of unimproved land for any injury or death resulting from a person making recreational use of the land without being charged compensation for said use. The landowner remains liable for acts of gross negligence or reckless or intentional misconduct.

If a landowner charges a use fee for recreational purposes, he remains liable for such injury and death as he has invited the public on his land.

Section 3.

Defines unimproved and as including a trail; or a road built to provide access, but which is no longer maintained or used.

Section 4.

Establishes standards for posting remote parcels. This is more reasonable than current law which indicates "notice against trespass is given by posting in a reasonably conspicuous manner

under the circumstances". This section only addresses the appropriate posting of certain access points commonly used to enter the land. A person entering the land at an unposted point can not be charged with trespass unless he knew he was on property and his presence was prohibited.

TO: Alaska Land Use Council
THROUGH: Staff Committee
FROM: Trespass Work Group
SUBJECT: Recommendations on Trespass
DATE: September 11, 1985

4

In January 1985, the Council adopted a work item addressing unauthorized use and trespass on both public and private lands. A work group including the following agencies was established:

- Alaska Federation of Natives (Lead Agency)
- State of Alaska, Department of Natural Resources
- State of Alaska, Department of Fish and Game
- State of Alaska, Department of Law, District Attorney's Office (ad hoc)
- State of Alaska, Department of Public Safety (ad hoc)
- U.S. Dept. of Interior, Bureau of Land Management
- U.S. Dept. of Agriculture, Forest Service
- U.S. Dept. of Interior, Fish and Wildlife Service
- U.S. Dept. of Interior, National Park Service
- U.S. Dept. of Interior, Bureau of Indian Affairs (ad hoc)

Under the leadership of the Alaska Federation of Natives, the group has developed a comprehensive set of recommendations on the subject. The primary focus of attention has been to identify ways to foster cooperation among landowners and recommend actions which may be taken by public agencies and private landowners to prevent and alleviate the growing problems of trespass and unauthorized use especially inadvertent use which constitutes the majority of the problems now occurring.

The Work Group spent several months identifying ways to foster cooperation among landowners in terms of preventing and abating trespass and unauthorized use on public and private land.

The underlying direction of the work group's recommendations is a good neighbor approach which encourages public and private land owners to cooperate to prevent trespass on adjoining land. The recommendations of the group are not intended to conflict with or contradict the responsibility of each landowner to enforce applicable laws and regulations on his own land to prevent trespass or unauthorized use.

The work group paid considerable attention to the question of who should be responsible for implementing each recommendation. In a number of cases the entity that would be most appropriate to implement the recommendation is identified in the report. It must be recognized, however, that the affected owner, public or private, has the primary responsibility for initiating actions to prevent trespass and working with neighboring landowners to develop a solution.

Some of these recommendations will require additional funding. These recommendations should be referred to by agencies as they prepare their respective budgets so that they may requisition funds needed to fulfill their responsibilities associated with trespass enforcement and abatement.

Members of the Trespass Work Group:

Mike Reimann
Chairman
Alaska Federation of Natives
Don [unclear] for
Carl M. Yanagawa
State of Alaska
Dept. of Fish & Game
Walt Smith
U.S. Dept. of Agriculture-
Forest Service

Ron Swome
State of Alaska
Dept. of Natural Resources

Salvatore DeLeonardo
U.S. Dept. of Interior
Bureau of Land Management

Paul S. Baker
U.S. Dept. of Interior
Fish & Wildlife Service

David McCabe
U.S. Dept. of Interior
National Park Service

RECOMMENDATIONS

WORK ITEM #1 - Recommend specific activities that offer public education intended to prevent unauthorized use of private and public lands.

A. User Information Maps¹ and Brochures Illustrating Land Ownership

Through better knowledge of the state's land ownership pattern, a significant amount of the inadvertent trespass activity could be prevented. In order to remedy this problem, easy to understand maps and brochures depicting land ownership should be prepared and made readily available to users of state, federal and other public land. These maps or brochures should be prepared for those areas which receive high public use and should show, in as much detail as possible, the land status for the area. Once completed, these maps should be made available to the public through public agencies, public information facilities, appropriate retail outlets and Native corporation offices. It is recommended that agencies preparing maps and brochures follow the steps outlined below.

1. Identification of areas subject to high use and trespass - Sites and easements which are subject to high public use should be identified by the landowner. It is recommended that agencies notify and solicit this information from regional corporations and other major landowners² prior to preparing user information maps. Such priority areas would most likely include the railbelt and roadbelt, the Bristol Bay area, specific parts of southeast Alaska, well used river corridors, major recreation areas, and transportation corridors. By identifying areas subject to trespass in these priority areas, it is possible to determine where land ownership maps are most needed. Due to funding priorities it will be necessary to focus first on those areas subject to high use and frequent trespass problems.
2. Preparation of maps - It is recommended that public agencies and Native corporations give due consideration to trespass abatement by establishing priorities for preparation of user information maps. It is recommended, prior to an agency's completion of these maps that major landowners review the map, when practical or reasonably necessary, to ensure that the land ownership information is accurately depicted.

¹General User Information Maps - These maps are of a general nature and should show land ownership boundaries and land status information. These maps are generally available for distribution to the public and are meant to inform the user about general topics concerning Alaska including land use, sources for additional information, or availability of areas for recreational use.

²Major landowners-Since the passage of ANCSA, large tracts of both state and federal land have been transferred to private landowners. These landowners include the Alaska Native regional corporations, village corporations, or other parties receiving tracts of land. Other major landowners include state and federal agencies such as the Bureau of Land Management and the State of Alaska, Department of Natural Resources.

- a. Easement Atlas - The existing easement atlas project being carried out by the State of Alaska, Department of Natural Resources (DNR) is an example of a mapping program which meets the need of providing accurate land ownership maps. Under this project, DNR is preparing map atlases for the Bristol Bay and Copper River Basin areas. These atlases are made up of maps at 1:63,360 scale. They show the location of all valid public easements and rights-of-way, as well as the land status for those areas. If these atlases prove to be beneficial, they should be prepared for other areas of the state subject to high public use.
 - b. Native Corporation Maps - It is recommended that Native corporations also prepare maps of their land status which could be posted in regional centers, agency offices, Native corporation offices, hunting and fishing lodges, etc.
3. Distribution of Maps - It is recommended that the distribution of user information maps, whether free or at a nominal cost, be expanded. Whenever practical, appropriate land ownership maps should be made available and distributed to the following: aircharter businesses, guides, hunters, fishermen, campers and others who use public land. As they are completed, the DNR easement atlases should be distributed through state and federal agency offices.

B. Language for Public Documents Regarding Trespass and Unauthorized Use

It is recommended that appropriate language regarding the use of private land appear on all public documents (i.e., brochures, maps or informational leaflets) on land use, recreation, hunting and fishing, as well as any other documents which are appropriate. An example of wording that might be useful for this purpose is set forth below:

"Both small and large tracts of privately owned land are located within and adjacent to the boundaries of publicly owned land throughout the state. This private land is not open to public use or travel without permission from the landowner, unless public easements have been reserved or there is a valid existing public right-of-way. Navigable rivers passing through private land are available for use up to the ordinary high water mark. Tidelands are also available for public use up to the mean high tide mark.

Invasion of community and camp privacy is a concern of many rural residents. Be sensitive to local concerns. Trapping cabins and tent camps are essential to the livelihood of many rural residents. They should not be used except in case of real emergency. They may appear abandoned, especially in late summer when the brush is tall. The owners will return though and will need everything they left for the coming winter. The early trappers and wilderness travelers established an honorable tradition of respecting camps and cabins - a tradition that continues today.

Users should check with the _____ (insert appropriate land management agency) to determine the location of public land and public easements across private land. For information regarding the use of private land contact the landowner. Use or travel across private land or an unauthorized use of a public easement could be considered criminal trespass."

C. General Public Education Program on Trespass

A general public education program focusing on trespass is recommended and necessary. It should emphasize Alaska land ownership patterns, the need to prevent trespass and unauthorized use and respect private and public land. This public education program should be directed at both local residents and visitors. Outlined below are several suggestions for educating the public about trespass and unauthorized use.

1. **Public Service Announcements** - Public service announcements for radio and television should be developed and presented to the Alaska public by concerned parties. These announcements should inform the public about land ownership patterns and land use policies within Alaska. Such announcements could be developed on a state-wide basis or for particular use areas, such as wildlife refuges, parks or regional geographic areas. The Alaska Land Use Council will encourage interagency efforts to develop general statewide public service announcements. It is expected that both public agencies and Native organizations will participate in preparing and presenting public service announcements for specific areas or uses.

Whenever possible, these announcements should be aired on programs dealing with hunting, fishing, recreation, etc. The announcements should emphasize that it is an individual's responsibility to become familiar with the land ownership patterns and trespass policies and laws for specific areas in Alaska. To the extent possible, an announcement should include an explanation of the allowable activities and uses for the different categories of public and private land in a particular area. It should also describe the means by which the public may become familiar with land ownership patterns, trespass laws and policies.

2. **Visitor Centers and Other Public Information Centers** - When appropriate, available information on land ownership and land use and trespass policies should be integrated into visitor center materials, as well as other public information outlets or programs. It is recommended that the visitor centers have maps, easement atlases, Native land policies and land ownership brochures available. This information should be provided to the visitor centers by the appropriate entity and it should include a list of contacts for additional information concerning the use of public and private land. Visitor center and public information personnel should be able to inform the public about the location of large tracts of private land near or adjacent to public land.
3. **Native Corporation Brochures and Actions** - It is recommended that the Alaska Federation of Natives prepare an informational brochure describing Native land ownership in the state and the need to respect this privately owned land. Those Native corporations and public agencies which have serious trespass problems should consider setting up booths at sports fairs and other public events to explain their land management policies and practices.
4. **Publications** - Whenever possible, descriptions of existing land management policies and appropriate maps showing land ownership patterns should be included in magazines, tourist brochures, publications such as the Alaska Milepost, etc. Recently, Northwest Publishing has offered to include this information in their Milepost publications. Public and private landowners are encouraged to provide this information to these periodicals.

5. Central Depository For Land Use Policies and DNR Easement Atlases - A central depository should be established for information on land use policies and copies of the DNR easement atlases. Land owners are responsible for ensuring that the information on file is current. It is recommended that this information be updated on a regular basis. Possible locations for this purpose include visitor centers or the Department of Interior Resource Library. Such a depository will provide both landowners and the general public with a central location to acquire information about land use policies and public easement information. Official land status information will continue to be available at existing land records offices.
6. School Education Program - It is recommended that a land information program be developed for use in public schools throughout the state. This program could include audio - visual aids and other educational materials on the history of the various land acts and programs which have affected land ownership and land use in Alaska; specifically this should include the Alaska Native Claims Settlement Act, the Alaska National Interest Lands Conservation Act, and the Alaska Statehood Act. The program could also include information on current land management policies, including trespass, throughout Alaska. It is recommended that the University of Alaska and Department of Education be requested to produce the program.

D. Land Use Policies

It is recommended that Native corporations establish policies for the use of their land. These policies should be made available for reference at the central depository and visitor information centers.

E. Cooperation

It is recommended that neighboring public and private landowners work together to provide the general public with land use policies and permit information concerning public and private land. Private landowners should provide information of this nature to public agencies managing adjacent land. Once this information has been provided, public agencies should make the information available to the general public through their offices. Agency personnel will not be expected to interpret the Native land policy information or to issue permits. It is recommended that public agencies make similar information available to the Native corporations in order that they may distribute the information to the public.

F. Landowner Education Program

It is recommended that guidelines and/or educational programs be developed to provide private landowners with information regarding management and protection of privately owned land from trespass and unauthorized use. The education program should focus on landowner rights, duties and liabilities with regard to detaining trespassers, methods for pursuing criminal and civil action, reporting procedures for trespass activities, land management options, and permitting systems for commercial and non-commercial uses. This program may include the use of videos, public service announcements, brochures, etc. It should be a cooperative effort between private landowners and public agencies. It is recommended that the Alaska Federation of Natives, Alaska Native Foundation and other regional profit and non-profit Native corporations explore and implement this program.

WORK ITEM #2 - Discuss known and suspected problems of unauthorized use and explore ways land and resource managers may be able to assist each other, as permitted by applicable laws, in implementing their respective responsibilities for enforcement and management to prevent unauthorized use. Among other things the group should identify problems and solutions associated with unauthorized access and travel across public land, permitting systems and other trespass prevention measures.

A. Cooperation & Trespass Prevention Measures

Agencies and private land owners are encouraged to cooperate and develop informal, and where appropriate formal agreements, which will encourage landowners to report to the appropriate landowner instances of unauthorized use and trespass on adjacent land. In the limited instances where formal agreements are advisable, the agreements should not be burdened with liability clauses regarding failure to report trespass incidents. The agreement should generally specify the types of activities which will constitute unauthorized use or trespass for the purpose of reporting such actions. It is recommended that landowners be responsible for informing their neighbors about their land management policies and priorities. It will be necessary for private landowners to provide such policies to agencies so they will know when to inform a land owner of a possible incident of trespass or unauthorized use. Generally, it is recommended that land managers concentrate on reporting trespass actions which cause resource damage, could lead to lasting resource damage, are a taking of timber or a mineral resource, represent continued unauthorized commercial use, or are activities which might lead to adverse possession.

1. Land Bank Agreements - Land Bank agreements may be used as a vehicle between public and Native land owners to report suspected trespass incidents. Unless otherwise specified, such agreements should not impose a liability upon the reporting agency.
2. Land Exchanges/Boundary Adjustments - In some high use areas, land exchanges or minor boundary adjustments may remedy trespass problems. It is recommended that a program be implemented whereby Native corporations could request public land management agencies to make land exchanges, boundary adjustments and/or acquire public easements to remedy or ameliorate chronic trespass problems.

B. Program Development

Agency heads, Native corporation officers and other appropriate policy representatives should provide direction on the development of programs and policies to prevent and deal with trespass problems.

1. Identification and on-site management of site and trail easements - It is recommended that land owners and public agencies cooperatively identify easements subject to high public use. Programs should be implemented by the appropriate manager which ensure that these sites and trails receive priority in terms of posting and management. Providing appropriate facilities such as outhouses and litter barrels, as well as providing trail maintenance and clean-up programs, should be considered in those areas receiving high use. The Dillingham effort could be used as a model for this program. In this case, the BLM provided signs regarding public use of an ANCSA §17(b) easement, and in turn, the village corporation posted the signs along the easements on their land.

Public agencies and Native corporations should investigate the use of funding sources, such as DOT/PF's local roads and trails program monies, to help finance the identification and placement of signs along high use areas and public easements. The agency with primary management responsibility should develop standardized signs to identify authorized uses of easements and high use public areas.

2. Land Use Planning - Land use planning efforts for public and private land should take into consideration the impact of various activities which might cause trespass problems. Land use plans should identify heavily used areas which are open to public use.
3. Native Owned Land - It is suggested that Native corporations consider identifying areas on Native owned lands which may be open to public use for specific purposes. If opened, this land could be made available on a permit basis or non-permit basis. The Native corporations should also identify those areas which require the greatest protection against trespass and unauthorized use. They should then establish priorities for trespass abatement and for protecting specific areas against trespass and unauthorized use.

C. Law Enforcement

It is the perception of the Native community that trespass laws are not being adequately enforced, nor are trespass complaints being investigated in a timely manner. It is recommended that the Department of Public Safety investigate various mechanisms to improve upon the enforcement of trespass laws.

WORK ITEM #3 - Identify activities that may lead to trespass and unauthorized use on adjacent land and recommend possible ameliorating actions.

A. Coordination of Planning and Development Efforts

It is recommended that adjacent landowners coordinate with one another when developing activities that would attract the public since certain facilities or activities tend to have a magnetic quality which attracts or encourages the public use. Landowners should strive to implement their programs in a way to minimize activities or development which create unwanted trespass problems for adjacent landowners.

B. Uses Along Public Waters, Tidelands and Submerged Lands

It is recommended that agencies and private landowners work together to minimize trespass and unauthorized use problems which might occur on private uplands because of activities which are permitted along public waters, tidelands and submerged lands.

Legislative Action

After considerable discussion, the work group felt that recommending specific changes in state law was inappropriate as part of its recommended actions for trespass abatement. The work group, however, recognized that existing laws may not provide for effective control of trespass on public and private land; therefore legislative action may be needed.

Although land use activities have largely remained unchanged in Alaska since the passage of ANCSA and ANILCA, land ownership and management patterns have changed dramatically. Areas previously open for virtually unregulated public use are no longer available for that same purpose.

Existing state trespass laws evolved when private land ownership was generally confined to small blocks of land, usually 160 acres or less in size. The reality now is that in addition to the usual small blocks of private land, Native village and regional corporations own large blocks of land, thousands and even millions of acres in size. Boundaries between public and privately owned land are usually poorly defined, difficult to distinguish on the ground, and may extend for literally hundreds of miles.

Changing land ownership patterns require, at the minimum, a thorough review of current laws with respect to posting requirements and penalties currently applicable to trespass violations, as well as a review of state law authorizing adverse possession to determine whether it still serves a useful purpose in Alaska property law. Additional attention should be directed to the unauthorized taking of resources, such as sand, gravel and timber, from private land since current civil and/or criminal laws and penalties for such unauthorized use may be inadequate.

The work group also agreed that liability laws should be examined and amended, if necessary, to limit the liability on the part of the land owner or manager for public use of their land. Limitations on liability might encourage private landowners to permit public use of their land.

The work group recognizes the importance of the legislative recommendations set forth by Jim Messick in the Department of Public Safety report, Trespass and Unauthorized Use of Native Lands in Alaska. The report may well serve as a starting point for a thorough review of all state laws which currently apply to trespass on private land.

In light of the massive changes in land ownership patterns, AFN and private landowners should undertake a critical review of all state laws dealing with trespass, unauthorized use of privately owned land and resources, and private landowner liabilities. The goal of such a review should be to recommend legislative action, if deemed necessary, to achieve two objectives: 1) require practical and reasonable measures for protecting private land and associated resources from trespass; and 2) reduce, as much as possible, the risk that land owners take if they allow recreational use of their land by the general public.

TRESPASS AND EASEMENT MANAGEMENT PROBLEMS ON NATIVE OWNED LANDS

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ABSTRACT

Ever since Alaska Native corporations began to receive title to their lands, they have been faced with the ever increasing problem of trespass. The types of trespass and frequency of incidents varies from region to region. This paper will familiarize individuals with the trespass problem since it provides an overview of the trespass problem and identifies forms of trespass which affect the ability of government agencies to provide adequate protection against trespass.

INTRODUCTION

December 18, 1971 is a significant date for the Native community in Alaska. This date marks the signing of the historic Alaska Native Claims Settlement Act (ANCSA). When Congress passed ANCSA, it provided for the transfer of 44 million acres of land throughout Alaska to Native owned corporations. ANCSA created several landlords, each of whom was concerned with the disposition of their land and the activities upon it. During the past 15 years the state has been undergoing a complex and often times confusing process of land transfers conveying federal ownership of land to state and private interests. The changing patterns of land ownership, although major, seem pale in the face of the many complex legal issues resulting from the changing land status (e.g. navigability determinations, legal challenges involving grandfather rights, over-selections, trespass enforcement, easements, etc.)

As a result of the various land transfers, there is a great deal of confusion in Alaska as to land status and the rights attached to land ownership. Land that was available for public use one year is not available the next year. The situation has led to an increasing problem of trespass on private land by the general public. The public often fails to realize that the land conveyed to the Native corporations is private land, and does not realize that even though these lands are seemingly unused, undeveloped, and largely unfenced and unmarked, entry onto the land could constitute trespass.

Land conveyed to Native corporations is private property and as such enjoys all the rights and protection due an individual owner. Unfortunately, protecting Native owned land from unauthorized use and entry by the public is becoming a serious problem for the Native corporations and has varying consequences. As with any private landowner, the Native corporations are experiencing an infringement on their ownership rights. The protection once afforded to these lands through their remote location and inaccessibility is rapidly diminishing as Alaska's non-Native rural population grows, as easement reservations provide increased access to remote areas, and as competition for the land and its resources intensifies.

There are two principal categories of unauthorized use.

1. Casual use whereby an individual strays from adjacent public land or easements. This type of use generally occurs without a permit or license, while an individual is hunting, fishing, hiking, camping, etc. These forms of

trespass are usually inadvertent, but over a period of time may adversely impact subsistence or Native lifestyles. Although these activities do not create immediate problems, there is the possibility that they will significantly impact land management policies or create a possessory right, if ignored.

2. Unauthorized use whereby an individual damages the land or removes resources found on the land thereby affecting the economic base of a Native corporation. Such activities may include cutting timber, illegal exploration for minerals or removal of sand and gravel.

The trespass problem is difficult to handle because Native land holdings are often remote and cover vast undeveloped areas which are not always easily accessible by the land owner or its managers. Some of the trespass problems are endemic to any large tract of undeveloped land; others have been precipitated by the massive change in the State's land status that has occurred in recent years and is still occurring. The trespass problem, however, is not confined to land owned solely by Native corporations, nor is the problem limited to remote areas of the state. Other private landowners, in particular, those in the Kenai Peninsula and the Matanuska-Susitna Borough are also experiencing trespass problems due to rapid growth and increased recreational use.

TYPES OF TRESPASS

Native corporations are experiencing several forms of trespass on their lands. Most instances of trespass are inadvertent, but many times the trespass is intentional and causes significant harm to the landowner.

Trespass Resulting From Misuse of Public Easements

In the State of Alaska there are many types of easements, including trails of varying widths, public rights-of-way, site easements for vehicle parking, temporary camping, and loading and unloading of supplies, utility easements, railroad rights-of-way, section line easements and easements for communication systems, oil and gas activities, etc.

Although there are many types of easements, the misuse of ANCSA 17(b) easements is of particular concern to Native landowners since these easements were reserved only on Native corporation land. ANCSA 17(b) easements now encumber vast amounts of Native corporation land and go largely unmanaged. Under Section 17(b) of ANCSA, the Secretary of Interior was authorized to reserve public easements across land selected by Native corporations pursuant to ANCSA. The purpose of these easements is to provide public access to publicly owned land and major waterways. These easements were to be reserved so that their impact on the Native culture, lifestyle and subsistence resources was minimized. ANCSA 17(b) easements are for a specific use, location and size and they may be used only for a specific purpose which is described in a corporation's interim conveyance documents. For example, many 17(b) easements are limited to winter use and, therefore, cannot be used at other times of the year. Section 17(b) of ANCSA does not give the public the right to use Native lands for recreational purposes; it only provides access to public recreational areas. All too often, the public misunderstands the purpose of the 17(b) easement or that the use of the easement is regulated by law, thereby failing to realize that the land underlying the easement is private property and should be respected as such.

A key factor contributing to the trespass problem is the absence of a program for managing and protecting 17(b) easements against misuse. The various federal and state agencies have been unable to implement regulations for easement management because each agency is faced with vastly different objectives. Although federal

agencies within the Department of Interior are permitted, within established guidelines, to adopt their own procedures for 17(b) easement management, state and other federal agencies are not bound by these guidelines. Consequently, federal and state agencies are reluctant to manage public use of the 17(b) easements, citing lack of legal authority and funding.

Under existing policies and practices there is no way for the public to know when or if they are trespassing on private land. In most areas, there are no indicators of private ownership (i.e., signs or fences) which identify the location of 17(b) easements or property boundaries for privately owned land. Furthermore, there is no single agency or source (i.e., map, brochure, guidebook, etc.) to which the public may go for information about land ownership and land status, including the location of private land, permissible activities on easements, and laws concerning trespass and public use of undeveloped land.

Perhaps the most bothersome and complex trespass problem is the misuse or non-use of 17(b) easements. In most instances, the public is not aware that the easements exist, so noncompliance is a common occurrence. It is very easy for individuals to stray beyond the boundaries of the easements because there are no signs or markings on the ground delineating easement location. This results in a high incidence of trespass, much of which is inadvertent or unintentional. However, the most troublesome problem is that the public uses the easement for purposes other than what was designated in the interim conveyance document. For example, 25 ft. winter trails are used as summer haul roads or one acre site easements are used for long-term camping. These situations are difficult to monitor because the Native landowner, usually a village corporation, is not aware of the procedures pertaining to the management of 17(b) easements, nor does the corporation know the exact location of the easement on its land.

The location of a 17(b) easement is obviously an important factor in easement management and trespass enforcement. Since the easements are on private land, the state of Alaska's trespass laws are in effect. This creates a difficult situation because the state's criminal law on trespass cannot be held to apply in most instances of trespass occurring off 17(b) easements. The law excludes from criminal trespass any entry upon unimproved land where there is no marker, sign or fence indicating a prohibition against such intrusion.* As the statute is now written, it encourages and permits casual trespass on private land, rather than preventing it. The law currently sanctions this type of activity so long as an individual is not intending to commit a crime and the land is unused and unfenced, or the individual using the land has not been advised by the land owner that the land is indeed private land. It should be remembered that many casual trespassers carry guns for bear protection or hunting. It is not an enviable position for a village land manager, who has no law enforcement training or authority to approach these individuals to inform them that they are trespassing.

Trespass off a Navigable Waterbody

Problems of trespass occurring off of navigable waterbodies are similar to those associated with trespass off 17(b) easements. The problem, however, has been compounded because there are disagreements about where the boundary of the uplands is located along navigable waterbodies. Typically, uplands are defined as that land above the mean high water mark; the state, however, tends to view the demarcation more liberally. In any event, the trespass problem usually involves people boating up a river or flying in by float plane and then using the uplands along the shoreline of the navigable waterbody for recreational purposes such as camping, fishing, hunting, firewood gathering or other incidental activities.

* AS 11.46.350

It is nearly impossible to prosecute these types of trespass because state law currently requires the land to be posted before a law enforcement officer can take action on a trespass violation. Under the law, such a minimal intrusion upon the land is not a criminal offense unless reasonable notice is provided. However, it is difficult for the village corporations to comply with the law and provide adequate notice along rivers or lakes since many are inholdings on Native corporation land. In most cases, posting signs forbidding trespass cannot be done without great expense or difficulty to the large landowner.

Recreational Trespass

A large number of trespass actions may be described as "recreational trespass." This type of trespass usually involves a one-time situation where individuals stray onto Native corporation lands from adjacent public lands or 17(b) easements and then camp overnight, go hiking, fishing, hunting, trapping, gather firewood or do a wide array of similar activities. Many of these trespass occurrences seem to be inadvertent and appear to occur because the public does not have adequate information about the use of 17(b) easements or land ownership patterns.

Due to the vast amount of private land in Alaska and the remote location of much of the land, it is quite possible that there are improvements on the land for which a landowner has no actual knowledge. Although AS 09.45.795 provides liability protection against injuries received by trespassers on unimproved and apparently unused land, no liability protection is provided to the landowner for those situations involving unknown improvements, such as mine shafts, gravel pits, old abandoned cabins, and old roads, trails and airstrips. Under the present law, it is quite possible for a trespasser to sue a landowner for injuries received while trespassing on private land if any of these improvements are present in these situations. The courts typically examine the nature of the improvement, the cost of removing the improvement, the landowner's likeliness, and actual knowledge of the improvement's existence, and the extent to which the improvement can be considered an attractive nuisance. In those cases involving a trespass action, the courts in other states have held that a landowner owes a minimum of care to a trespasser.* Since Alaska has almost no case law dealing with trespass or wrongful death or injury of a trespasser, it is possible that a private landowner could be held liable in a personal injury suit involving a trespasser on unimproved lands.

The size of the land area, duration, impact and intent, all to one degree or another determine how severe a trespass activity may be. Not all trespass actions are equally severe, nor are they all harmless activities. It is important to note there is a significant difference between an individual hiking across the land and a "D-8 cat" crossing the land. A bulldozer crossing the tundra only one time can cause severe surface degradation, whereas a camper may cause no permanent damage. However, the potential for damages by the camper from fire and litter are ever present regardless of the type, extent and frequency of the unauthorized use. Furthermore, there is the ever present possibility that historical sites and cemeteries may be damaged or looted by the casual trespasser. This situation is most common on Native land.

Unauthorized Use of Land and Natural Resources

Unauthorized use of land and natural resources usually results in a loss of revenue to the Native corporation. In some cases, physical damage to the land itself may occur. Over a long period of time, removal of valuable resources through gravel extraction, gold mining, cutting of timber, or even extensive fishing and hunting can significantly impact the economic viability of a Native corporation and its

* LeBlanc, E.M., "Section-by-Section Analysis - HB 660," April, 1986, unpublished report to the State of Alaska Legislature.

individual shareholders. The hunting and fishing issue is particularly sensitive in those areas dependent on subsistence activities or dependent on commercial fishing along rivers.

Although most of these trespass activities result only in a loss of revenue, they can create a possessory right if ignored. Fishermen, trappers, miners, etc., have built structures of varying types on Native owned lands. Some of these people moved onto the land prior to the passage of ANCSA in 1971, but did not file the proper paperwork to establish their residence or activity. In the absence of these records, they appear to have no "valid existing right" under ANCSA and hence, may be trespassing unless they have occupancy rights under Section 14(c) of ANCSA. Others who moved onto the lands after ANCSA are in a similar, but less defensible position. In addition, historical roads and trails which were not reserved by 17(b) easements are present on Native corporation land. Continued use of these rights-of-way by the public could lead to the creation of a prescriptive easement across the corporation's land. Should this type of trespass go unchallenged, it may lead to an eventual claim of adverse possession against a Native corporation's lands or the creation of an additional easement which will result in an actual loss of land.

Geological and Geophysical Trespass

In recent years, Native corporations have discovered that illegal geologic exploration activities have been occurring on their land. In these situations, mineral exploration companies have gone onto or flown over regional and village corporation land to conduct geologic exploration activities without the permission of the subsurface owner. In the Lower 48, these activities are a recognized form of trespass and are considered to be a tort known as wrongful appropriation of the right to explore 'or a resource.* The courts have recognized a landowner's right of recovery against a geophysical explorer who enters upon land with ut authority and conducts a geophysical survey. Damages have been awarded to a landowner for geophysical trespass based on actual surface damages, on loss of the exploration rights, and on loss of the leasing value.*

In the case of a geophysical trespass, physical harm to the property is usually only of minor consequence because modern surveying methods cause little or no physical damage to the land. Consequently, the greatest concern of a landowner is not damage to land, but the loss of prospective economic advantages. A landowner's major losses occur when information regarding the mineral estate is misappropriated. The landowner is then deprived of a valuable exploration right, and if the survey tends to demonstrate that the land is valueless for mineral development, a landowner may be denied the opportunity to lease or sell his rights to the mineral estate, thereby denying the landowner any profits and placing him in an unequal bargaining position.

PROBLEMS RELATIVE TO ENFORCEMENT AND PROSECUTION OF TRESPASS

Trespass in its many aspects is a problem that impacts all private landowners in Alaska, whether they be a Native corporation or a homesteader. It is a problem which must be addressed on a statewide basis in order to resolve the fundamental issues of law and public responsibility.

Jurisdiction for Trespass Enforcement

While the division of responsibility between the state and federal government relative to trespass seems clear, actual determination of responsibility is usually complicated because of the changing land status. There is no disagreement that

* LeBlanc, E.M., "Section-by-Section Analysis - HB 660," April 1986, Unpublished Report to State of Alaska Legislature.

federal agencies are responsible for trespass enforcement on Native land during the withdrawal, selection and adjudication processes. However, once title is transferred by interim conveyance, such land is considered private land, subject only to completion of a survey. At this point, Native corporation land falls under the State of Alaska's jurisdiction. Since it is private land, it is the state's responsibility to provide law enforcement and respond to trespass complaints and if necessary prosecute trespassers.

The most difficult situation, however, is determining who is responsible for trespass situations involving the misuse of 17(b) easements. In those situations where the easement user strays from the 17(b) easement onto adjoining land, the trespass is on the property rights of the private land owner. Therefore, the responsibility for any action rests with the owner because it is a trespass on the corporation's property rights. Furthermore, if an easement user utilizes land within the 17(b) easement for purposes other than what was specified for that easement, but does not obstruct or damage the easement (e.g. overnight camping on a 17(b) easement), the underlying landowner must take action on the unauthorized use. The exception is when damage or obstruction to the 17(b) easement occurs. In this situation, the easement holder (BLM or other governmental agency) is responsible for taking action because actual interference or damage to the easement itself has occurred.

It is difficult for private landowners to get state officials to aggressively prosecute those cases involving trespass on private land. The various law enforcement agencies by and large do not view trespass as a major crime, consequently little is done to enforce the state's trespass laws, even when requested to do so by a landowner experiencing trespass problems. However, more frequently, agencies responsible for trespass enforcement take no action whatsoever on reported trespass violations, either due to lack of time, funding or manpower.

Lack of Surveys on Conveyed Land and 17(b) Easements

A major stumbling block to effective enforcement against trespass lies in the lack of identifiable boundaries of the property and easements. Since the majority of the land which has been conveyed to Native corporations is not yet surveyed, there is the possibility that some instances of trespass are occurring on the periphery of Native corporation land. Consequently, there may be cases where legitimate questions will arise as to whether an alleged trespass did, in fact, occur. In those situations, the only way to settle the dispute is to have the area in question surveyed.

As long as Native corporation land remains unsurveyed, it will be difficult to make a clear determination as to whether or not a trespass did occur. Without such a determination, prosecutors may actually decline to prosecute trespass cases. The need to determine boundaries prior to prosecuting trespass cases places an undue burden on Native corporations and substantially increases the costs associated with trespass enforcement and prosecution.

Statutory Issues

The initial determination of whether to pursue a civil or criminal action against a trespass is usually made on a case-by-case basis by the affected Native corporation. In determining which cases to prosecute the guideline is usually intent--was it inadvertent or deliberate and is the impact minimal or profound. Clearly any use of the land which can lead to a claim of adverse possession or a prescriptive easement, thereby jeopardizing or diminishing a Native corporation's ownership rights is a situation which justifies pursuing a trespass action.

The primary problem associated with trespass enforcement is the statutory requirement that notice against trespass be "given by posting in a reasonably conspicuous manner" (AS 11.46.350). The posting requirement is ambiguous since the definition of "a reasonably conspicuous manner" is subject to varied

interpretations. In most situations under the present law, posting is interpreted to mean that the land must be posted at frequent intervals, i.e., every 100 feet along all exterior property boundaries including lake and river edges. Given the vastness of Native corporations' land holdings, this requirement for posting or fencing is unrealistic. The present law leaves everything to interpretation. This can lead to conflict between a landowner and the law enforcement officer and prosecutor. A landowner's interpretation of the minimum posting requirement may result in the land owner not posting his land sufficiently to satisfy law enforcement officers or prosecutors. For example, under a strict interpretation of the law, if a float plane lands on a lake or river inside a private landowner's property boundaries, the land would not be considered to be posted "in a reasonably conspicuous manner," if signs were posted only on the property's exterior boundaries. To be considered adequately posted, the courts could interpret the law to mean that signs have to be posted along the shores of all interior lakes and rivers.

As it now stands, private landowners are unable to gain assistance from the state criminal process even if there is a flagrant and purposeful instance of trespass if the landowner has not met the posting requirements. Private landowners with large tracts of land must post literally hundreds and thousands of signs to meet the letter of the law. This is a very expensive and burdensome requirement for landowners. The law does not consider the uniqueness of Native land ownership patterns (vast tracts of undeveloped private land). In fact, in many areas of the state, it is impossible for landowners to post signs simply because there are no trees on which to attach "no trespassing" signs.

It is difficult to keep all private lands adequately posted in remote areas because signs weather and people constantly vandalize them. As it is now written, the state's posting requirement for large land areas, such as those owned by the Native corporations, is unrealistic and in many instances cannot be implemented economically or practically by the large landowners.

Another problem associated with prosecution of trespass cases lies with the State Criminal Code which defines trespass relative "to intent to commit a crime" The revised Criminal Code provides that "a person, who without intent to commit a crime on the land, enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, is privileged to do so, (emphasis added) unless; 1) notice against trespass is personally communicated to that person by the owner of the land or some authorized person; or 2) notice against trespass is given by posting in a reasonably conspicuous manner under the circumstances."*

For the most part, Alaska's statutes are subject to varying interpretation and place the burden of proof that trespass has occurred on the landowner. As it now stands, the statute may be interpreted in a manner which will permit a person to enter on private land to go hunting, fishing, camping, prospecting, etc., so long as the person is not intending to commit a crime and the land is unused, unfenced, and no one advises the user to the contrary. The statute reflects the philosophy that if a landowner wants to exclude intruders, the landowner should be solely responsible for taking steps to do so. The entire burden of protecting one's lands is thereby placed on the landowner.

In summary, it is difficult for Native corporations to get federal and state officials to aggressively prosecute those cases involving casual trespass on Native

* AS 11.46.320 and AS 11.46.330

lands. In their present form, the Alaska's statutes are very vague as to what constitutes trespass, consequently they do not provide private land owners with adequate protection against trespasses nor does it allow for the prosecution of trespass even though the landowner's rights may have been infringed upon. The criminal code is not an effective tool for dealing with trespass simply because people, by and large, do not view trespass as something which should be punished by criminal statutes. This is in significant contrast to the lower 48 where several states make it a crime to hunt on private land if the hunter has not gotten permission from the landowner beforehand.*

When selecting trespass cases for prosecution care must be taken to differentiate between acts which are fundamentally civil in nature and those which constitute criminal trespass. It is not reasonable to expect that all trespass offenses will be prosecuted as criminal actions. It is important to note, however, that a civil action is usually not a very satisfactory remedy because it is expensive for the private landowner to hire attorneys to file the action and there is no certainty of recovering more than nominal amounts for damages. Unless state trespass laws are amended so that the enormous evidentiary burden placed on the landowner is removed, the majority of trespass activities will remain unabated and will continue to be difficult to prosecute.

TRESPASS AND EASEMENT MANAGEMENT POLICIES

There have been and will continue to be times when the uniqueness of each Native corporation's land management style and situation mandates a trespass policy which may differ from that of other corporations. In fact, there are numerous possible ways to address the extensive trespass issue from both the Native corporation and public agency perspective.

Native Corporation Land Management Policies and Practices

Recently, many village and regional corporations have developed their own land management policies to ensure that Native corporation land is suitably protected from trespass. It has been difficult for the Native corporations without land policies to gain agency support for enforcement of existing trespass laws. The Alaska Federation of Natives has recommended that each corporation draft an unauthorized use policy which addresses the corporation's liability should someone be injured on Native corporation land while trespassing; the corporation's policy for prosecuting trespass; and a definition of what constitutes trespass. In addition, the corporations are being encouraged to establish guidelines for determining which trespass actions will be prosecuted as criminal actions and which will be prosecuted as civil cases.

Another approach village and regional corporations have taken is to identify land which is of primary interest to them and concentrate on trespass and unauthorized use on said land, recognizing that it may be impossible for law enforcement agencies to effectively respond to all trespass incidents occurring on the corporation's land. The balance of the land is then managed and protected against trespass by the Native corporation. Another alternative has been to identify classes of trespass and set priorities relative to the degree to enforcement necessary to protect the corporations' interests.

Finally, in order to provide a greater degree of protection against unauthorized use of their land, individual Native corporations have begun to implement permit systems for controlling access. The permit allows an individual to enter onto the

* State of Wisconsin Criminal Code §94.13

corporation's land for a specific activity, thereby eliminating a part of the unauthorized use problem. Furthermore, the permit provides the corporation with a means of notifying individuals of the stipulations for using the corporation's land and protects the corporation from liability claims should the individual be injured while occupying the land.

Joint Cooperation Policies Between Native Corporations and Public Agencies

In January 1985, the Alaska Land Use Council (ALUC) adopted a work item addressing unauthorized use and trespass on both public and private land. A work group, including federal and state agencies and Native corporations, was established to develop recommendations on trespass. Under the leadership of the Alaska Federation of Natives, the group developed a comprehensive set of recommendations on the subject. The group primarily focused its attention on ways to foster cooperation among landowners, and recommend actions which should be taken by public agencies and private landowners to prevent and alleviate the growing problem of trespass and unauthorized use, especially inadvertent use which constitutes the majority of the trespass incidents now occurring. The Work Group's recommendations were adopted by the Alaska Land Use Council in November 1985 and are now in effect. They are entitled "Trespass Abatement Recommendations".

The underlying direction of the work group's recommendations is a good neighbor approach which encourages public and private land owners to cooperate to prevent trespass on adjoining land. The recommendations were designed so that they would not conflict with nor contradict the responsibility of each landowner to enforce applicable laws and regulations on his own land.

The work group paid considerable attention to the question of who should be responsible for implementing the recommendations. It was recognized that the affected land owner, public or private, has the primary responsibility for initiating actions to prevent trespass, as well as working with neighboring landowners to develop ways to resolve trespass problems occurring on one another's land.

Although the ALUC trespass abatement recommendations provide direction to state and federal agencies on trespass and easement management, several problems still exist. Under existing policies and procedures, public agencies are unable or unwilling to respond to the trespass problems that now exist. On the state level, this may result from there being no state policy about investigating and prosecuting instances of trespass on Native corporation land. Furthermore, it does not appear that the relationships, if any, have been determined between state and federal law enforcement and prosecution agencies in relation to trespass enforcement and abatement responsibilities on Native corporation land.

The problem between federal and state agencies is further compounded because the incidence of unauthorized use and lack of information about land ownership and trespass policies is so widespread that a rigid policy of enforcement and prosecution by the agencies cannot be implemented at this time. Often times trespass problems go unsubstantiated due to uncertainties about land status including: location of boundaries between uplands and the beds of navigable waters, the location of on-the-ground boundaries, the timeliness of Native allotment applications, and so forth.

Because of the complexity of the problems involved in the overall trespass issue and agency perception that the public dislikes trespass enforcement, there has been a reluctance on the part of public agencies to expend the manpower and resources necessary to effectively deal with the problem. Trespass prevention and abatement problems continue to be of very low priority in terms of personnel and funding. Furthermore, state and federal policies and laws must be written so that they provide the private landowner with adequate protection against trespass. State and federal policies and laws need to be established or revised so they are easier to enforce, allow for prosecution of trespassers and provide the private land owner with greater protection against trespasses than now exists.

SUMMARY

Trespass often occurs because of the complexity of land ownership patterns in Alaska and the common misconception that any open and unused land is public land. The confusion is further compounded by the fact that federal and state agencies have different land management policies which may affect private landowners. Consequently, it is often difficult to determine whether a trespass was caused by inadvertence or by indifference to private property rights. It is safe to assume that the public will never be knowledgeable about all aspects of the trespass problem in Alaska, therefore the problems will continue to occur as both in-state and out-of-state residents continue to hunt, fish, camp, etc., in remote areas of Alaska. As more people move to and visit Alaska, it is expected that this situation will intensify. At the same time, Native corporations and other landowners will become more sophisticated in the management of their lands and more concerned about easement control and trespass in general. The days when various segments of the public could assume a right to relatively uncontrolled use of land in Alaska are over.

Increasing recognition of land values and the competing demands for the use of land resources requires a more vigorous and effective program to facilitate lawful use of private land. Land managing agencies need to recognize the opportunities to educate the public about changes in land ownership and identify specific land that has been transferred to the private sector. Since the Native corporations' land holdings are so vast and the boundaries so intermingled with other state, federal and private land, any reasonable approach to the trespass problem clearly must be multifaceted if it is to be successfully addressed in a manner that will not tax the resources of the private landowner or the management agencies.

Furthermore, existing laws and public policy must be redirected to help protect vast privately owned tracts of land from trespass in a manner that continues to provide access to public land. It is an appropriate time to consider amending the inadequate trespass laws with the intent of protecting the private property rights of Alaskans.

REFERENCES

Alaska Land Use Council Trespass Work Group, September 1985, "Recommendations on Trespass" committee memorandum

LeBlanc, E.M., April 1986, "Section by Section Analysis for HB660 -State of Alaska Legislature, unpublished paper

Messick, M.J., August 1981, Trespass and Unauthorized Use of Native Lands in Alaska, pp. 1-42, State of Alaska, Dept. of Public Safety

6

TESTIMONY OF ROBERT W. LOESCHER
BEFORE THE HOUSE JUDICIARY COMMITTEE
ON HOUSE BILL 198
March 29, 1988

MY NAME IS ROBERT W. LOESCHER. I AM THE SENIOR VICE PRESIDENT RESOURCE MANAGEMENT FOR SEALASKA CORPORATION, THE NATIVE REGIONAL CORPORATION FOR SOUTHEAST ALASKA. SEALASKA PRESENTLY OWNS APPROXIMATELY 238,000 ACRES OF SURFACE AND 493,000 ACRES OF SUBSURFACE LOCATED THROUGHOUT SOUTHEAST ALASKA. SEALASKA WILL ALSO RECEIVE APPROXIMATELY 100,000 ACRES OF SURFACE AND SUBSURFACE AS PART OF ITS FINAL ENTITLEMENT UNDER THE ALASKA NATIVE CLAIMS SETTLEMENT ACT. ALMOST ALL OF SEALASKA'S LAND IS REMOTE, UNIMPROVED, BUT ACCESSIBLE BY LAND, AIR AND WATER. AS THE MAJOR PRIVATE LAND OWNER FOR SOUTHEAST ALASKA, SEALASKA WOULD LIKE TO EXPRESS ITS SUPPORT FOR HOUSE BILL 198.

SEALASKA CORPORATION, IN CONCERT WITH THE ALASKA FEDERATION OF NATIVES, HAVE REVIEWED THE COMMITTEE SUBSTITUTE FOR THE SPONSOR SUBSTITUTE OF HB 198. IN RESPONSE TO THE CONCERNS EXPRESSED BY MEMBERS OF THIS COMMITTEE, WE NOW OFFER THE PROPOSED DRAFT AS A SUBSTITUTE FOR THE PRESENT COMMITTEE SUBSTITUTE FOR HB 198. BOTH SEALASKA AND AFN FELT THAT HB 198 CONTAINED SOME AMBIGUITY AND DUPLICATION WHICH NEEDED TO BE ADDRESSED. OUR DRAFT, WHICH IS OFFERED TO THIS COMMITTEE, IS OUR EFFORT TO PROVIDE A MUCH CLEANER VERSION OF THIS BILL. THIS DRAFT, HOWEVER

ROBERT W. LOESCHER
TESTIMONY

STILL PRESERVES THE PROVISIONS WHICH PROTECT THE LANDOWNER FROM CERTAIN TYPES OF LIABILITY.

THE NEW DRAFT OF HB 198 HAS CONDENSED THE PROVISIONS CONCERNING RECREATIONAL USE IN SECTION 1 OF HB 198. ADDITIONALLY, WE PROPOSED THAT NEW SECTIONS BE ADDED TO INSURE THAT NO PROPERTY RIGHTS WILL BE CREATED OR CONVEYED THROUGH RECREATIONAL USE OF PROPERTY.

SECTION 2 OF HB 198 CONCERNING TREBLE DAMAGES FOR GEOLOGICAL TRESPASS REMAINS THE SAME IN OUR DRAFT. SECTION 3 OF HB 198, WHICH SOUGHT TO AMEND AS 09.45.795, HAS BEEN ALTERED TO ADDRESS THE CONCERNS OF THIS COMMITTEE AND TO BRING THE AMENDMENT INTO CONFORMITY WITH THE PROPOSED VERSION OFFERED BY SENATOR DUNCAN.

OUR RE-DRAFT OF HB 198 REDUCED THE SPECIFIC INSTANCES OF TRESPASS TO INCLUDE ONLY THOSE ACTS WHICH HAVE BEEN AMBIGUOUS AS TO WHETHER SUCH ACTS CONSTITUTED TRESPASS. UNDER OUR RE-DRAFT, THOSE ACTS WOULD NOW BE CONSIDERED TRESPASS. SECTION 7 OF HB 198 HAS BEEN ALTERED TO CLEARLY ESTABLISH THE REQUIREMENTS FOR POSTING OF SIGNS TO PROHIBIT TRESPASS. THIS LANGUAGE HAS BEEN PREVIOUSLY PROPOSED BY SEALASKA IN ITS EARLIER COMMENTS REGARDING HB 198.

WE FEEL THAT THIS NEW DRAFT OF HB 198 PRESERVES THE SAME CONCERNS ADDRESSED IN THE EARLIER VERSION OF HB 198. HOWEVER, WE

ROBERT W. LOESCHER
TESTIMONY

PAGE - 2 -

BELIEVE THAT THIS VERSION IS MORE SUCCINCT AND CLEARER. IT
RESOLVES THE AMBIGUITIES WHICH EXISTED IN HB 198. WE ENCOURAGE
THIS COMMITTEE TO REVIEW THIS NEW DRAFT AND ADOPTED IT AS THIS
COMMITTEE'S SUBSTITUTE FOR HB 198.

THANK YOU FOR YOUR TIME AND INTEREST.

Ahtna, Inc.

MAR 25 1988

COPPER CENTER OFFICE
DRAWER G
COPPER CENTER, AK 99573
PHONE: (907) 822-3476

ANCHORAGE OFFICE
406 W FIREWEED LANE, NO
ANCHORAGE, AK 99503
PHONE: (907) 274-7662

ST-24

March 18, 1988

Peter Goll
Alaska State Legislature
P.O. Box V (M.S. 3100)
Juneau, Alaska 99811

RE: Support of H.B. 198

Dear Peter:

By virtue of this letter, I am hereby expressing my support for House Bill 198. This bill, if passed into law, would be of great benefit to the private property owner. It comes at time when problems related to trespass are at a upsurge, and unauthorized usage of one's private property are ever-the-more increasing. The issue and consequences of trespass have never been openly discussed, but rather set aside. As a result, trespass problems have grown out of proportion and furthermore, have been interpreted by many to mean permissiveness rather than the opposite.

As a Native Corporation in charge of the management of many acres of land, we find, in many instances, unauthorized uses of our lands by users who couldn't care less who owns what lands. The users seem to know that since the current trespass laws are so vague, and can be interpreted differently, that enforcement will be to a minimum or not at all. Even the State Troopers in charge of enforcement are reluctant to pursue instances of trespass. They find themselves caught between the individual(s) and the private property owners, where the latter must prove beyond a reasonable doubt that trespass did occur. Until the proof is conveyed, it is either forgotten, neglected or ignored...but the damage is already done. These problems associated with trespass will continue to arise until something is done. It will never go away!

Again, for a private property owner with the management responsibility of many acres of land, trespass confrontations can become very serious. Although H.B. 198 is a long way from ideal, we feel it is the most reasonable first step toward rectifying the prob-

Support of HB 198
March 18, 1988
Page 2

lem. Although there are other desired features in this legislation, the most important part of this bill is the elimination of the legal liability of landowners for users who use other "open lands" for recreational purposes. It really helps corporations in reducing their liability!

Let me say, in closing, that Ahtna, Inc., as a landowner, desires to have a bill such as H.B. 198 become law, as it does clarify to some degree what constitutes trespass along with other sections that clearly assist private landowners in protecting their lands.

Respectfully submitted,



Roy S. Ewan
President

cc: Land Committee
Ray Craig, Land Protection Officer
Shareholder Committee Chairmen
Village Council Presidents



February 16, 1988

The Honorable Lyman Hoffman
Representative, District 25
The Honorable John Sund
Representative, District 1B
House of Representatives
c/o The House Judiciary Committee
P.O. Box V
Juneau, Alaska 99811

Re: House Bill 198 - "An Act Relating to the
Permissive and Nonpermissive Use of Land"

Gentlemen:

Sealaska Corporation is the Regional Native corporation for southeast Alaska. Sealaska owns approximately 493,000 acres of land located throughout southeast Alaska. Almost all of Sealaska's land is remote, unimproved, but accessible by land, air and water. As the major private landowner for southeast Alaska, Sealaska would like to express its support for this legislation and offer the following comments with regard to HB 198, "An Act Relating to the Permissive and Nonpermissive Use of Land."

Under the provision of the proposed Bill, Sealaska would not be liable for injury or death if permission were given for recreational use, nor would Sealaska be liable for any injury or death if the property were unimproved. However, much of our land contains logging roads used by Sealaska and others as part of its timber harvesting. Many of these logging roads have been put to bed, with culverts and bridges removed and natural vegetation permitted to grow over these roads. As you may know, Sealaska is required to do this under the Alaska State Forest Practices Act, AS 41.17. Though these roads are now abandoned, liability could attach. It is our impression that the intent of this legislation is to exclude liability under these circumstances, and Sealaska is offering some suggested amendments to cover those concerns.

The intent of HB 198 is to clarify for the landowner, the duty it owes to someone who enters upon its land. Section 1 of the current version of HB 198 (CS for Sponsor Substitute for HB 198 (Judiciary), Bradley 2/3/88) ("CSSSHB 198") provides ample protection to the landowner provided that the use of the land was recreational and without compensation. This encompasses permissive use of the land, but does not include someone who is using the land without permission.

The only protection afforded the landowner from liability to a trespasser is found in Section 4 of the current version of HB 198, which merely states that the landowner is not liable in tort to a trespasser. Sealaska would ask the Committee to compare this short provision with the provision found in Section 1 of that Bill. If no duty of care is owed to one using the land with permission, then no duty should be owed to one using the land without permission. This would be in accord with the common law principle that no duty of care is owed to a trespasser. Sealaska believes that this principle should be clearly established in this Bill. To that end, Sealaska has drafted a substitute for Section 3 to be used in place of the current Section 3 of CSSSHB 198 for this purpose. A copy of the proposed amending language is attached. The intent of the proposed language is to specifically provide that no liability will attach to a landowner if a trespasser enters upon the land and is injured or killed.

Some of Sealaska's lands are isolated tracts, either surrounded by water or by federal/state-owned land. In such situations, access to Sealaska's land could be obtained anywhere along the perimeter, through roads which pass through federal or state-owned lands but do not enter Sealaska's lands, or by an accessible landing beach. Under the proposed Section 7 of CSSSHB 198, Sealaska would be protected from trespassers if it takes the steps of posting the property "at each roadway or apparent way of access." However, it is physically impossible for Sealaska to post notice at every conceivable access point. A better rule would be to require posting at specific known access points or along the perimeter at specified cardinal directions. To that end, Sealaska offers a proposed substitute for Section 7 of CSSSHB 198, which is enclosed for this Committee's review and use.

In sum, the burden of liability should lie with the trespasser and not with the landowner. Therefore, it should be an act of trespass if entry is made upon the land of another without permission regardless of posting and


February 16, 1988

-3-

liability should not be contingent upon providing notice of some prohibitive act. HB 198 goes far to address these concerns. However, Sealaska believes that the enclosed substituted sections would further clarify the legislature's intent regarding protection from unpermissive use of land and limiting liability for permissive use of land.

Sincerely,

SEALASKA CORPORATION


Robert W. Lescher
Senior Vice President
Resource Management

RWL/amt

s\rep.ltr

Attachments: Proposed substitute for Section 3
Proposed substitute for Section 7

cc/enc: Sen. Jim Duncan
Sen. Richard Eliason
Sen. Lloyd Jones
Rep. Peter Goll
Rep. Ben Grussendorf
Rep. Bill Hudson
Rep. Robin Taylor
Rep. Fran Ulmer
Byron I. Mallott
Sam Kito
Janie Leask
John Hartle
Larry Kimball
Stephen F. Sorensen, Esq.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

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

February 2, 1988

The Honorable John Sund
Chairman
House Judiciary Committee
P.O. Box V
Juneau, Alaska 99811

Dear Representative Sund:

Subject: SSHB 198 - An act relating to the permissive and non permissive use of land.

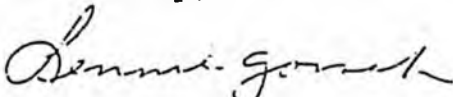
Position: As the bill is currently written it does not affect the Department of Natural Resources. If it was amended to include an exemption from liability as outlined below, the Department of Natural Resources would enthusiastically support it.

Background: The Department has many concerns relating to liability on state land. If this exemption of liability was extended to state land it would resolve many of those concerns about recreational use of both developed and undeveloped land and concerns regarding injuries and damages when we issue leases and permits.

The state should not be liable if it leases land in its natural condition and others improve it, as long as it was in its natural condition when it was originally leased.

Recommendation: The Department of Natural Resources recommends that the bill include "state land" under the definition of land, Sec. 05.40.010(g)(2).

Sincerely,



Judith M. Brady
Commissioner

FISCAL NOTE

REQUEST:

Revision Date: 2/1/88
Title: Permissive and nonpermissive use of land.
Sponsor: Hoffman
Requestor: House Judiciary Comm.

Agency Affected: DWR
BRU: Land and Water Mgt.
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

[Empty box for analysis]

Prepared by: Janet Burleson Phone: 465-3400
Division: Land and Water Management Date: 2/1/88
Approved by Commissioner: Louise Barton-Gonzalez Date: 2-2-88
Agency: 11

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

ALASKA FEDERATION OF NATIVES, INC.
1987 ANNUAL CONVENTION

RESOLUTION NO. 87-12

TITLE: ANCSA LANDS TRESPASS

- WHEREAS, the United States Congress recognized and transferred land ownership of specific land holding under the 1971 ANCSA Legislation; and
- WHEREAS, sixteen (16) years have passed and interim conveyance has not yet been completed by the Department of Interior, to those ANCSA LANDS to this day; and
- WHEREAS, trespass by U.S. citizens, tourists, developers and the general public occurs in and about the Native Corporation regions on a daily basis for many different reasons unknown to those Alaska Native landowners and as time progresses this inadvertant passage over and use of those private ANCSA LANDS causes concern to all involved.
- NOW THEREFORE BE IT RESOLVED by the delegates to the 1987 annual convention of the Alaska Federation of Natives, Inc. that enforcement and compliance of trespass laws by the state and federal government on those ANCSA private lands begin today, and to support HB 198 in the forthcoming legislative session.

CONVENTION ACTION: PASSED



FEB 1 1988

File

ALASKA FEDERATION OF NATIVES, INC.



411 W 4th Avenue, Suite 301 • Anchorage, Alaska 99501 • Phone (907) 274-3611

January 27, 1988

Senator John Binkley
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Dear Senator Binkley:

Representative Lyman Hoffman has notified the Federation that Committee Chairman Representative John Sund has scheduled HB 198 (Permissive and Non-Permissive Use of Land) for hearings before the House Judiciary Committee for February 3 at 1:30 pm.

HB 198 is important to private landowners in general. It is extremely important to Native landowners who have acquired large, remote holdings that were open to use and occupancy under earlier federal management.

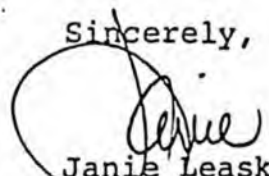
HB 198 is but one element generated by the efforts of state, federal and Native representatives, as members of the Alaska Land Use Council, to resolve trespass and land management related issues. The bill focuses on the use of private land for recreational purposes in exchange for relief, under certain conditions, to the landowner of liability.

The enclosed AFN Resolution No. 87-1? was presented to and passed by the entire 1987 Convention delegation. Such overwhelming support indicates the importance of this bill to the Native community.

I respectfully request your support of HB 198.

Thank you.

Sincerely,


Janie Leask
President

enclosure

cc: Representative Hoffman ✓

ALASKA FEDERATION OF NATIVES, INC.



411 W 4th Avenue, Suite 301 • Anchorage, Alaska 99501 • Phone (907) 274-3611

January 27, 1988

Representative Henry Springer
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Dear Representative ^{Henry} Springer:

Representative Lyman Hoffman has notified the Federation that Committee Chairman Representative John Sund has scheduled HB 198 (Permissive and Non-Permissive Use of Land) for hearings before the House Judiciary Committee for February 3 at 1:30 pm.

HB 198 is important to private landowners in general. It is extremely important to Native landowners who have acquired large, remote holdings that were open to use and occupancy under earlier federal management.

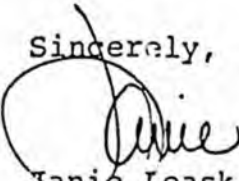
HB 198 is but one element generated by the efforts of state, federal and Native representatives, as members of the Alaska Land Use Council, to resolve trespass and land management related issues. The bill focuses on the use of private land for recreational purposes in exchange for relief, under certain conditions, to the landowner of liability.

The enclosed AFN Resolution No. 87-12 was presented to and passed by the entire 1987 Convention delegation. Such overwhelming support indicates the importance of this bill to the Native community.

I respectfully request your support of HB 198.

Thank you.

Sincerely,


Janie Leask
President

enclosure

cc: Representative Hoffman ✓

Opinions

No trespassing — protecting private property in Alaska



by Janie Leask

Several members of a hunting party stray onto private land and without realizing it. The land is unmarked, and each of the hunters assumes they are still on public land. At the end of the day, the hunters build a fire and camp overnight. Is this a trespass situation?

A contractor needs to clear some land for construction of a small structure on public land. Rather than keeping to the easement with the bulldozer he needs to do the work, he decides to take a shortcut across some privately owned land. What harm can there be in crossing just once?

In another area of the state, several men make their way furtively onto unmarked land they clearly know is privately owned. They vandalize the area by digging up some old gravesites, in search of valuable artifacts they can sell. They find nothing of value, and do irreparable damage to the site.

Everyone would certainly recognize the latter incident as a serious case of trespass, and few would argue the need

for prosecution. But there is also the potential for serious harm in the first two cases cited. In the first, there is the potential for a forest fire, as well as some likelihood for adverse impact to the subsistence resources of the region. In the second, there is a possibility of serious damage to the land by heavy equipment. A bulldozer crossing the tundra only one time can cause severe surface degradation. In both of the first two cases, repeating the trespass violations over a period of time may have a much more adverse impact on the land, and on subsistence activity in the area.

My last column focused on trespass problems brought

about by the complex and time-consuming process of land transfer initiated by the Statehood Act and the Alaska Native Claims Settlement Act. The need for public education on the issue was also discussed. Today's column will focus on efforts being undertaken to alleviate the problem of trespass in Alaska.

In January of 1985, the Alaska Land Use Council began work to address unauthorized use and trespass on both public and private land. A working group was established with representation from the state of Alaska, the federal government and a representative of the Alaska Federation of Natives.

The result of the working group's efforts was a formal set of Trespass Abatement Recommendations that was unanimously adopted by the ALUC in October of 1985.

The Trespass Abatement Recommendations took a "good neighbor" approach which encourages public and private landowners to cooperate to prevent trespass on ad-

joining land. The recommendations identify specific ways to offer public education intended to prevent unauthorized use of public and private land. For example, state and federal agencies are now providing trespass related information on agency maps, brochures and land planning documents. Private and public landowners are jointly establishing priorities for preparation of user information maps. They are also identifying and focusing attention on areas subject to high use and trespass.

The state's Department of Natural Resources, in cooperation with Bristol Bay Native Corporation, is developing an Easement Atlas for the Bristol Bay region. This joint mapping program will not only provide accurate land ownership information, but will also show the location of all valid public easements and right of way in the region.

These and other efforts to identify privately held lands adjoining public areas are

the impossibility of marking the boundaries of the vast land tracts privately held in Alaska. For example, Doyon Ltd., one of the regional corporations created by ANCSA, is the largest private landowner in the United States. Some blocks of land held by Doyon, although not entirely contiguous, would well exceed the size of Rhode Island.

Other cooperative efforts brought about by the recommendations include coordination of information for public education; public service announcements; visitor center displays that illustrate land status through maps and publications; and development of formal agreements such as Land Bank agreements and land exchanges as vehicles to report suspected trespass incidents.

In addition to actions already being implemented, the working group's recommendations included establishing a central depository for land use policies and DNR easement information; a school educational program

that introduces materials on the history of the various land acts impacting Alaska and their effect on land ownership; and a landowner educational program that teaches sound land management principles and protection from trespass.

All of these recommendations are good ideas. They focus on public education of the issue, a much more reasonable approach to the problem than attempting to prosecute every person who inadvertently crosses private land.

As a final suggestion, Alaska statutes need to be rewritten to better protect landowners under both authorized and unauthorized use situations. AFN, with input from private property owners, has drafted proposed legislation for introduction in the legislature. It is a first step to protecting private property interests.

Janie Leask, an Alaska native, is president of the Alaska Federation of Natives.

HB

203

5-0692X.

Bradley
3/18/88

Original sponsors: Larson, Swackhammer,
Koponen and Taylor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 203 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to forfeiture of weapons used to
7 commit a crime."

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

9 * Section 1. AS 12.36 is amended by adding new sections to read:

10 Sec. 12.36.050. REMISSION OF FORFEITED PROPERTY. (a) A claim-
11 ant seeking remission of, or remittance of the value of, the claim-
12 ant's interest in a weapon ordered forfeited under AS 12.55.015(a)(9)
13 shall prove to the court by a preponderance of evidence that the
14 claimant

15 (1) has a valid interest in the weapon, acquired in good
16 faith;

17 (2) did not knowingly participate in the commission of the
18 crime in which the weapon was used; and

19 (3) did not know or have reasonable cause to believe that
20 the weapon was used or would be used to commit a crime.

21 (b) Upon a showing that a claimant is entitled to relief under
22 (a) of this section, the court may order that the weapon be released
23 to the claimant.

24 (c) A claim may not be filed under this section more than 120
25 days after the entry of the last final judgment in the case in which
26 the weapon was ordered forfeited.

27 Sec. 12.36.060. DISPOSAL OF FORFEITED DEADLY WEAPONS. (a) A
28 deadly weapon forfeited under AS 12.55.015(a)(9), unless remitted
29 under AS 12.36.050, shall be disposed of by the commissioner of public

1 safety under this section. The commissioner of public safety may
2 declare a weapon surplus and transfer it to the commissioner of admin-
3 istration. A weapon suitable for law enforcement purposes, ballistics
4 testing, training, or identification may be retained by the Department
5 of Public Safety or transferred to the municipal law enforcement
6 agency making the arrest that led to the forfeiture. A weapon that is
7 unsafe or unlawful shall be destroyed.

8 (b) The commissioner of public safety may adopt regulations
9 necessary to carry out the provisions of this section.

10 * Sec. 2. AS 12.55.015(a) is amended to read:

11 (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in
12 imposing sentence on a defendant convicted of an offense, may singly
13 or in combination

14 (1) impose a fine when authorized by law and as provided in
15 AS 12.55.035;

16 (2) order the defendant to be placed on probation under
17 conditions specified by the court that [WHICH] may include provision
18 for active supervision;

19 (3) impose a definite term of periodic imprisonment;

20 (4) impose a definite term of continuous imprisonment;

21 (5) order the defendant to make restitution under [AS
22 PROVIDED IN] AS 12.55.045;

23 (6) order the defendant to carry out a continuous or peri-
24 odic program of community work under [AS PROVIDED IN] AS 12.55.055;

25 (7) suspend execution of all or a portion of the sentence
26 imposed under [AS PROVIDED IN] AS 12.55.080;

27 (8) suspend imposition of sentence under [AS PROVIDED IN]
28 AS 12.55.085;

29 (9) order the forfeiture to the commissioner of public

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safety of a deadly weapon that was in the actual possession of or used by the defendant during the commission of an offense described in AS 11.41, AS 11.56, or AS 11.61.

* Sec. 3. AS 12.55.015 is amended by adding a new subsection to read:

(f) In this section "deadly weapon" has the meaning given in AS 11.81.900.

FISCAL NOTE

REQUEST

Revision Date: _____ Agency Affected: Public Safety
 Title: "An Act relating to forfeiture of
weapons used to commit a crime." BRU: Alaska State Troopers
 Sponsor: Rep. Larson Components: Detachments
 Requestor: Senate Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY88	FY89	FY90	FY91	FY92	FY93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL

REVENUE

FUNDING (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

JMR
2/11/88

Prepared by: Francis C. Allan *F.C.A.*
 Division: Alaska State Troopers

Phone: 269-5691

Date: 2/6/88

Approved by Commissioner: Arthur English *A.H.*
 Agency: Public Safety

Date: 2/6/88

Distribution: (by preparer):

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: CSHB 203(Fin)
Publish Date: HOUSE 5/13/87

REQUEST
Revision Date: _____
Title: "An Act relating to forfeiture
of weapons used to commit a crime."
Sponsor: Rep. Larson
Requestor: House Judiciary

Agency Affected: Public Safety
BRU: Alaska State Troopers
Components: Detachments & CIB

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUNDS		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: Francis C. Allan *SCA* Phone: 269-5691
Division: Alaska State Troopers Date: 3/26/87

Approved by Commissioner: William R. Nix *W. Nix* Date: 3/31/87
Agency: Public Safety

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

RECEIVED
APR 01 1987

JNR
3/31/87

HB

217

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 25, 1987

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the purchase of foreign investments by the board of trustees of the Alaska Permanent Fund. The bill specifically permits the purchase of foreign securities by the board.

Returns from foreign investment have exceeded those from investments in the United States over most recent 10-year periods. In addition, the United States represents less than one-half of the world's equity capitalization, and that share is declining as foreign economies experience more rapid long-term growth. No one national market consistently produces superior or inferior returns, and foreign securities markets exhibit a low correlation with the U.S. market. Consequently, the ability to invest in those foreign securities will reduce overall portfolio risk while providing an increased return when compared to a portfolio of solely U.S. equities.

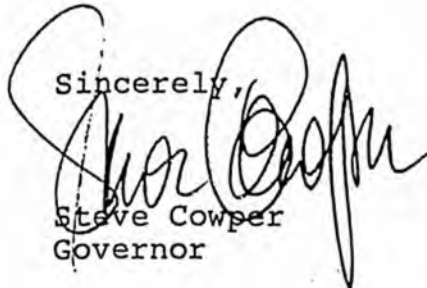
In sec. 2 of the bill, capital and surplus requirements are reduced in recognition of different international accounting conventions. For example, it has been reported in Barron's National Business and Financial Weekly that, if U.S. regulators required U.S. banks to establish a modest 10 percent reserve against their loans to the six major Latin American debtors, it would cost Chase Manhattan Bank \$4.82 a share this year and Manufacturers Hanover Trust Co. more than twice that amount. On the other hand, some German banks reserve more than 30 percent against lesser-developed-country loans. If we were to require \$500,000,000 in capital and surplus of all foreign banks,

Hon. Ben Grussendorf

Page 2

we might be forced to eliminate investments in banks with smaller reported capital but very large unreported reserves, which might make them some of the safest banks in the world.

Sincerely,



Steve Cowper
Governor

FISCAL NOTE

No. 2

REQUEST:

Revision Date: _____
Title: An Act relating to purchase of
foreign securities by PFC.
Sponsor: Rules
Requestor: Governor

Agency Affected: Revenue
BRU: Permanent Fund Corporation
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	35.0	500.0	500.0	500.0	500.0
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LAND & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	35.0	500.0	500.0	500.0	500.0
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	35.0	500.0	500.0	500.0	500.0
TOTAL	-	35.0	500.0	500.0	500.0	500.0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

FY 89: Contractual services for manager search.

FY 90 - FY 93: Management fees.

Prepared by: Alaska Permanent Fund Corporation Phone: 465-2047
Division: _____ Date: February 8, 1988
Approved by Commissioner: David A. Rose, Exec. Director Date: February 8, 1988
Agency: Alaska Permanent Fund Corporation

Distribution (by preparer):

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

FEB 11 1988

LEGISLATIVE FINANCE



Alaska Permanent Fund Corporation

P.O. Box 4-1000 Juneau, Alaska 99802-4100
(907) 465-2047 Telex 099-46-323

PRESS RELEASE

NOTE: Please run this as a
guest editorial or commentary
on your opinion page.

DATE: March 17, 1988

**PERMANENT FUND TRUSTEES SEEK SUPPORT
FOR GLOBAL INVESTING**

COMMENTARY

BY

BYRON I. MALLOTT

CHAIRMAN, BOARD OF TRUSTEES

ALASKA PERMANENT FUND CORPORATION

The Board of Trustees of the Alaska Permanent Fund Corporation is seeking passage this session of legislation which would allow us to invest a small portion of the Permanent Fund in international stocks and bonds. In this endeavor, we ask also for the support of the people of Alaska.

Global investing is not a recommendation we make lightly. As trustees, our primary responsibility has always been to invest your Permanent Fund conservatively in order to keep it safe for the long term. In today's extremely volatile financial markets, we believe the best way to protect the Fund is to diversify it as widely as possible. We also believe that international investments can help us in that effort, and can help us to keep your savings account safe - and growing.

The trustees are aware that a number of citizens may have concerns about investing the Permanent Fund in foreign securities. To those of you who have such concerns, we ask that you recall a similar proposal we made five years ago. At that time, the trustees sought and received legislative approval to begin investing a portion of the Permanent Fund in the U.S. stock market. Then, as now, there were those who opposed the new investment because they feared it would be too risky, or because they favored increased investments in Alaska. But, let's look at the record.

Investing in the stock market has proven to be a sound decision for the Permanent Fund:

- * Stocks have been, since 1982, the Fund's best performing type of investment.
- * Just last year, the capital gains realized by the Fund on the sale of common stock added over \$325 million to the Fund's net income (and \$50 to each Alaskan's 1987 dividend).
- * Notwithstanding the excellent long-term returns offered by stocks, and despite the fact that the law allows up to 50% of the Fund to be invested in stocks, the trustees have been very conservative, and have never allocated more than 25% of total Fund assets to this relatively risky investment class (we are presently at just under 12%).

* Even after the crash of last October, as of the end of February 1988, the Fund's stock portfolio was still worth \$184 million more than cost.

As for increasing investments in Alaska, it is clear that, over time, the amount of the Fund the trustees will be able to invest within Alaska will depend on the amount of diversification of the Fund elsewhere. In other words, the greater the diversification of the total portfolio, the less risk created by increasing investments in-state.

Today, there are two very good, fundamental reasons for supporting global investing for the Permanent Fund: (1) it will reduce the Fund's overall risk; and (2) it will increase the Fund's overall return.

These conclusions derive from our study of a number of statistical reports analyzing the performance of the world's financial markets since 1970. The studies are unanimous that inclusion of foreign investments in U.S.-only portfolios, for any significant period of time in the last 17 years, would have added return and reduced risk. The degree of these benefits varies from one study to another depending upon the particular time period used, the countries covered, and the types of investments, but the positive conclusions persist through all of them.

Let's look at the facts:

* In the last 20 years, the United States' share of the world's total stock market capitalization has shrunk from 67% to 33%, and many economists predict that this percentage will continue to shrink.

* Besides comprising only one-third of the world's total equity market capitalization, the U.S. now represents less than 45% of the world's total fixed-income (bond) market.

* In the last 10 years, the U.S. has had the best performing stock market only once. It has been outperformed nine times out of ten by the equity markets in countries such as Germany, Great Britain, Australia, Hong Kong, Japan and Singapore.

* For the 17-year period, 1970 - 1986, the U.S. stock market earned a compound rate of return of only 8.3% per year compared to 14.2% per year for the combined non-U.S. markets.

* For the same 17-year period, U.S. fixed-income investments earned only 9.4% compared to 12.0% for the combined non-U.S. markets.

* More important than the higher returns, at least from the perspective of the Board of Trustees, was the relatively lower volatility experienced by the global investor during this 17-year period. Of the three types of portfolios -- U.S.-only, non-U.S. only, and combined U.S. and non-U.S. -- the safest (least volatility, least risk) was the global portfolio. This reduction of total portfolio risk is achieved by increasing diversification, and it is the main reason the trustees support global investing.

We don't know how the U.S. financial markets will perform compared to international markets over the next 20 years. The past evidence would indicate ~~that~~ we can earn more income for the Fund if we invest a bit in foreign securities, but the past provides no guarantee for the future. Perhaps the returns will be better in the U.S. in the future. We just don't know.

What we do know is that it is a big world out there, and that there are unforeseen dangers. We are all subject, more than ever, to unpredictable global influences on investments. The United States cannot stand apart from the rest of the world as an independent entity, the State of Alaska cannot, and neither can your \$9 billion Permanent Fund.

Prudence dictates that we put in place now well-constructed plans for an uncertain future. Providing for increased diversification through international investments is one sure way to protect the Permanent Fund's and Alaska's future.

Persons interested in receiving additional information on this subject are encouraged to contact our Juneau office. Please write to me or any of the trustees c/o the Alaska Permanent Fund Corporation, P.O. Box 4-1000, Juneau, Alaska 99802. Thank you for your support.

INTERNATIONAL INVESTMENT

STATISTICAL INFORMATION

Prepared by

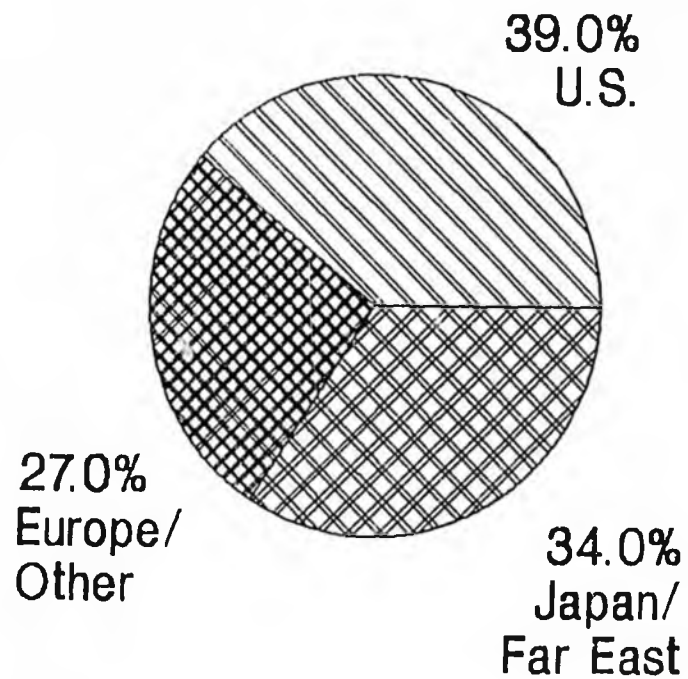
William L. Means

ALASKA PERMANENT FUND CORPORATION

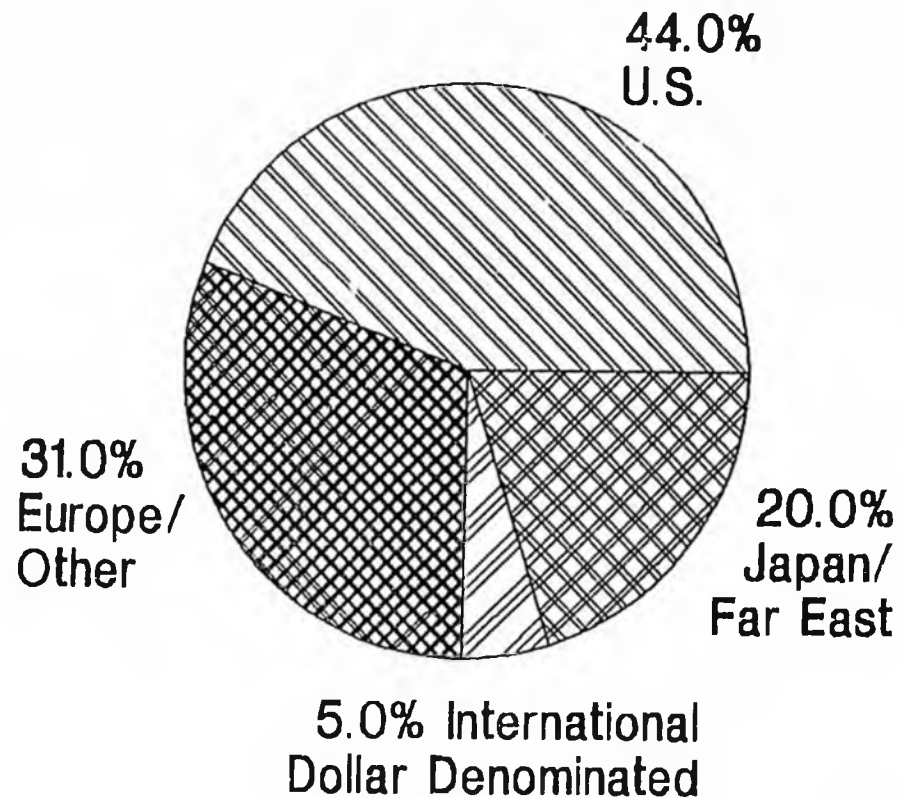
February 8, 1988

1986 WORLD CAPITAL MARKETS

EQUITIES (\$5.6 Trillion)



BONDS (\$7.4 Trillion)



Source: J.P. Morgan Investment

TOTAL ANNUAL RETURN (U.S. DOLLARS)

	<u>Germany</u>	<u>Switzer- land</u>	<u>U.K.</u>	<u>Australia</u>	<u>Hong Kong</u>	<u>Japan</u>	<u>Singapore</u>	<u>Canada</u>	<u>S&P 500</u>
1977	25.8	28.7	58.0	11.9	[REDACTED]	15.9	5.9	(2.1)	(7.2)
1978	26.9	21.9	14.6	21.8	18.5	53.3	45.1	20.4	[REDACTED]
1979	(2.2)	12.1	22.1	43.6	83.5	[REDACTED]	28.5	51.8	18.5
1980	[REDACTED]	(7.3)	41.1	55.3	72.7	30.3	62.8	22.6	32.4
1981	(8.2)	(9.5)	(10.6)	[REDACTED]	(15.8)	15.8	18.3	(10.7)	(4.9)
1982	12.3	3.4	9.2	(22.6)	[REDACTED]	(0.5)	(16.7)	2.4	21.5
1983	25.9	19.3	17.2	56.0	[REDACTED]	24.9	31.7	33.4	22.4
1984	(3.8)	(11.1)	5.4	(12.6)	46.8	17.1	[REDACTED]	(7.6)	6.2
1985	140.9	108.9	53.4	21.0	51.6	43.9	[REDACTED]	16.1	31.7
1986	37.2	34.3	27.1	43.3	56.0	99.7	45.2	[REDACTED]	18.2

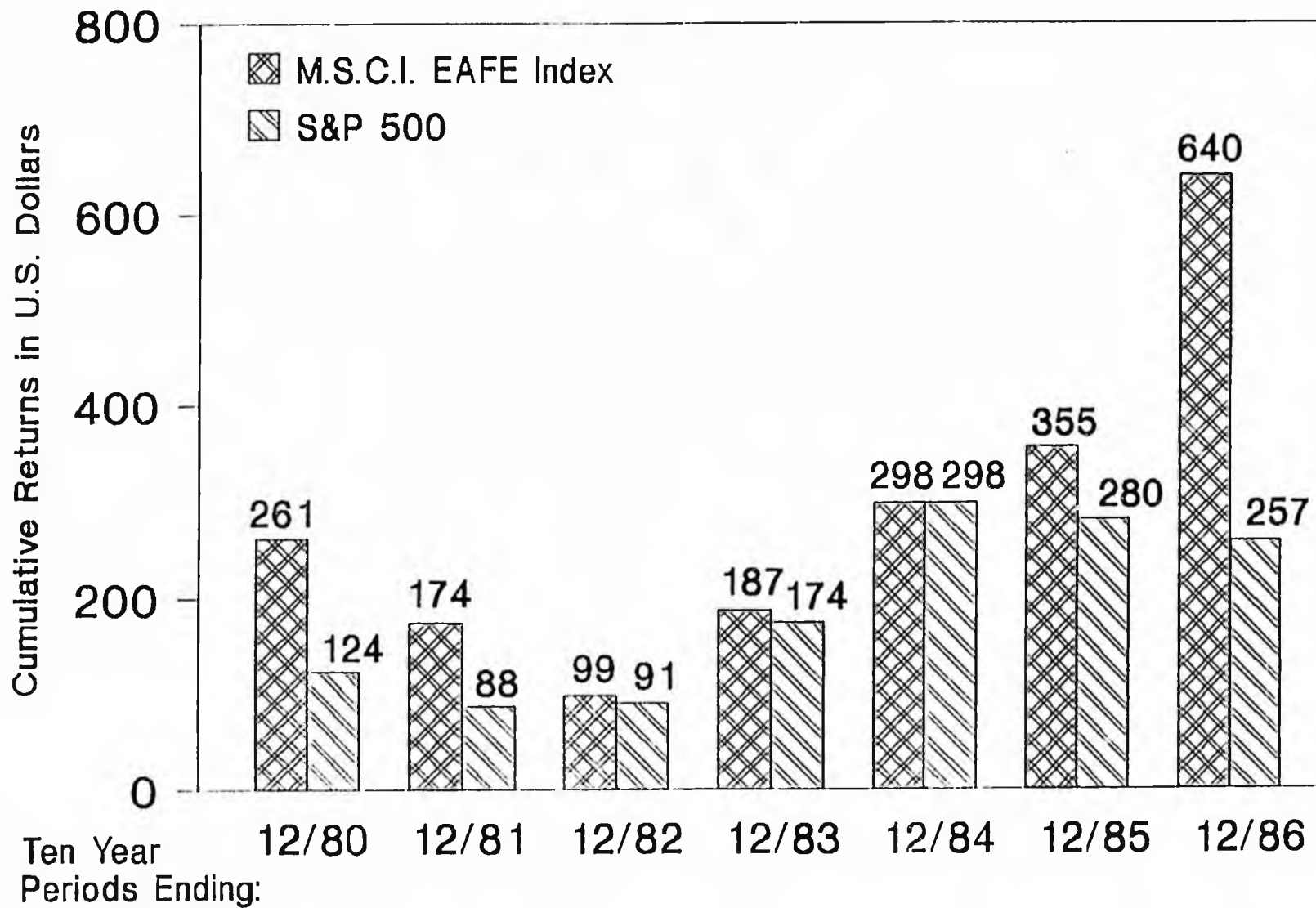


BEST PERFORMER



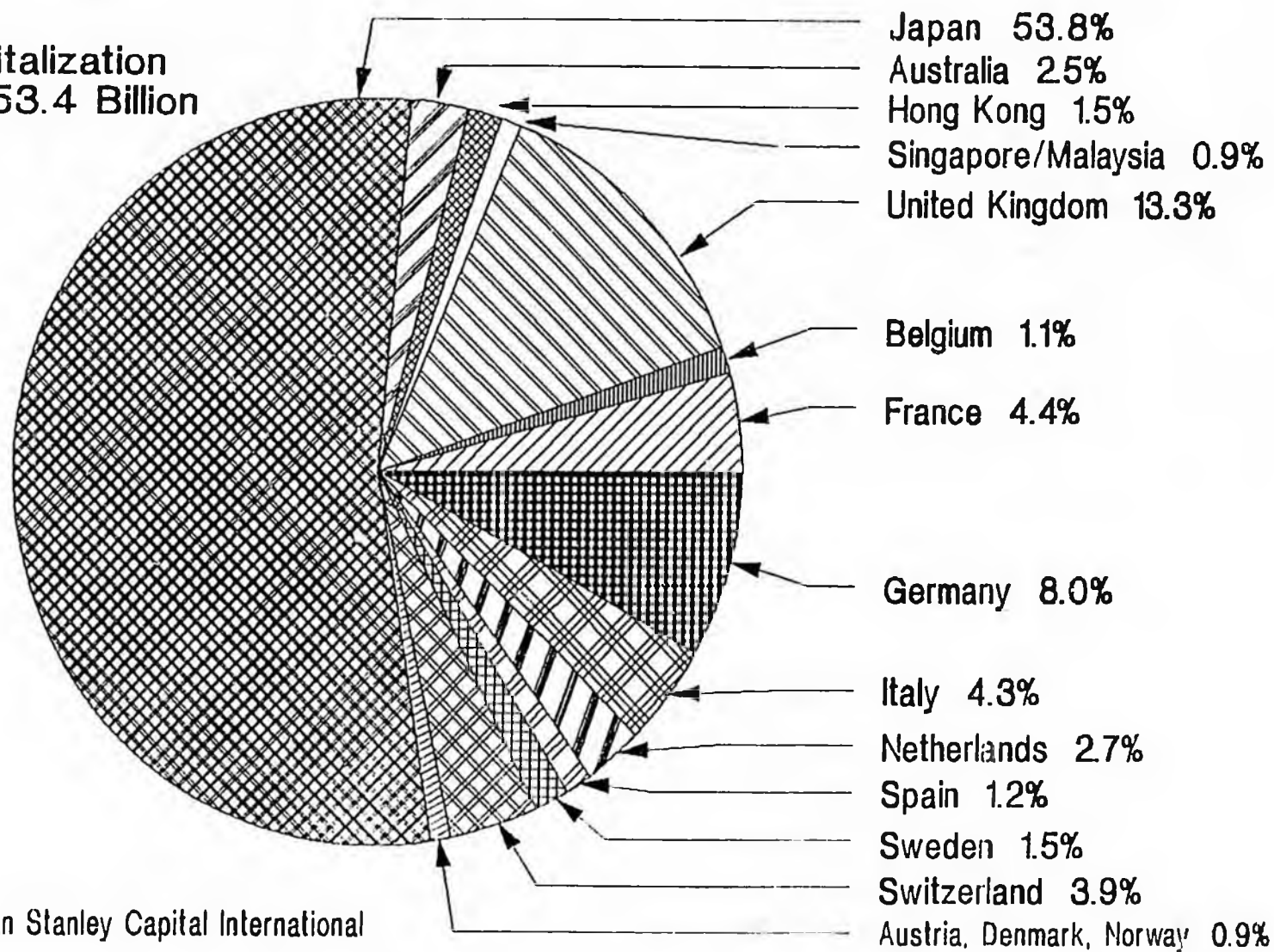
WORST PERFORMER

U.S. INTERNATIONAL EQUITY MARKET PERFORMANCE COMPARISON M.S.C.I. EAFE INDEX vs. STANDARD & POOR'S 500



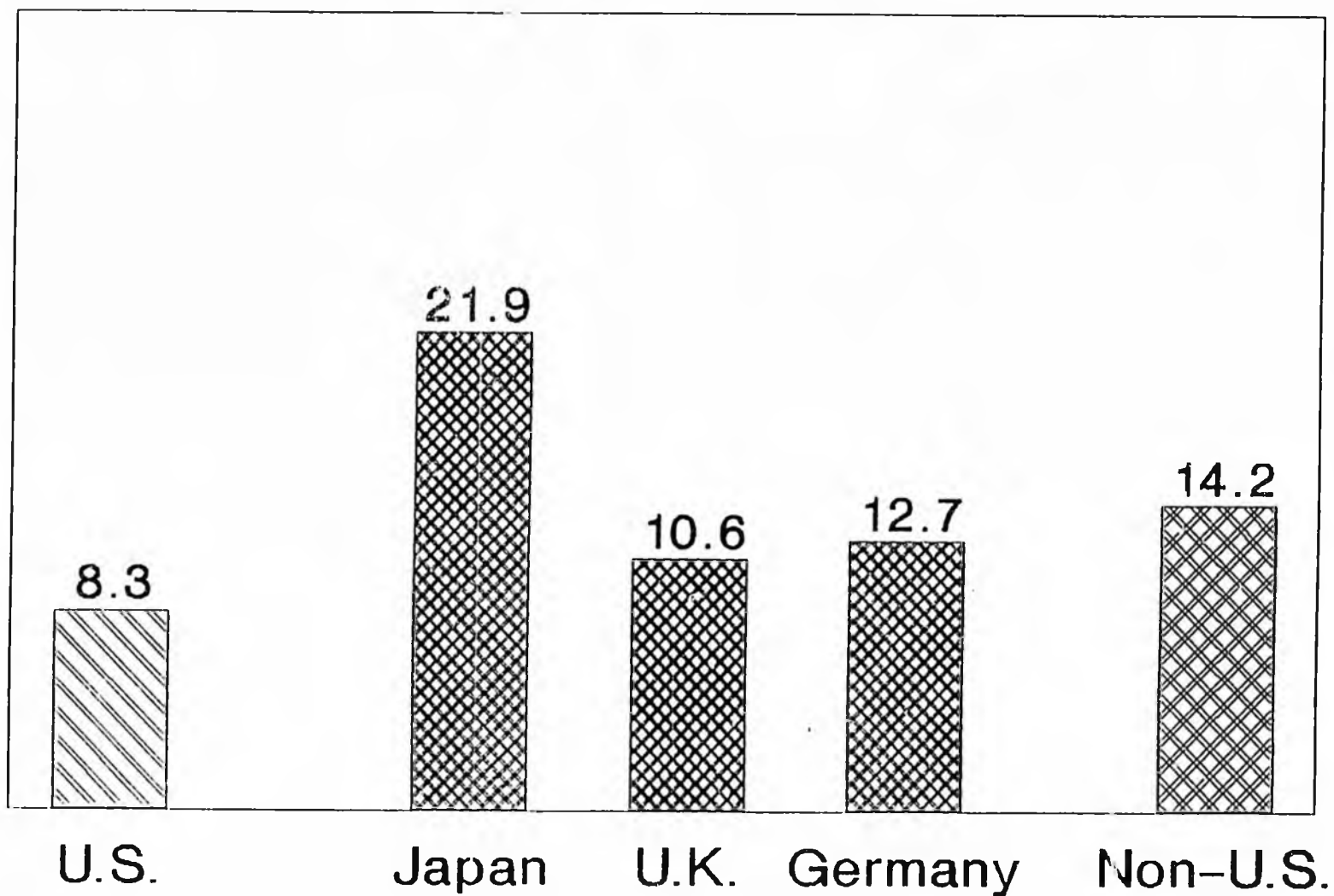
Components of The MSCI Europe, Australia, Far East (EAFE) Index December 31, 1986

Total Capitalization
U.S. \$2,053.4 Billion

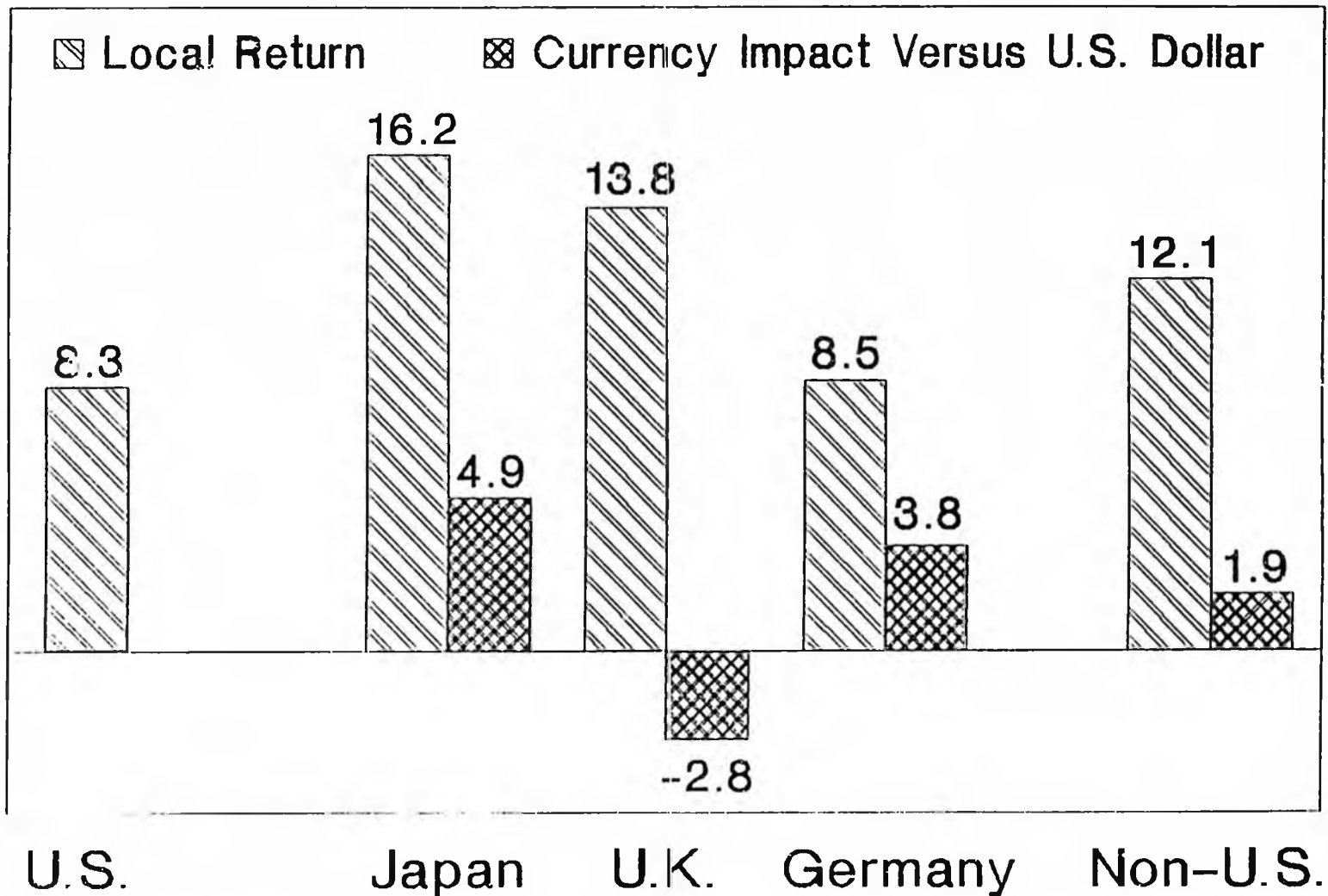


Source: Morgan Stanley Capital International

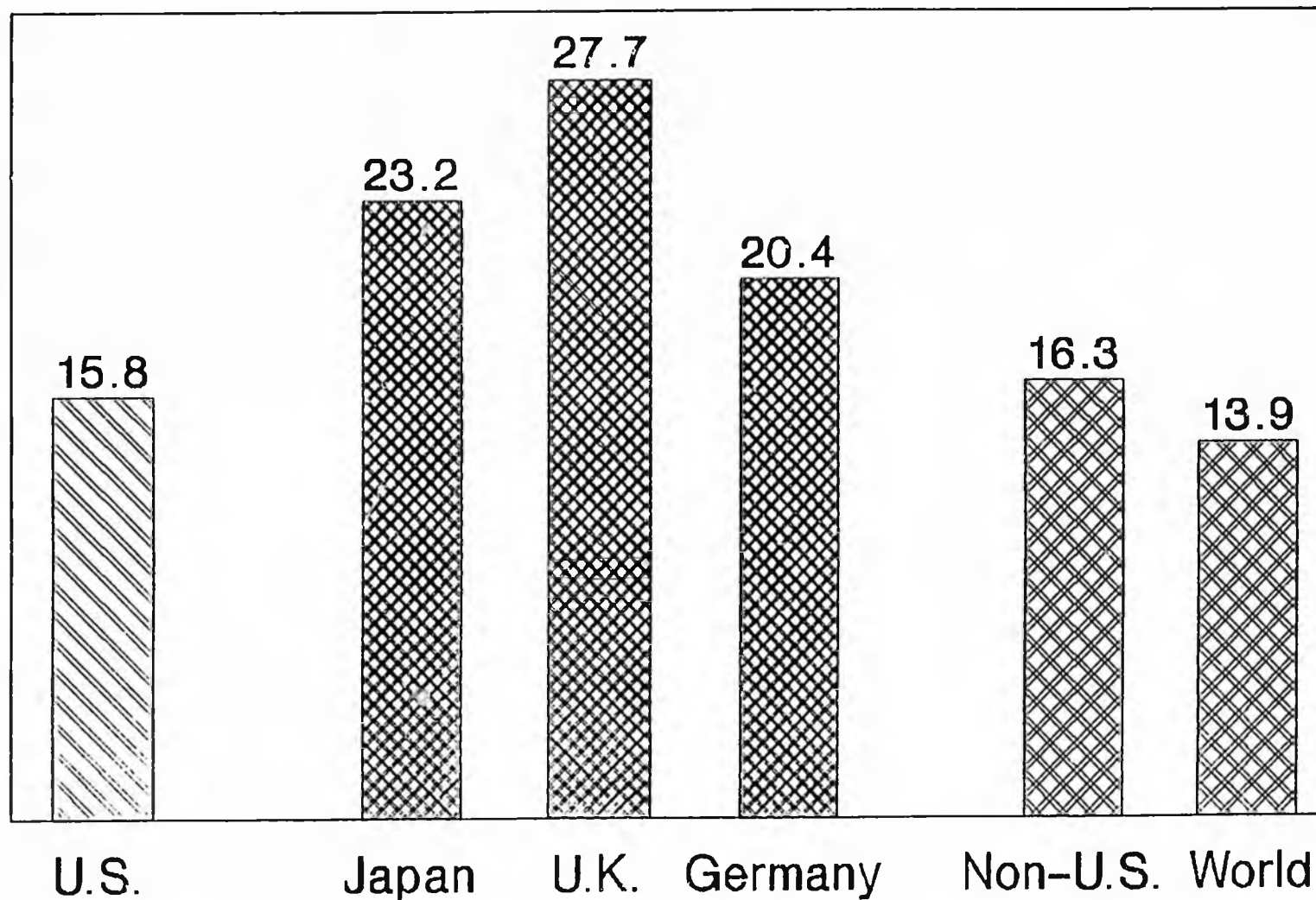
INTERNATIONAL EQUITY MARKETS ANNUALIZED RETURNS IN U.S. DOLLARS 1970 - 1986



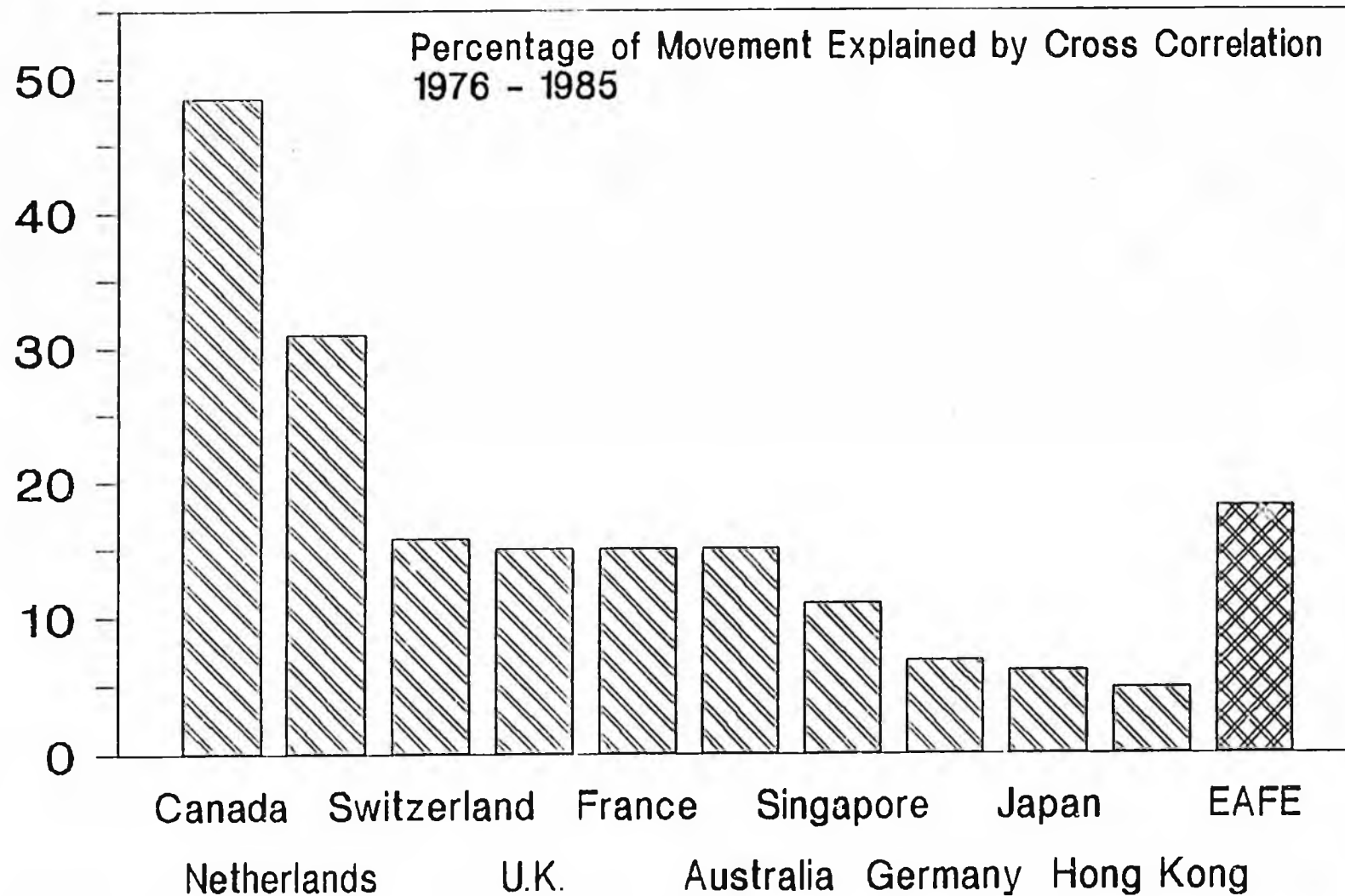
INTERNATIONAL EQUITY MARKETS ANNUALIZED LOCAL AND CURRENCY RETURNS 1970 - 1986



INTERNATIONAL EQUITY MARKETS STANDARD DEVIATION OF RETURNS IN U.S. DOLLARS 1970 - 1986

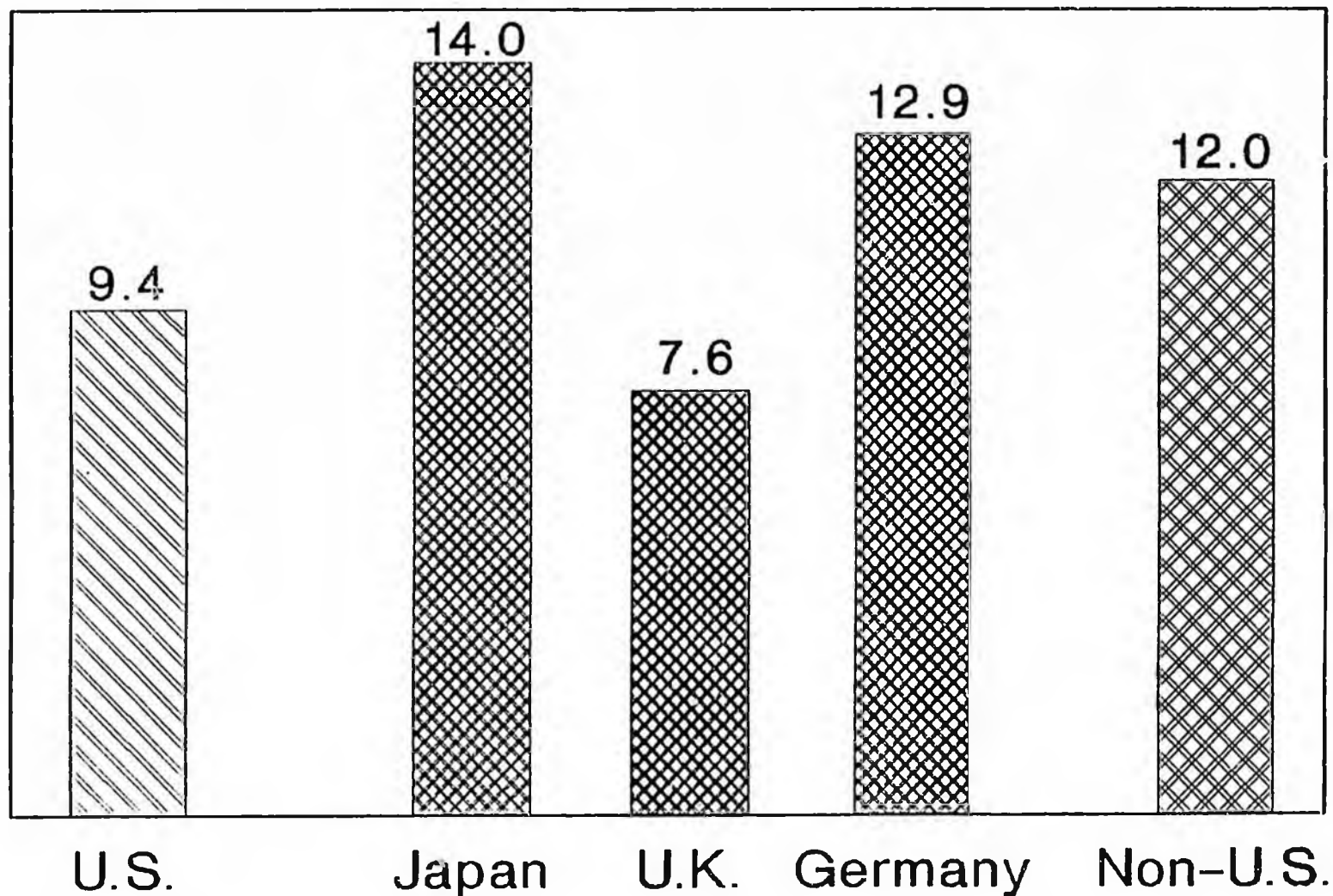


CORRELATION OF RETURNS BETWEEN U.S. AND MAJOR FOREIGN MARKETS

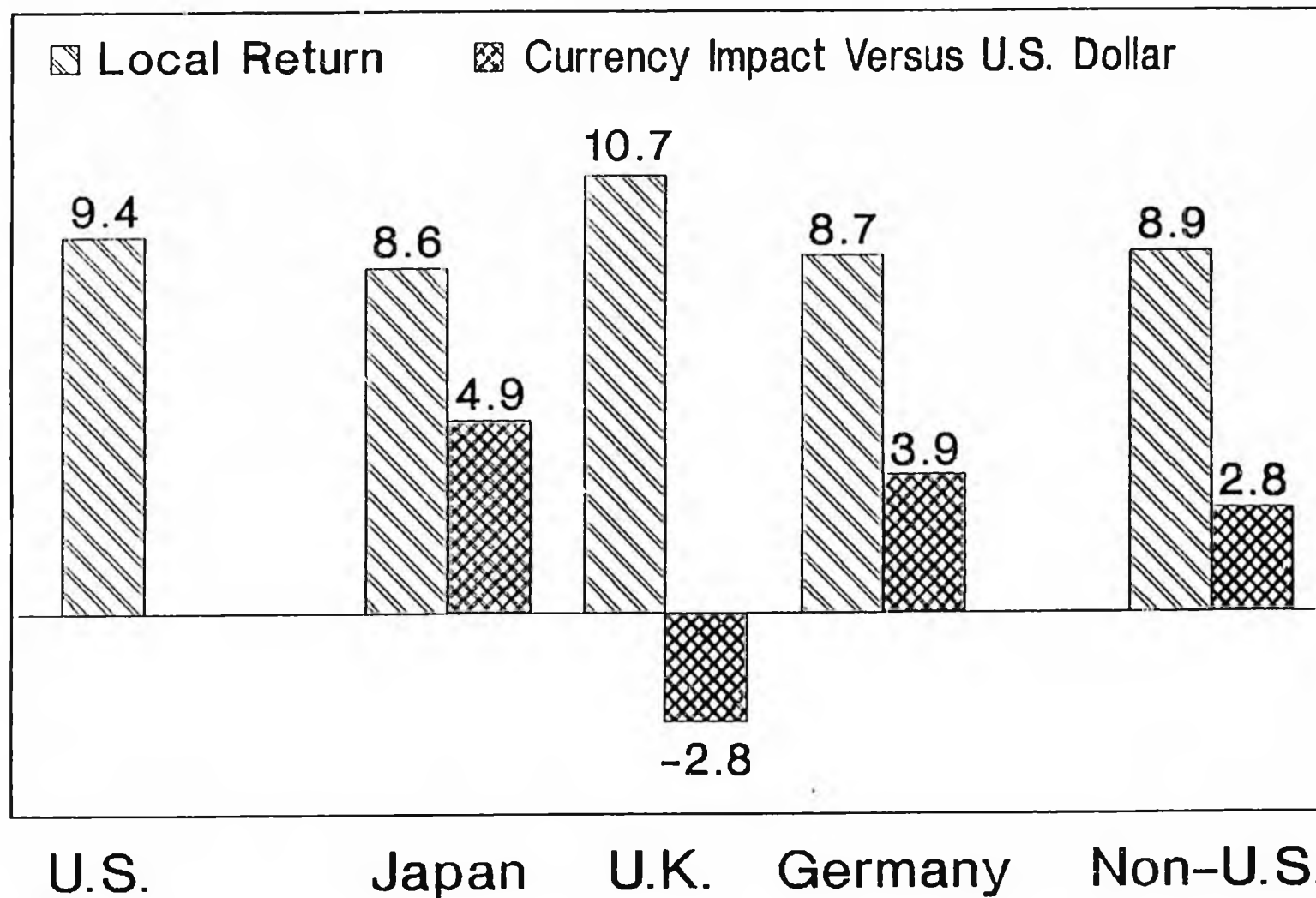


EAFE: Europe, Australia, and Far East Index

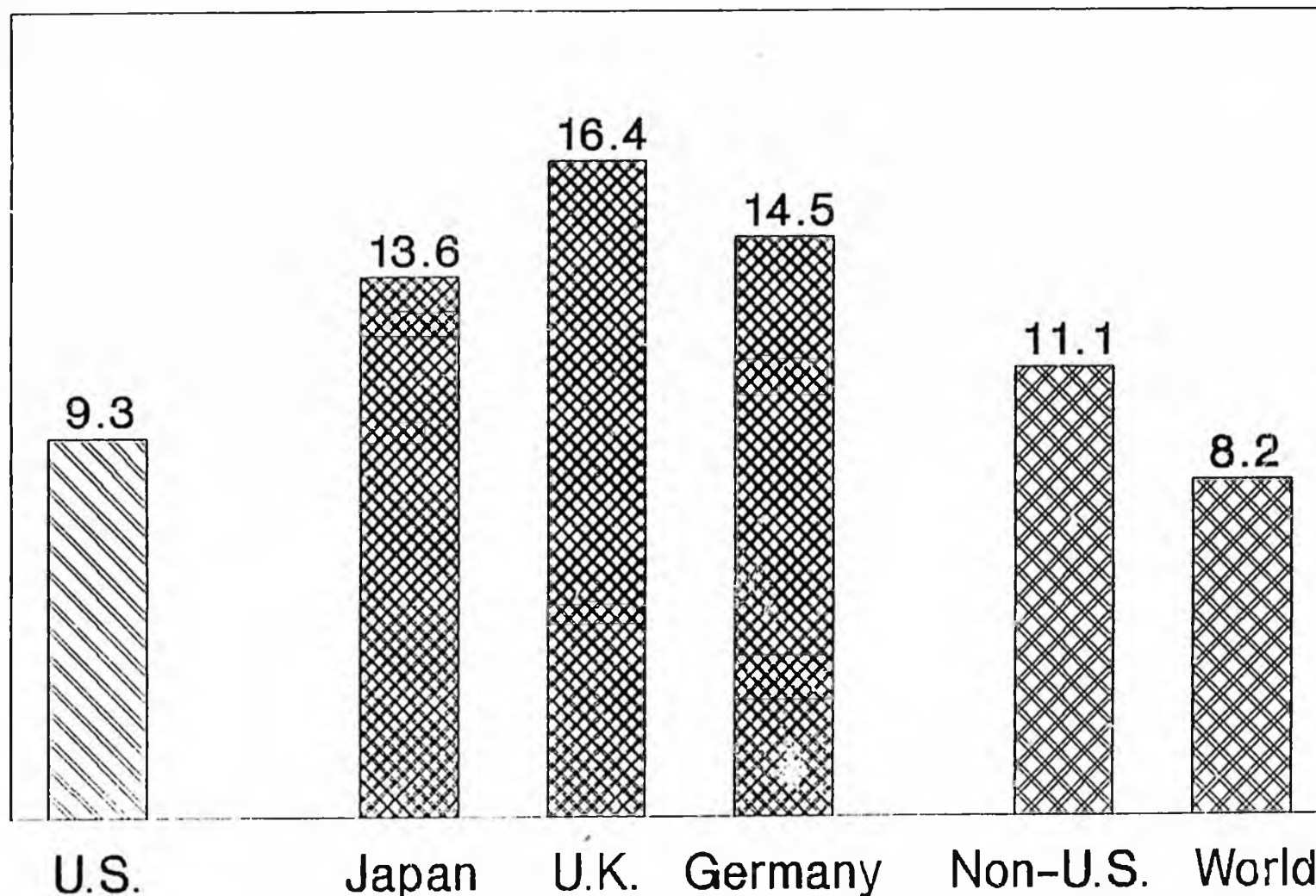
INTERNATIONAL FIXED INCOME MARKETS ANNUALIZED RETURNS IN U.S. DOLLARS 1970 - 1986



INTERNATIONAL FIXED INCOME MARKETS ANNUALIZED LOCAL AND CURRENCY RETURNS 1970 - 1986



INTERNATIONAL FIXED INCOME MARKETS
STANDARD DEVIATION OF RETURNS IN U.S. DOLLARS
1970 - 1986





ALASKA STATE CHAMBER OF COMMERCE

310 Second Street
Juneau, Alaska 99801
(907) 586-2323

April 7, 1988

The Honorable Mitchell Abood, Chairman
Senate State Affairs Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Abood:

On Friday, April 8 you will be considering HB 217 relating to foreign investment by the Alaska Permanent Fund.

We have reviewed the Bill and strongly support the legislation as set forth in the version adopted by the House.

The Alaska State Chamber favors passage for the following reasons:


1. The Fund has developed (and earned) a reputation for conservative, careful, and deliberate investment. It clearly has the professional competence to utilize the additional proposed investment tools for the betterment of the State and its citizens.
2. The expansion of investments to the international arena provides further diversification of the Fund's stock and bond portfolios. This blending and diversifying permits the Fund to continue its investment mission at lower risk than that currently being experienced.
3. Generally, foreign investments generate higher earnings than domestic investments. This is evidenced by the performance of such investments in State PERS and TRS. While this should not be a compelling argument for foreign investment, it is clearly indicative that expected returns, over time, will be at least equal to domestic investments.
4. Finally, and perhaps most important from our viewpoint, is the by-product benefit of foreign investment. The contacts made by the Fund will be extremely valuable. As it researches foreign corporations; confers, meets, and enters into business arrangements with major nondomestic bankers and financiers; and creates dialogue with business leaders throughout the world, the Fund will bring business visitors and potential investors to our state. As these visitors

establish relationships with the Fund, they will gain firsthand exposure to Alaska and its business and economic opportunities.

The global outreach which will be facilitated by international investment is most timely in these difficult economic times for Alaska. We must do everything possible to expand our horizons and develop increased economic activity. Enactment and implementation of House Bill 217 will help us accomplish this.

We recommend its adoption.

Cordially,


George Krusz
President

cc: Senator Uehling
Senator Hensley
Senator Josephson
Senator Fanning