

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6037 HOUSE RESOURCES

4/8/1

H B

588

HOUSE COMMITTEE REPORT

(5)

Date Referred: March 26, 1990

FURTHER REFERRALS:

RESOURCES

Date of Committee Action: 4/27/90

The COMMUNITY & REGIONAL AFFAIRS Committee considered:

HB 588

HOUSE BILL NO. 588

MUNICIPAL LAND GRANT SELECTIONS

"An Act relating to general grant land selections; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with CSHB 588 (CERA) the same title
 a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s): _____
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact DNR
- zero fiscal note CERA
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

Richard J. [Signature]

Eileen P. Macbean

Eugene A. Kubera

	Do Not Pass	No Rec	Amend
<u>Cheri Davis</u>		X	

Eileen P. Macbean
Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: 24-Apr-90 Agency Affected: Natural Resources
 Title: An Act relating to general grant BRU: Land & Water Mgmt
 land selections: _____
 Sponsor: C&RA Committee Components: Land & Water Mgmt
 Requestor: C&RA Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	95.0	95.0	95.0			
TRAVEL	5.0	5.0	5.0			
CONTRACTUAL	5.0	5.0	5.0			
SUPPLIES	1.0	1.0	1.0			
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	106.0	106.0	106.0	0.0	0.0	0.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	106.0	106.0	106.0			
FEDERAL FUNDS						
OTHER						
TOTAL	106.0	106.0	106.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	2.0	2.0	2.0			
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attachments

Prepared by: Larry Ostrovsky Phone: 465-2400
 Division: Commissioner's Office Date: 24-Apr-90

Approved by Commissioner: [Signature] Lennie Gorsuch Date: 24-Apr-90
 Agency: Department of Natural Resources

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

ANALYSIS

The monies requested will fund two full time positions with necessary support funds. One position will be a Natural Resource Manager I (pay grade 18). This positions will be responsible for the regulation development needed to implement this act including appeals and the land mediation committee process. This position will also be responsible for process municipal recertifications of existing municipalities and the certification of any newly formed municipal governments that are created after passage of this act.

The second position will be a Natural Resource Officer II (pay grade 16). This position will be responsible for helping in the recertification process and processing certifications of any newly formed municipal governments that are formed after passage of this act. This position will also be responsible for the processing, including the decision writing process for land conveyances and rejections of land selected by municipal governments.

Travel monies are needed to meet with municipal officials concerning their land selections and public hearings for regulation adoption. Contractual and supply funds are needed for normal office support items.

Position Title Natural Resource Manager I			No. of Positions 1	Range/Step 18/A	Barg. Unit GGU
Time Status F	Staff Months 12		Location Anchorage		Election District
Type of Expenditure			Account		
1			2		3
Salary*			37,356		////////////////////
Benefits*			13,187		////////////////////
Premium Pay (Included in Above)			////////////////////		////////////////////
Other			////////////////////		////////////////////
Total Personal Services			////////////////////		50,543
Travel					3.0
Contractual					2.5
Commodities					.5
Equipment					
Other					
Total Cost					56.5
Funding Source for Total Cost:					
Federal Receipts 1002					
G.F. Match 1003					
General Fund 1004					56.5
Program Receipts/GF 1005					
I-A Receipts 1007					
CIP Receipts 1061					
Other					
* Personal Services Salary and Benefits Costs are from PACS.					
Justification This position is needed to develop the regulations required for the process used on appeals of land conveyance approvals and denials. Regulations are also needed for the municipal land mediation committee. This position will also be responsible for processing municipal certifications and appeals.					

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CSHB 588(C&RA) No. 1
HOUSE 4/28/90

REQUEST FOR
NEW POSITIONS

AGENCY Dept of Natural Resources
BRU Land & Water Management
COMPONENT _____

Page 3 of 4
Revised Date 4/24/90

FY 91

Position Title Natural Resource Officer II			No. of Positions 1	Range/Step 16/A	Barg. Unit GGU
Time Status F	Staff Months 12		Location Anchorage		Election District
Type of Expenditure			Amount		
1			2		3
Salary*			32,424		////////////////////
Benefits*			12,059		////////////////////
Premium Pay (Included in Above)			////////////////////		////////////////////
Other			////////////////////		////////////////////
Total Personal Services			////////////////////		44,483
Travel					2.0
Contractual					2.5
Commodities					.5
Equipment					
Other					
Total Cost					49.5
Funding Source for Total Cost					
Federal Receipts			1002		
G.F. Match			1803		
General Fund			1634		
Program Receipts/GF			1605		
I-A Receipts			1007		
CIP Receipts			1061		
Other					
* Personal Services Salary and Benefits Costs are from PACS.					
Justification This position is needed to help process and recertify municipal entitlements and to certify new municipalities that form after passage of this act. In addition, this position will process fund conveyance decisions issued to municipalities until each municipal entitlement has been reached.					

page 4 of 4

REQUEST FOR
NEW POSITION

AGENCY Natural Resources
 BRU Land & Water Management
 COMPONENT Land & Water Management

Page 4 of 4
 Revised Date 4/24/90

FY 91

CSHB 588(C&RA) No. 1
 HOUSE 4/28/90

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act relating to general grant land selections;..."
 Sponsor: House C&RA Committee
 Requestor: _____

Agency Affected: Community & Regional Affairs
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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 FUND	-0-	-0-	-0-	-0-	-0-	-0-
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)

There is no fiscal effect for FY 90.

Prepared by: Marty Rutherford, Director Phone: 465-4750
 Division: Municipal & Regional Assistance Date: 4/26/90

Approved by Commissioner: Remond Henderson For DCA Date: 4/27/90
 Agency: Community & Regional Affairs

Distribution (by preparer):

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

May 4, 1990

To: House Resources Committee
From: ~~John~~ Taylor, Manager, Lake and Peninsula Borough
President, Southwest Alaska Municipal Conference
Re: IS for HB 585

By passing this bill you will be honoring the intent of the Alaska Constitution which provides for maximum local control. Municipalities should have the option of owning and managing as much land as possible within their boundaries.

The Lake and Peninsula Borough has had difficulties, through no fault of our own, since our inception. Conveyance of additional lands through the general grant land selection process would help mitigate some of our problems. It would also increase the confidence of people watching this borough while contemplating forming their own--there is considerable interest in the question of Lake and Pen's ultimate viability and such a small amount of selectable state land is not encouraging.

Currently, as existing policies provide, this borough will receive approximately 8 acres per person (14,000 acres), less than one acre per square mile. If this bill is passed we will be eligible to receive up to 126,500 acres. We will not necessarily be selecting lands with future development in mind. There are areas which the borough would likely select to maintain as they are, to protect and preserve them for future public recreation and subsistence use.

We like the provision in this bill for an appeal process and also believe, since DCRA is closely involved with the state's municipalities, that it should be involved in the selection and approval phases of this program.

Thank you for the opportunity to comment on this proposed legislation.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3810

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 23, 1990

SUBJECT: Sectional Summary of CSHB 588(C&RA)
TO: Representative Eileen MacLean
FROM: Tamara Brandt Cook *TBC*
Director
Division of Legal Services

Here is the sectional summary you requested of the draft CSHB 588(C&RA).

Sec. 1. Removes the requirement that a municipality incorporated after July 1, 1978 not receive a general grant land entitlement that exceeds 20 acres per resident.

Sec. 2. Existing law grants a municipality 90 days after a selection is rejected to select additional land in fulfillment of its entitlement. A reference to the appeal process is added so that the 90 day period begins after the final decision on appeal.

Sec. 3. Before the director of the division of lands acts on a selection, the Department of Community and Regional Affairs must review the selection and recommend approval or disapproval. A selection may be disapproved only upon a finding that the public interest in retaining state ownership of the land outweighs the municipality's interest in obtaining the land.

Sec. 4. A new appeal process is added allowing a municipality to appeal disapproval of a selection to a municipal land mediation committee. An adverse decision of the committee may be appealed to the superior court.

Sec. 5. The commissioner of natural resources is prohibited from placing restrictions on the shape of a parcel of land that may be selected by a municipality.

Sec. 6. The definition of "vacant, unappropriated, unreserved land" used to determine both the amount of land and

Representative Eileen MacLean
Page 2
April 23, 1990

the classes of land that a municipality may select is expanded to include certain land classified as wildlife habitat.

Sec. 7. The period for making land selections is extended for those municipalities with entitlements that have not been fulfilled by July 1, 1991.

Sec. 8. Provisions removing the upper cap on the amount of acreage that may be selected based on population and expanding the definition of "vacant, unappropriated, unreserved land" are retroactive to June 2, 1986.

Sec. 9. The retroactive provisions have an immediate effective date.

Sec. 10. The rest of the bill takes effect July 1, 1991.

TBC:gc
G14/029

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

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

April 24, 1990

The Honorable Eileen MacLean
Chair
House Community and
Regional Affairs Committee
P.O. Box V
Juneau, AK 99811

Dear Representative MacLean:

Subject: CS for HB 588 (C&RA), General Grant Land Selections.

Background: This bill would amend the Municipal Entitlements Act, AS 29.65. Amendments in 1987 greatly expanded both the amount and type of state-owned land new municipalities could select. The 1987 amendments also "capped" the increases by imposing a 20-acre-per-resident ceiling. That figure represented the maximum municipal land grants in the past (those to the North Slope and Matanuska-Susitna Boroughs; other municipalities' entitlements were much lower).

Section 6 of CSHB 588 (C&RA) would further expand new municipalities' entitlements by adding the department's wildlife habitat classification, which we commonly use for land in the rural areas of the state, to the definition of selectable land. Section 1 would complete this expansion by deleting the 20-acre-per-person cap. Together, these changes would increase the Northwest Arctic Borough's entitlement from 133,920 acres under the current law to about 285,000 acres, Aleutians East Borough's from approximately 7,600 acres to about 40,000 acres, and Lake and Peninsula Borough's from less than 14,000 acres to about 126,500 acres. (Atka would still have no entitlement because of a lack of state land; the entitlement of Coffman Cove, the only other new municipality, has not yet been determined.)

Section 3 of the bill would require a recommendation from the Department of Community and Regional Affairs before the Department of Natural Resources decides whether to approve a municipality's selection of state land. The selection could be disapproved only if the public interest in retaining the land

April 24, 1990

"outweighs" the municipality's interest. A decision to disapprove would be subject to a new appeal process and regulations under Section 4, with the Department of Community and Regional Affairs, the Department of Natural Resources, and a municipal official making the final state land disposal decision.

Section 5 is the original content of HB 588, on which this department previously expressed its position.

Section 7 would require a recertification of the new municipalities' entitlements and would give municipalities additional time to file selections.

Position: The Department of Natural Resources opposes the bill.

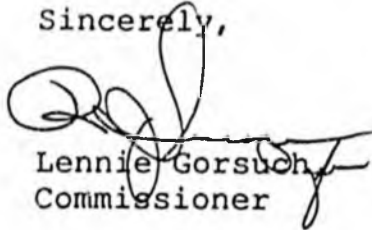
- 1) Repealing the cap and allowing municipalities to select wildlife habitat land are both unacceptable. Wildlife habitat land is essential to retain in state ownership, because only the state has wildlife management authority. The Legislature has never delegated this power to Alaska's municipalities. As for the cap, the administration would not have supported the 1987 expansion without it. The proposed changes would grant about 300,000 additional acres of state-owned land to the three new boroughs without any showing of need. If the land is worth \$400 per acre, the grant amounts to a transfer of roughly \$120 million.
- 2) Three decades of law and case law make it clear that a state land disposal is constitutional only if it is in the public interest to proceed with it. Section 3 seeks to reverse this presumption.
- 3) It is equally questionable for state land disposal decisions to be made by a three-member committee, two of whose members speak for municipal interests, with only one representative from the department responsible for managing state-owned land. The interests of the state as a whole are unlikely to be served by such a process.

Representative Eileen MacLean -3-

April 24, 1990

I am proud of my department's record in managing Alaska's municipal entitlement program and would be happy to present you with the full details. We believe that any major changes in the law at this time would only be disruptive.

Sincerely,



Lennie Gorsuch
Commissioner

cc: Committee Members
Bill Sponsors
Bob Evans, Legislative Liaison
Office of the Governor
Denby Lloyd, Special Staff Assistant
Office of the Governor
Gary Gustafson, Director
Division of Land and Water Management

LG/GG/lh

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

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

April 3, 1990

The Honorable Eileen MacLean, Chair
House Community and Regional Affairs Committee
P.O. Box V
Juneau, AK 99811

Dear Representative MacLean:

Subject: HB 588, General Grant Land Selections for
Municipalities.

Position: The Department of Natural Resources cannot support the bill. Under the Alaska Constitution, land can be conveyed out of state ownership only if the conveyance serves the state's interests. As it would not serve the state's interests to convey long, narrow tracts that could block public access to adjacent state land and interfere with sound land management, the department needs the ability to deny or amend such selections. Existing law allows the department to fine-tune selection boundaries to reduce or eliminate such land management conflicts and should not be changed.

Background: DNR is responsible for deciding whether to convey tracts of state-owned land to municipalities under AS 29.65 and other laws. The department is in the final stages of adopting regulations to implement AS 29.65. Among other things, those regulations require municipal selections to be "compact." This requirement is similar to that imposed upon the state when we select land from the federal government. This bill would prohibit the department from restricting, by regulation or otherwise, the shape of land parcels that municipalities can select.

The department's draft regulations were written to implement legislative policy for the municipal entitlement law, which has been in effect since 1978. When it enacted the new law, the Legislature stated that one of its goals was to create "rational ownership patterns for sound land management." The size and shape of land parcels is an important factor in achieving this goal. Long, narrow tracts have a very high ratio of boundary

Representative MacLean

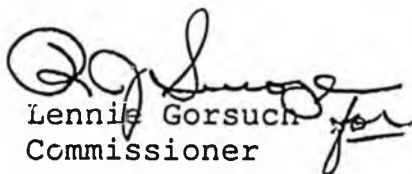
-2-

April 3, 1990

line to total area. A parcel that is not compact results in increased surveying costs, boundary disputes, trespass problems, and right-of-way acquisition expenses. Such a result would be inconsistent with the purposes of the law.

The department currently uses a four-to-one width-to-depth ratio as our standard policy during our review of municipal land selections. Using this ratio has helped to avoid difficult to-manage remnant ownership patterns and has been accepted by local governments as a reasonable standard.

Sincerely,


Lennie Gorsuch
Commissioner

cc: Committee Members
Bill Sponsor
Denby Lloyd, Special Staff Assistant
Office of the Governor
Bob Evans, Legislative Liaison
Office of the Governor
Commissioner David Hoffman
Department of Community and Regional Affairs
Gary Gustafson, Director
Division of Land and Water Management



Alaska State Legislature

House of Representatives
Community & Regional Affairs

April 25, 1990

Honorable Steve Cowper
Office of the Governor
P.O. Box A
Juneau, Alaska 99801

Dear Governor Cowper:

I would like to respond to the Department of Natural Resources (DNR) position papers on CSHB 588, relating to municipal land entitlements. The original bill, sponsored by the House C&RA Committee, prohibited DNR's ability to place restrictions on the shape of a parcel of land selected by a municipality. The CS expands the bill substantially to explicitly include a review and comment period by the Department of Community & Regional Affairs (C&RA), adds an appeal process, and includes certain land classified as wildlife habitat in the definition of "vacant, unappropriated and unreserved land" (vu).

In their April 3rd, letter, DNR states that they do not support the original legislation because, "it would not serve the state's interests" to block public access to adjacent state land and interfere with land management.

I believe that State Constitution provides that the state's best interest may best be served by allowing municipalities to manage and develop their own land. The drafters of the State Constitution conferred autonomy and broad powers on municipalities of Alaska throughout the constitution. The State of Alaska furthers the goal of maximum local self-government by offering incentives to encourage municipal incorporations. Since 1962, one of these incentives has been the ability to select and receive state general grant land.

There is no reason that the state's interest in protecting public access could not be granted by securing easements to municipal land selections, rather than the restrictive four

Governor Cowper
page 2

to one policy currently in force. A waiver could be granted to provide for a four to one selection, as an exception to the rule, rather than the rule.

In their April 3rd position paper, DNR also states that regulations require municipal selections to be "compact". This is based on the erroneous premise that rural land development should meet the same standards of compact development of urban land.

On the contrary, rural land selections, by definition, should have greater flexibility to meet changing and diverse needs of sparsely populated communities spread out over vast areas. Rural selections should not be restricted by the same guidelines as used for urban selections.

DNR's report (entitled Municipal General Grant Land Entitlements, A State-Municipal Partnership) predetermines that it may not be in the best interests of the state that land in rural Alaska be managed and developed by local governments because the rural character of the state land "is often not well suited for development or other municipal purposes". Many areas in rural Alaska are in the very initial stages of development and it is premature to make broad generalizations about the use or character of land in rural Alaska. Subsistence is a major influence in the rural economy and therefore could result in large selections of land held sacrosanct. It is necessary to include language to provide for liberal construction of the law, as provided for in the State Constitution.

In their April 24th position paper on CSHB588, DNR states that "repealing the 20 acre cap and allowing municipalities to select wildlife habitat are both unacceptable".

The per capita limit was established at 20 acres based on the highest per capita entitlement to any municipality statewide created by the 1978 amendments to the municipal entitlement law. It is inferred that the 20 acre cap is the most generous entitlement formula because it represents the highest per capita entitlement given to any municipality. (The Mat-Su Borough had an entitlement of about 20 acres per capita based on the population of the borough in 1978). While this may at first seem a fair and equitable justification, it is neither, given the very broad range of values of lands. Urban area lands often being worth three times the rural acreage. A more equitable distribution of land would be based on a 'value' determination, not a per capita determination which is discriminatory to sparsely populated areas. Since establishing values of lands is such a difficult, if not

Governor Cowper
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impossible effort in rural selection, it then makes more sense to rely upon the historical 10 percent of available land formula.

(Note: had the Matanuska-Susitna Borough been restricted to the 20 acre cap based on the population on the date of incorporation, (which is the way current law reads), their entitlement would have been no more than 216,680 acres, not the 355,210 acre entitlement they received in 1978).

Furthermore, legislative records for the 1978 legislation allude to a number of considerations that influenced final acreage determinations, but little, if no, information is available which describes the need to limit entitlements to municipalities using a population cap.

Section 3 of the CS would require a recommendation from DCRA before DNR decides whether to approve a municipality's selection of state land. The selection could be disapproved only if the public interest in retaining the land is greater than the municipalities interest. A decision to disapprove would be subject to a new appeal process. DNR has also opposed this provision.

It appears that DNR's opinion of the "state's best interest" is that all land should stay within the jurisdiction of DNR, except when it can be justified that a minimal selection should be released for a municipal land entitlement.

I differ again with DNR, and return to provisions in the state constitution providing for maximum local self government.

As for the appeal process, I believe it is a necessary and appropriate section to include. DNR exercises tremendous discretion in deciding the rules by which justifications are reviewed for municipal purposes and for evaluations of these selections for state interest. An appeal section should be included to insure the public interest is served.

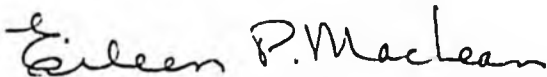
Regarding the inclusion of certain land classified as wildlife habitat, just because land may be classified under this category, it should not automatically be excluded from consideration by municipalities. Granted, there will be occasions where duplication of interest may conflict, however, I believe that DNR will continue to exercise substantial discretion and will not easily be overturned if valid state interests can be shown. The discretion of any regulatory agency is great and, even given the appeal committee's existence, could adequately protect state

Governor Cowper
Page 4

concerns, thus there is no reason to restrict the entire category as a general rule. I feel it is important to note once again that the amended formula will only address 10% of state lands, leaving the state with 90%.

In closing, the Department of Community and Regional Affairs has not provided the committee with what I believe could be very useful and important information. Since DNR has had the opportunity to express their concerns, I would like to request that DCRA be allowed to freely express their opinions on this important and vital issue to municipalities.

Sincerely,



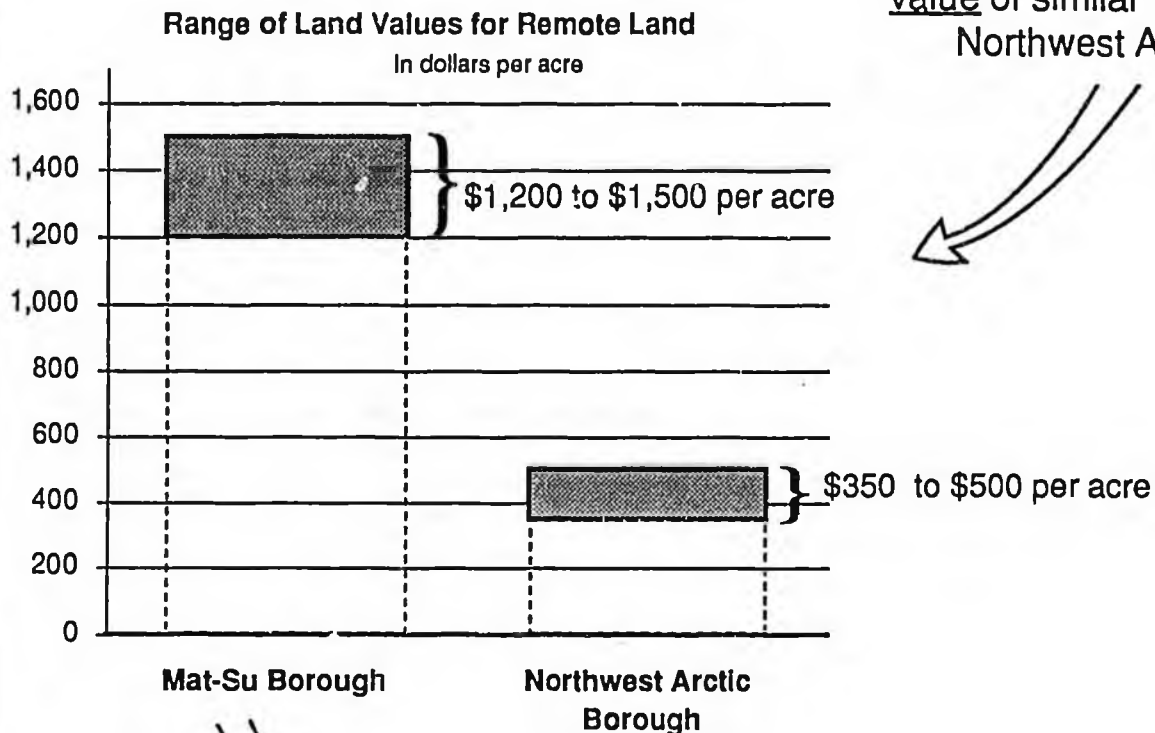
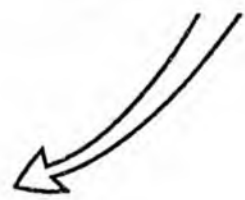
Eileen P. MacLean, Chairman
House Community & Regional Affairs Committee

cc: Lennie Gorsuch, Commissioner, Department of Natural
Resources
Bob Evans, Legislative Liaison, Office of the Governor

A Population Cap on Acreage is Not an Equitable Approach for Municipal Land Entitlements:



Remote land located in the Mat-Su Borough has about three times the value of similar land located in the Northwest Arctic Borough.



The Mat-Su Borough land entitlement of 355,210 acres was processed in 1978. At that time, the Borough population was 17,760 — the land entitlement represented 20 acres per capita. At an average value of \$1,350 per acre, this equates to \$27,000 per capita. A similar entitlement in the Northwest Arctic Borough would equate to \$8,500 per capita.



Therefore, to receive an equivalent value per capita for its land entitlement, the Northwest Arctic Borough would have to receive three times the acreage per capita compared to the Mat-Su Borough, or approximately 60 acres per capita.

A SPECIAL REPORT

**MUNICIPAL GENERAL GRANT
LAND ENTITLEMENTS**

A State-Municipal Partnership

DEPARTMENT OF NATURAL RESOURCES
Division of Land and Water Management

January 1990

Prepared by Dennis P. Daigger

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CONVEYANCE SUMMARY: UNIFIED HOME RULE MUNICIPALITIES AND BOROUGHS

CONVEYANCES BY AUTHORITY

City or Borough	Incorp	.347	AS 07	AS 29	.810	.320	Legislative	Other
<i>Aleutians East Borough</i>	Oct-87							
<i>Bristol Bay Borough</i>	Oct-62			2,672.7				
<i>City & Borough of Juneau</i>	Jul-70			3,822.6	11.1	852.9		
<i>City & Borough of Sitka</i>	Dec-71	1.8		1,390.3	6,064.6	194.5		0.6
<i>Fairbanks North Star Borough</i>	Jan-64			83,964.9	44.9			
<i>Haines Borough</i>	Jul-68			1,082.8				
<i>Kanai Peninsula Borough</i>	Jan-64			79,206.0	181.9			117.0
<i>Ketchikan Gateway Borough</i>	Sep-63			4,033.3				
<i>Kodiak Island Borough</i>	Sep-63			11,654.0	14.3			
<i>Lake & Peninsula Borough</i>	Apr-89							
<i>Matanuska-Susitna Borough</i>	Jan-64		40.3	201,823.4	400.3			79.3
<i>Municipality of Anchorage</i>	Sep-75	391.1		12,883.7	5,897.1	1,328.5		1,256.4
<i>North Slope Borough</i>	Jul-72							
<i>Northwest Arctic Borough</i>	Jun-86							
TOTALS		392.9	40.3	402,133.6	12,614.1	2,375.9	0.0	1,453.3

INTRODUCTION

Decades of neglect by the federal government, resource exploitation by corporations and individuals outside Alaska and a lack of control of their destiny instilled in the fifty-five drafters of the Alaska Constitution a unique vision of what would become America's 49th state. The observations and experiences of the residents of the territory who were self-reliant and independent would manifest themselves throughout the constitution. Nowhere are these concepts more evident than in Article X of the constitution where the relationship between state government and local government are unselfishly defined.

SECTION 1. The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

SECTION 3. The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

The delegates having been deprived of the right of self determination, thoughtfully remembered territorial governance and conferred autonomy and broad powers on municipalities of Alaska through the constitution. By offering incentives to encourage municipal incorporations, the State of Alaska furthers the goal of maximum local self-government contained in Article X.

Since 1962, one of these incentives has been receipt of state general grant land within the boundaries of the local government thereby providing a means of creating or expanding a tax base, a means to generate revenue through land sales and leases, a land base for community expansion and a land base for other public purposes.

In addition to these general grant land entitlements, municipalities can acquire otherwise unavailable state land under the public and charitable use statute (AS 38.05.810). Land acquired under this statute must be used for a public purpose that is available to the public at large. However, if the municipality receiving the land has an outstanding municipal land grant

entitlement, the acreage of the conveyance is subtracted from this balance.

Tide and submerged lands are the last category of state land made available to cities who were incorporated on or before the date of statehood. Under rigid guidelines established in the Alaska Land Act, cities could acquire tidelands adjacent their boundaries. This provision was codified AS 38.05.320.

BACKGROUND: MUNICIPAL LAND GRANTS

Legislative History

Alaska's first municipal land entitlement was created in 1962 when a new section was added to the Alaska Land Act. This section stated:

Any city of the first class may apply in the manner prescribed by the director, within five years from the effective date of this Act, for a conveyance to the city of all surplus state lands located within the present boundaries of the city. "Surplus state lands" means all land owned by the state which is not presently used or for which there is no anticipated use by the state for governmental purposes.

This act, codified AS 38.05.347, although containing scant procedural guidance, resulted in the conveyance of thousands of acres of state land to a small number of municipalities throughout the state. This law was repealed June 21, 1976.

In 1963 the state legislature enacted the "Mandatory Borough Act". This act was unrelated to the Alaska Land Act but, like AS 38.05.347, created opportunities for municipalities to acquire state land for their local use. The intent of this act (ch 52, SLA 1963) was "to provide maximum local self-government" and caused the creation of numerous boroughs statewide. These boroughs encompassed the populated areas of the state. Although boroughs could not opt out of organizing, some local options existed in the law, such as final location of the municipal boundaries. The act, additionally, provided incentives in the form of cash grants and grants of state land.

Unlike the 1962 act, the "Mandatory Borough Act" (codified AS 07.10.150) provided a formula for the amount of the state land grant entitlement.

This act provided:

(that) "an organized borough may select 10 per cent of the vacant, unappropriated, unreserved state lands located within its boundaries within five years after the date of availability of state lands in the borough."

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The act also provided certain necessary procedural guidance for the selection, survey and conveyance of these entitlement lands.

Several changes to the law were eventually enacted. In 1970 Chapter 213, SLA 1970 removed the five year selection deadline, and extended general grant land entitlements to first and second class cities by adding AS 07.05.040. In 1972 AS 07.10 was renumbered to AS 29.18.

Fifteen years of disputes between municipalities and the state over interpretation of the law culminated in the first major amendment to AS 29.18 in 1978. Some of the more important disputes illustrate the range of problems faced by the program.

-Land selections by municipalities had no time frames for adjudication and conveyance. Municipalities felt that the state deliberately dragged its feet on selections that it wanted to retain and that after approving selections that the conveyances were unnecessarily delayed.

-Southeast boroughs believed that getting concurrence of the land trust boards for conveyance of university, mental health and school trust lands was an unduly cumbersome process.

-The North Slope Borough had selected resource management and industrial lands at Prudoe Bay which were rejected in the state's interests.

-When municipalities selected agricultural lands they received only the agricultural interest. These lands often were more valuable for subdivisions and other uses than as agricultural land and municipalities wanted more than just the agricultural interest.

-Municipal land selections occurred on an ad hoc basis, often before the state could evaluate resources and perform its mandated land planning functions.

-Contention by the North Slope Borough that they have an absolute right to select 10 percent of the state land within their boundaries, irrespective the land classification.

Features of the new law were:

1) Unified home rule municipalities and all boroughs were granted acreage specific entitlements;

2) "vacant, unappropriated, unreserved" (VUU) land was now statutorily defined based on a two part test: 1) the grant type under which the state acquired the land from the federal government and 2) the state's land classification system;

CORRECTION

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HAS BEEN REPHOTOGRAPHED
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3) General grant land entitlements were limited to general grant land that the state acquired under sections 6(a) and 6(b) of the Statehood Act;

4) Entitlements were fixed as of July 1, 1978, based on the state's VUU land base on that date;

5) Entitlements were extended to municipalities incorporated after July 1, 1978, and a method of computing these entitlements was established;

6) Entitlements became vested property rights and could be fulfilled at any time before two years after the state's right to select federal land under 6(a) or 6(b) of the Statehood Act expired;

7) Selections must be approved or disapproved within nine months of selection and further patent issuance must occur within three months of survey plat approval;

8) Municipalities with an entitlement of less than one and one-half acre per capita could select vacant school, university or mental health trust lands;

9) Deficiency payments were established for municipalities whose entitlement land bases were unsuitable for residential, commercial or industrial purposes;

10) Authority for land exchanges between municipalities and the state when in the public interest was established;

11) Municipalities in litigation with the state over general grant land entitlements had to elect to benefit under the new law or receive the fruits of the litigation, but not both; and;

12) A comprehensive and detailed definitions section was added.

For the first time, a detailed and clear law existed, specifying important policies and procedures, under which general grant land entitlements would be administered.

In 1979, AS 29.18 was amended so that entitlements could no longer be fulfilled by selections filed up to two years after the state's selection rights with the federal government expired, but now must be made prior to October 1, 1980.

In 1981, to ensure that all entitlements were fulfilled, amendments gave municipalities 90 days to re-select new land upon rejection of a previous selection. This was necessary because in law a selection deadline had been established.

In 1985 university trust land was removed from the group of lands

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available to a municipality with a per capita entitlement of less than one and one-half acres. This resulted from successful litigation by the University Board of Regents against the state over management of its land trust corpus.

In 1985 AS 29.18.201 - 29.18.205 were repealed effective January 1, 1986. These sections were the major provisions of the general grant land entitlement law. They were, however, replaced with the same provisions that were renumbered AS 29.65.010 - 29.65.140.

In 1987 the most recent amendments to the law occurred. The major provisions of the new law are:

1) Expands general grant entitlements to capture all state VUU land within the municipal boundaries between September 16, 1980 and January 1, 1988;

2) Bases entitlements of cities and boroughs incorporated after July 1, 1978, on the maximum amount of VUU land within their boundaries between incorporation and two years thereafter;

3) Establishes upper limit of entitlements to newly incorporated municipalities not to exceed 20 acres per capita based on the population of the municipality on the date of incorporation;

4) Extends selection deadline of boroughs and unified home rule municipalities listed in AS 29.65.010 to October 1, 1990.

5) Invalidates all selections of school or mental health trust lands occurring after October 4, 1985 the date of the mental health land trust litigation decision;

6) Prohibits a municipality from trading entitlement land for federal subsurface rights or any interest in the Arctic National Wildlife Refuge;

7) Categorizes material and public recreation classified land as VUU;

8) Categorizes resource management classified land as VUU if the classification occurred on or after September 1, 1983;

9) Specifies that the new entitlement for the Northwest Arctic Borough is a partial entitlement. Additional entitlement for the Northwest Arctic Borough and municipalities incorporating after the Northwest Arctic Borough depends upon the governor's recommendation to the legislature, after completion of the Northwest Area Plan, for additional entitlement consistent with his general grant land entitlement policy.

10) Reinstates the 89,850 acre entitlement to the North Slope

A brief discussion of Alaska's statehood land grant entitlement will help focus the parallel municipal general grant land entitlements. The Alaska Statehood Act granted land entitlements to the state under sections 6(a) and 6(b) totaling 103,350,000 acres to be selected from the federal public domain. In 1962, when the state enacted the first municipal entitlement law, less than eight million acres of the statehood entitlement had been received from the federal government. There were less than 40 municipalities in the state at that time. Up until the 1978 law, a municipality was entitled to select 10% of the VUU land within the municipality without a date final for fulfilling that entitlement. This appears to have been intended as an ongoing process so that as the state received more of its entitlement, the municipality could continue to select 10% of that which was VUU.

The 1978 law, for the first time established date certain time lines. The pool of land from which to compute the 10% of VUU entitlement was limited to land within the municipal boundaries between the first date of eligibility for each municipality (September 16, 1970, or date of incorporation which ever came later) and July 1, 1978. The deadline for selection was, however, set two years after expiration of the state's selection rights from the federal public domain. The state's selection deadline was 25 years from statehood (1984). The Alaska National Interest Lands Conservation Act (ANILCA) extended this by ten years to 1994.

In 1978 the state had received about 35 million acres of its entitlement. The 1978 city certifications resulted in an allocation of 7,727 acres to 19 qualifying cities and 861,608 acres to 11 unified home rule municipalities and boroughs. A total of 869,335 acres of state land were granted to municipalities under the 1978 law.

Entitlement acreages for unified home rule municipalities and boroughs contained in AS 29.18.201, as amended in 1978, did not always represent fulfillable entitlements. When the state legislature was considering provisions to be incorporated into the AS 29.18 amendments, they established acreage entitlements for each of the unified home rule municipalities and boroughs based on a complicated scheme that considered population, areal extent and availability of state land within the municipal boundaries. The Municipality of Anchorage and the Kodiak Island Borough had considerably less state VUU land within their boundaries than was needed to meet the statutory entitlement.

The Municipality of Anchorage received \$4,000,000 as deficiency payment under AS 29.18.208 for 4,000 acres of entitlement land and in 1985 entered into an agreement with the state to zero out a yet unfulfillable entitlement with 4,628 designated acres of state land within the municipal boundaries. Prior to the agreement, 20,671 acres of land had been approved or patented to the municipality. Under the settlement Anchorage can also receive up to 1,000 acres

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of National Forest Community Grant land at Girdwood if land is ever conveyed to the state.

The Kodiak Island Borough likewise entered into an agreement with the state to zero out its entitlement with 48,700 designated acres of state land within their boundaries. As part of the agreement the borough would return to the state 3,069 acres of the 13,960 acres of land that had been patented or approved for patent prior to the agreement. The borough would also receive up to 17,800 acres of land under selection by ANCSA corporations if the land was ever available to the state.

The amount of additional state land granted to cities by the 1987 amendments is 11,892.3 acres. The state had about 80 million acres of its entitlement in 1987. The major affect of the new law, however, is re-establishing a 1978, 89,850 acre entitlement to the North Slope Borough and increasing the 13,000 acre entitlement certified under the old statute to the new Northwest Arctic Borough to 133,920 acres. In round figures about 236,000 acres of state VUU land will be conveyed to two boroughs and nine cities under the 1987 law.

VUU Land Definitions History

Between 1963 and 1978, municipal entitlement selections were limited to "vacant, unappropriated, unreserved land". It appears, by extension of application, that state administrators conceptually adopted the similar guidelines used by federal administrators when statehood land selections were being adjudicated. Neither statutory nor policy definitions existed for VUU land and as a result municipalities and the state disagreed about whether specific parcels of land were VUU.

In 1978, the amended law adopted specific definitions for VUU land. Following were the limitations placed on this definition:

- 1) Land must be Statehood Act section 6(a) or 6(b) land that has been patented or tentatively approved to the state and excludes the mineral estate;
- 2) Land cannot have been set aside by statute for one or more particular uses or purposes;
- 3) Land must be unclassified or if classified is classified agricultural, grazing, commercial, industrial, private recreational, residential, utility or open-to-entry.

The definition of VUU land specifically excluded minerals citing section 6(i) of the Statehood Act. Section 6(i) was incorporated into the Alaska Land Act as AS 38.05.125.

disputes between the state and municipalities. All of the classifications that are defined VUU are categories which the state was already allowed to dispose of by law. In 1983 the state's land classification regulations were changed so that commercial, industrial, open-to-entry, private recreation, residential and utility classifications were subsumed by a new 'settlement' classification. The effect was that unclassified land, settlement land, grazing land and the agricultural interest in agricultural land were available to municipalities for fulfillment of entitlement.

In 1987 three additional categories were added to the list of VUU classifications: 1) material; 2) public recreation; 3) resource management if classified as such on or after September 1, 1983.

1978 Entitlement Status

On July 1, 1978, there were 139 cities incorporated under state law. Certifications of entitlement under ch 180, SLA 1978, resulted in 19 cities receiving entitlements totalling 7,727 acres.

In 1978 the legislature redesignated university and mental health trust land state general grant land (Chap 182, SLA 1978). Based on what they believed to be representations by DNR that these lands would now be, not only general grant land, but also VUU available for entitlement computation as well as available for fulfillment of entitlement. Three cities in Southeast Alaska certified as "zero entitlement" believed that the department erred in the certifications because redesignated mental health trust land as general land statewide was not included as part of the land base within their corporate boundaries for the certification process. Petersburg filed suit in State Superior Court (1JU-78-1109 civ) and Kupreanof and Wrangell administratively appealed their zero entitlement certifications. The state reached an agreement with Petersburg and granted 10% of the mental health lands within their boundaries to the city. This amounted to 461.27 acres of land. The conveyances were under the authority of AS38.05.315(a) [renumbered AS 38.05.810].

As resolution of the other two appeals, the department extended the terms of the Petersburg settlement. Kupreanof received 180.82 acres of mental health land and Wrangell received 310 acres of mental health land.

Although all land selections for municipalities with entitlements from the 1978 law are in place, somewhat less than half of the land has been patented to them. The state cannot convey land to a municipality until the federal government has patented the land to the state. However, all 1978 municipal selections have, with few

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exceptions, been approved or rejected. When the state approves a selection, the municipality assumes management responsibility as if it owned the land. By statute municipalities can create third party interests on approved selections prior to patent with the approval of the director. The director generally confers broad management authority to a municipality on an approved selection unless there is an overriding public interest requiring continued involvement by the state.

1988 Entitlement Certification Results

Between the 1978 round of certifications and the 1987 amendments to AS 29.65, eight cities incorporated under state law. Only Thorne Bay had state general grant land within its boundaries that was VUU and in 1982 their entitlement was established at 612 acres. This was in error and was corrected to the proper figure of 675 acres in the 1988 certification.

Three other cities received land from the state during the period July 1, 1978, to January 1, 1988. Tenakee Springs had entered into an agreement in 1977 with Alaska Lumber and Pulp Company (AL&P) and the Department of Natural Resources. The purpose of the agreement was to "permit the proposed operations [AL&P timber contract with the USFS on Chichagof Island] to proceed in a climate of consensus and cooperation". The state's obligation in the agreement was:

"The state will convey to the City title to any selected lands conveyed to the State by the Bureau of Land Management, except that the State may retain title to those sites necessary for present or anticipated essential public purposes. The State will convey to the City all tidelands and submerged lands within or subjacent to the Sunny Cove dump, and will expeditiously consider the City's application for conveyance of other tidelands and submerged lands adjacent to any selected lands conveyed to the State by the Bureau of Land Management."

The state's part of the agreement was not carried out and in 1980 Tenakee Springs filed suit against the state in State Superior Court (1JU-80-1666). An out of court settlement resulted in a split of the state lands within the city boundaries, granting the city 2,958 acres and leaving in state ownership 1,027 acres.

Whittier sought and received a legislative grant of state land. Under chap 73, SLA 1984 Whittier received 600 acres of state general grant land within its boundaries.

Pelican sought and received a legislative grant of 8.863 acres of state land under Ch 53, SLA 1985.

The amendments to AS 29.65 in 1967 resulted in certifications of new or enhanced entitlements to nine cities of the 147 cities in existence on January 1, 1988. Kupreanof, Petersburg, Pelican, Tenakee Springs, Whittier and Wrangell each had state general grant land within their boundaries that were VUU. The previous agreements, settlements and legislation, however, resulted in the entitlements being certified at zero acres. The conveyances to Kupreanof, Petersburg and Wrangell were done under the authority of AS 38.05.810 and as provided in AS 29.65 if a municipality with an entitlement is conveyed land under .810 it may be charged against the entitlement. Wrangell administratively appealed this certification because the amount of land that they received in 1978 was less than 10% of the VUU land that was available for the 1988 certification. The director reconsidered the facts and agreed with the City of Wrangell that their entitlement should be the full 10 percent of the VUU land within the city boundaries.

BACKGROUND: TIDELAND CONVEYANCES TO MUNICIPALITIES

Legislative History

In addition to the general grant land entitlements, qualified cities within Alaska have been conveyed tide and submerged land. To understand the purpose of these conveyances of public trust land it is necessary to review federal mandates for management of tide and submerged land prior to Alaska's admission into the Union.

By act of Congress, on May 17, 1884, Alaska was established as a judicial district with a governor and district court system. The general law of Oregon was applied to the district under this act.

On May 14, 1898, Congress passed an act extending the homestead laws to the District of Alaska and providing for right of way for railroads within the district. The act declared that "all such rights to [tide lands and beds of any navigable waters] shall continue to be held by the United States in trust for the people of any state or states which may hereafter be erected out of said District [Alaska]."

The Organic Act, approved by Congress August 24, 1912, created the Territory of Alaska and granted the new territory legislative powers through an elected legislative assembly. The Organic Act further extended the Constitution of the United States and all laws not locally inapplicable, to the Territory of Alaska.

Thus territorial tidelands constituted a federal trust early in Alaska's history and as such could not be disposed of through lease or sale. Additionally, permanent improvements were not authorized to be constructed upon tide and submerged land.

The importance of improved tidelands to the vitality of the territory's economy and the health of its people is readily apparent. It was a territory whose economy, mobility and

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recreation were intimately tied to the sea. Log transfer facilities, seafood processors, municipal docks, private boat ways and even residences were partially or wholly constructed on tidelands with no method for individuals or businesses to acquire proper authorization for use. The need for these activities was readily recognized by the federal managers. However, the mechanism for authorizing such use was non-existent.

In full recognition of these shortcomings, Congress enacted a law on September 7, 1957 (P.L. 85-303), that conveyed tidelands adjacent surveyed townsites to the territory. The conveyance was for tidelands and all improvements and natural resources between the line of mean high tide and the pierhead line. The pierhead line was defined as a "line parallel to the existing line of mean low tide at such distance offshore from the line of mean low tide that encompasses to the landward all stationary, manmade structures in existence as of February 1, 1957". Under this law acceptance by the Secretary of Interior of new townsite surveys effected conveyances of attendant tidelands to the territory.

The act authorized the territory to manage and dispose of any tract of tidelands acquired under the act for municipal, business, residential or other beneficial purposes. A tidelands occupant or the occupant's successor in interest had a preference right to acquire an improved tract if a disposal occurred. These improved tracts could be conveyed to the incorporated town or school district. However, if this occurred, the town or school district must accord any occupant a preference right in any disposals contemplated in the future.

The Army Corps of Engineers was given the authority to establish pierhead lines for all surveyed townsites to enable conveyances to the territory. This process was initiated soon after passage of the act. Alaska's statehood interrupted this process with the conveyance of all tide and submerged land under section 6(m) of the statehood act to the new state.

The Alaska Legislature incorporated specific language in the Alaska Land Act to recognize and implement the provisions of the September 7, 1957, federal law. The provisions were soon codified AS 38.05.320(b).

The Alaska Land Act (ch 169, SLA 1959) section 5(c) enabled the conveyances of tidelands to municipal corporations. Qualifications in the act were:

- 1) The corporation must have been incorporated on or before January 3, 1959;
- 2) Tidelands subject to conveyance lay between the mean high tide line and the pierhead line, the harbor line or in their

absence, a line subject to the approval of the director;

3) The corporation had to prepare a plat of the area conveyed showing all structures and improvements thereon and each tract that was occupied or developed with the owner or claimant noted; and,

4) The corporation had to recognize preference rights for occupied and developed tracts.

The tidelands conveyances to municipal corporations were mandatory and gave the department few discretionary powers over the process.

An amendment to AS 38.05.320(b) occurred in 1964 (ch 81, SLA 1964) when "municipal corporation" was changed to "(h)ome rule cities and cities of the first class." These cities had to have been incorporated on or before April 1, 1964, in order to qualify.

Another amendment to AS 38.05, although unrelated to AS 38.05.320(b), did provide for another type of tidelands conveyance to municipalities. Chapter 108, SLA 1974 (codified AS 38.05.323) allowed home rule and general law municipalities to apply for tidelands between mean high tide and mean low tide adjacent public recreation area facilities if the facility was developed under the terms of P.L. 507 (70 Stat. 130) and it was conveyed from the state to the municipality.

Under AS 38.05.320(b) 25,224.3 acres of tidelands were conveyed to 28 cities from Barrow to Saxman. Apparently no tidelands have been conveyed under AS 38.05.323.

GENERAL GRANT LAND ENTITLEMENT DISCUSSION

There are three categories of general grant land entitlements under AS 29.65:

1) " A specified statutory entitlement (AS 29.65.010) for unified home rule municipalities and organized boroughs;

2) 10% of the maximum total acreage of vacant, unappropriated, unreserved (VUU) land within the boundaries between September 16, 1970 and January 1, 1988 for cities incorporated as of July 1, 1978 (AS 29.65.020); and

3) 10% of the maximum total acreage of VUU land within the boundaries between date of incorporation and two years after that date for cities incorporated after July 1, 1978 (AS 29.65.030).

The governor's general grant land entitlement policy required by Section 11, Chapter, 34 SLA 1987 only affects the Northwest Arctic Borough and other municipalities incorporated after formation of the Northwest Arctic Borough (incorporated June 2, 1986). Thus, only general grant land entitlements pursuant to AS 29.65.030 for

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municipalities incorporated on or after June 2, 1986 will be affected by this policy document.

Section 2 ch 34 SLA 1987 significantly amended AS 29.65.030 by adding a new upper entitlement limit based on municipal population on the date of incorporation. This limit was imposed to help dissuade formation of municipalities for the sole purpose of obtaining large general grant land entitlements from the state. Since all densely populated areas of the state are presently incorporated, newly incorporated areas will generally be rural in character. State land within these areas is often not well suited for development or other municipal purposes. Creating large entitlements to be fulfilled from the state's rural land base may not be in the state's interests.

The per capita limit was established at 20 acres based on the highest per capita entitlement to any municipality statewide created by the 1978 amendments to the municipal entitlement law. The Matanuska-Susitna Borough has an entitlement of 355,210 acres which is about 20 acres per capita based on the population of the borough in 1978.

From inception, the municipal entitlement law has undergone a gradual philosophical broadening of purpose. Where the early versions of the law were focused on making land available that was suitable for development for residential, commercial or industrial use, the most recent version of the law shifts to include public purpose land. This shift occurs through inclusion of public recreation classified land in the categories of land available to municipalities.

PURPOSES FOR GENERAL GRANT LAND ENTITLEMENTS

The central theme of municipal entitlements today is to provide land to municipal corporations for the purposes of:

- 1) Siting public facilities/aiding community expansion;
- 2) Providing a means of revenue production through sales or lease which also expands the municipal tax base; and;
- 3) Providing local public recreation opportunities.

The provisions of Alaska Native Claims Settlement Act (ANCSA) defeated state's title to selected and tentatively approved land within the vicinity of ANCSA village corporations. This results in extremely limited or totally absent state land bases in or near ANCSA cities (population centers) for a new borough to realize the first two purposes. The provisions of ANCSA 14(c)(3) do however, compensate for this shortcoming by requiring that an ANCSA village

corporation. This provision includes title to the remaining surface estate of the improved land and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable community needs.

The results of AS 29.65 and ANCSA must be viewed together. If the land available under these two laws is insufficient to fulfill municipal land entitlement purposes, and other state land unavailable under AS 29.65 will meet the needs, then the municipality may make a written request, including justification, to the Department of Natural Resources for the specific additional land which increases their entitlement.

SUMMARY

The State of Alaska in furtherance of the goal of maximum local government committed in 1978 7,727 acres of state land to 19 cities and another 861,608 acres to 11 unified home rule municipalities and boroughs. With few exceptions land selections have been approved and the municipalities actively manage this land base of nearly 870,000 acres.

New incorporations after 1978 resulted in another 14,000 acres of entitlement to one city and one borough.

The 1987 amendments to AS 29.65 created new entitlements for two cities totalling over 1200 acres, reestablished an 89,850 acre entitlement for a borough and expanded entitlements for seven cities and one borough for over 130,000 new acres.

Over 1,000,000 acres of state land have been committed under AS 29.65 to 41 municipalities statewide for local use. This represents nearly one percent of Alaska's statehood entitlement.

The state has patented nearly 430,000 acres of uplands to 48 municipalities since statehood and 25,000 acres of tidelands to 28 cities.

As the current trend toward more borough incorporations continues, general grant land entitlements promise to play a role in the viability of the new municipalities in a difficult economic environment.

MUNICIPAL ENTITLEMENT CERTIFICATION SUMMARY

City	1978 Entitlement	Other Entitlement	1988 Entitlement	New Acres Under Ch34, SLA 1987
Anderson	0.0	0.0	1,182.0	1,182.0
Bethel	40.0	0.0	0.0	
Cordova	235.0	0.0	0.0	
Delta Junction	400.0	0.0	81.8	81.8
Dillingham	1.0	0.0	0.0	
Fairbanks	15.0	0.0	0.0	
Homer	16.0	0.0	0.0	
Hoonah	15.0	0.0	0.0	
Houston	405.0	0.0	0.0	
Kenai	307.0	0.0	0.0	
Ketchikan	0.5	0.0	4.0	3.5
Kodiak	32.0	0.0	0.0	
Kupreanof	0.0	180.8	0.0	
North Pole	0.5	0.0	0.0	
Ouzinkie	240.0	0.0	0.0	
Pelican	0.0	8.9	0.0	
Petersburg	0.0	461.3	0.0	
Port Alexander	0.0	0.0	53.0	53.0
Port Lions	35.0	0.0	0.0	
Seward	562.0	0.0	565.0	3.0
Skagway	500.0	0.0	7,977.0	7,477.0
Soldotna	14.0	0.0	0.0	
Tenakee Springs	0.0	2,958.0	0.0	
Thorne Bay	0.0	612.0	75.0	63.0
Valdez	4,805.0	0.0	7,593.0	2,788.0
Whittier	0.0	600.0	0.0	
Wrangell	0.0	310.0	551.0	241.0
Yakutat	104.0	0.0	0.0	
TOTALS	7,727.0	5,131.0	19,081.8	11,892.3

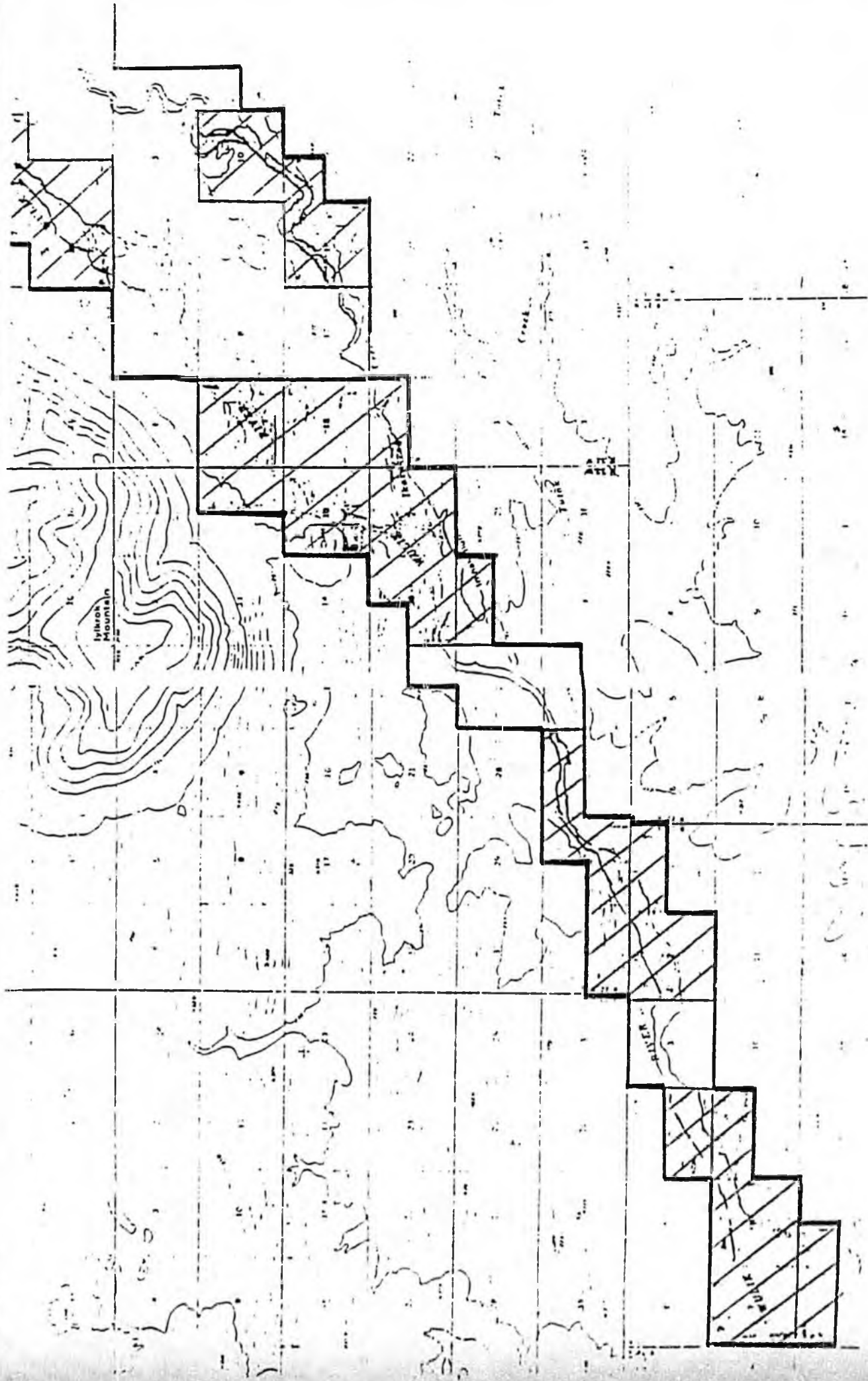
TABLE 1

CONVEYANCE SUMMARY: CITIES

CONVEYANCES BY AUTHORITY

City or Borough	Incorp	.347	AS 07	AS 29	.810	.320	Legislative	Other
Aniak	May-72				24.6			
Barrow	Jan-59					870.0		
Bethel	Jan-57	82.1		5.0	317.0			42.4
Cordova	Jan-09			0.5		321.7		
Craig	Jan-22				18.2	73.0		
Delta Junction	Dec-60			340.3	40.0			
Dillingham	Jan-63				10.7			
Fairbanks	Jan-03			0.5	98.1			
Fort Yukon	Feb-59							0.3
Haines	Jan-10			20.0		100.1		
Homer	Jan-64					6,831.1		292.8
Hoonah	Jun-46	105.5				201.4		
Houston	Jan-66			418.8				
Hydaburg	Oct-27					175.0		
Keke	Nov-62					219.3		1.4
Kasaan	Feb-76				0.4			
Kenai	May-60	3,594.7		355.3	175.6	2,752.1		1.9
Ketchikan	Jan-00				1.2	169.7		
King Cove	Jan-47					178.1		
Klawock	Jan-29					272.5		
Kodiak	Jan-40	281.0		1.2	15.4	219.0		
Kotzebue	Mar-73					392.8		
Kupreanof	Aug-75			180.8				
McGrath	Jun-75				13.5			7.7
Nenana	Jan-21							35.0
Nome	Jan-01					5,717.0		42.1
North Pole	Jan-53				19.7			
Palmer	Jan-51				3.5			
Pelican	Jan-43				4.9	60.1	0.9	
Petersburg	Jan-10			231.1	314.7	449.5		12.4
Sand Point	Oct-66				2.3			
Saxman	Sep-29					53.0		
Seldovia	May-45				21.6	118.0		
Seward	Jan-12			493.1	49.1	1,677.3		
Shungnak	Mar-76				0.6			
Skagway	Jan-00			122.1		193.5		
Soldotna	Jan-67			111.9	391.5			60.3
Tenakee Springs	Oct-71					30.2		204.8
Thorne Bay	Aug-82			249.2				
Unalaska	Jan-42							9.3
Valdez	Jan-01			4,420.2		1,366.6		34.5
Wasilla	Jan-74				129.8			
Wrangell	Jan-03			18.5	288.7	148.8		
Yakutat	Jan-48			123.6	31.2	248.3		
TOTALS		4,053.3	0.0	7,092.1	1,970.3	22,848.4	8.9	744.9

TABLE 3



INTRODUCTION FOR HB 588 - HOUSE RESOURCES COMMITTEE 5/4/90

THANKYOU MR. CHAIRMAN. HOUSE BILL 588 IS A MUCH NEEDED PIECE OF LEGISLATION. THE ORIGINAL BILL PROHIBITED DNR'S ABILITY TO PLACE RESTRICTIONS ON THE SHAPE OF A PARCEL OF LAND SELECTED BY A MUNICIPALITY. THE C&RA COMMITTEE SUBSTITUTE EXPANDS THE BILL TO EXPLICITLY INCLUDE A REVIEW AND COMMENT PERIOD BY THE DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS, ADDS AN APPEAL PROCESS, AND INCLUDES CERTAIN LAND CLASSIFIED AS WILDLIFE HABITAT IN THE DEFINITION OF "VACANT, UNAPPROPRIATED AND UNRESERVED LAND".

DNR OPPOSES THIS LEGISLATION BECAUSE THEY BELIEVE IT "WOULD NOT SERVE THE STATE'S INTERESTS". I BELIEVE THAT OUR STATE CONSTITUTION PROVIDES THAT THE STATES BEST INTEREST MAY BE SERVED BY ALLOWING MUNICIPALITIES TO MANAGE AND DEVELOP THEIR OWN LAND. THE DRAFTERS OF THE STATE CONSTITUTION CONFERRED AUTONOMY AND BROAD POWERS ON MUNICIPALITIES THROUGHOUT THE CONSTITUTION. THE STATE OF ALASKA FURTHERS THE GOAL OF MAXIMUM LOCAL SELF-GOVERNMENT BY OFFERING INCENTIVES TO ENCOURAGE MUNICIPAL INCORPORATIONS. SINCE 1962, ONE OF THESE INCENTIVES HAS BEEN THE ABILITY TO SELECT AND RECEIVE STATE LAND.

OVER THE YEARS, THE RESPONSIBILITY OF MAKING POLICY DECISIONS ON MUNICIPAL ENTITLEMENTS HAS GRADUALLY BEEN GIVEN TO THE DEPARTMENT OF NATURAL RESOURCES. NOW, ALL OF

THE DECISIONS ARE MADE BY DNR. THE C&RA COMMITTEE
SUBSTITUTE YOU HAVE BEFORE YOU WILL MORE EQUITABLY
REPRESENT BOTH THE MUNICIPALITIES AND DNR'S VIEWPOINTS.

IN 1978, AN AMENDMENT WAS MADE TO THE LAW THAT PLACED AN
UPPER LIMIT ON THE AMOUNT OF ENTITLEMENTS A BOROUGH COULD
RECEIVE. A CAP WAS SET AT 20 ACRES PER CAPITA BASED ON THE
POPULATION OF THE MUNICIPALITY AT THE DATE OF
INCORPORATION. IT HAS BEEN SUGGESTED THAT THE 20 ACRE CAP
IS THE MOST GENEROUS ENTITLEMENT BECAUSE IT REPRESENTS THE
HIGHEST PER CAPITA ENTITLEMENT GIVEN TO ANY MUNICIPALITY.
WHILE THIS MAY AT FIRST SEEM A FAIR AND EQUITABLE
JUSTIFICATION, IT IS NEITHER, GIVEN THE VERY BROAD RANGE OF
LANDS. URBAN AREA LANDS OFTEN ARE WORTH AT LEAST THREE
TIMES THE VALUE OF RURAL ACREAGE. THE 20 ACRE CAP MAY BE
AN EQUITABLE GUIDELINE FOR URBAN AREAS, BUT IT IS NOT FAIR
OR EQUITABLE FOR RURAL AREAS.

DNR HAS ALSO STATED THAT REGULATIONS REQUIRE MUNICIPAL
SELECTIONS TO BE "COMPACT". THIS IS BASED ON THE ERRONEOUS
PREMISE THAT RURAL LAND DEVELOPMENT SHOULD MEET THE SAME
STANDARDS OF COMPACT DEVELOPMENT OF URBAN LAND. ON THE
CONTRARY, RURAL LAND SELECTIONS, BY DEFINITION SHOULD HAVE
GREATER FLEXIBILITY TO MEET CHANGING AND DIVERSE NEEDS OF
SPARSELY POPULATED COMMUNITIES SPREAD OUT OVER VAST AREAS.

IN THEIR OWN REPORT ENTITLED MUNICIPAL GENERAL GRANT LAND ENTITLEMENTS, DNR PREDETERMINES THAT IT MAY NOT BE IN THE BEST INTERESTS OF THE STATE THAT LAND IN RURAL ALASKA BE MANAGED AND DEVELOPED BY LOCAL GOVERNMENTS BECAUSE THE RURAL CHARACTER OF STATE LAND "IS OFTEN NOT WELL SUITED FOR DEVELOPMENT OR OTHER MUNICIPAL PURPOSES". I STRONGLY DISAGREE WITH THIS PRESUMPTION. MANY AREAS IN RURAL ALASKA ARE IN THE VERY INITIAL STAGES OF DEVELOPMENT AND IT IS PREMATURE TO MAKE BROAD GENERALIZATIONS ABOUT THE USE OR CHARACTER OF LAND IN RURAL ALASKA. SUBSISTENCE IS A MAJOR INFLUENCE IN THE RURAL ECONOMY AND THEREFORE COULD RESULT IN LARGE SELECTIONS OF LAND HELD SACROSANCT.

IN REGARDS TO THE APPEAL PROCESS, I BELIEVE IT IS NECESSARY AND APPROPRIATE. DNR EXERCISES TREMENDOUS DISCRETION IN DECIDING THE RULES BY WHICH JUSTIFICATIONS ARE REVIEWED FOR MUNICIPAL PURPOSES AND FOR EVALUATIONS SELECTIONS FOR "STATE INTEREST". DECISIONS MADE BY DNR ON MUNICIPAL LAND SELECTIONS SHOULD HAVE OVERSIGHT, JUST LIKE ANY OTHER AGENCY.

LASTLY, DNR OPPOSES THE INCLUSION OF CERTAIN LAND CLASSIFIED AS WILDLIFE HABITAT. JUST BECAUSE LAND IS CLASSIFIED AS WILDLIFE HABITAT, IT SHOULD NOT AUTOMATICALLY BE EXCLUDED FROM CONSIDERATION BY MUNICIPALITIES. ALL OF THE LAND IN RUAL ALASKA IS WILDLIFE HABITAT. GRANTED, THERE WILL BE OCCASIONS WHERE DUPLICATION OF INTEREST MAY

CONFLICT, HOWEVER I BELIEVE THAT DNR WILL CONTINUE TO EXERCISE SUBSTANTIAL DISCRETION AND WILL NOT EASILY BE OVERTURNED OF VALID STATE INTERESTS CAN BE SHOWN. THUS, THERE IS NO REASON TO RESTRICT THE ENTIRE CATEGORY AS A GENERAL RULE. PLEASE NOTE THAT THE AMENDED FORMULA WILL ONLY ADDRESS 10% OF STATE LANDS, LEAVING THE STATE WITH 90%.

I COULD GO ON MR. CHAIRMAN, BUT I WILL DEFER TO OTHERS WAITING TO TESTIFY ON THE BILL. I WILL BE AVAILABLE TO ANSWER QUESTIONS. THANKYOU.

H B

590

HOUSE COMMITTEE REPORT

4/11

(9)

Date Referred: March 28, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: 4-10-90

The RESOURCES Committee considered:

HB 590

HOUSE BILL NO. 590

APPROP: INHOLDINGS, TIMBER RTS/KACHEMAK BAY

"An Act making a special appropriation to the Department of Natural Resources for the purchase of the inholdings of the Seldovia Native Association, and the timber rights of the Timber Trading Company, within the Kachemak Bay State Park; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with CS HB 590 (RES) [] the same title
- [] have attached amendment(s) [] a new title
- [] do pass
- [] do not pass
- [] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

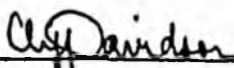
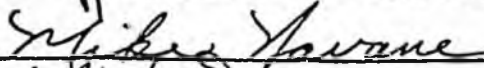
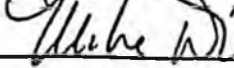
ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [] fiscal impact _____
- [] zero fiscal note _____
- [] zero with analysis _____
- [] fiscal note(s) _____
- [] zero fiscal note(s) _____
- [] zero fn/analysis _____

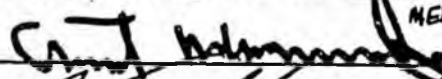
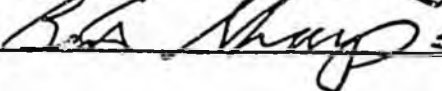
SIGNING DO PASS:

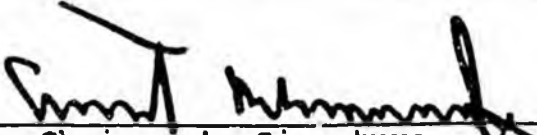
	DAVIDSON
	NAVARRE
	DAVIS

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

		<input checked="" type="checkbox"/>		
		<input checked="" type="checkbox"/>		


Chairman's Signature

**Purchase of Inholdings
within
Kachemak Bay State
Park**

**HB 590
SB 536**

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that enables the state to acquire 37 square miles of inholdings within Kachemak Bay State Park. The bill appropriates \$17,820,000 to the Department of Natural Resources (DNR) to purchase all of Seldovia Native Association's land and Timber Trading Company's timber on this land in the park.

For 15 years the state has been working on various land exchange proposals to acquire Seldovia Native Association's (SNA) 24,000 acres of inholdings that are within Kachemak Bay State Park. The land was state-owned when the park was established in 1970, but then it was subsequently acquired by SNA under the Alaska Native Claims Settlement Act of 1971. In 1987, the timber on a portion of SNA's land was sold to Timber Trading Company (TTC), a subsidiary of Koncor Forest Products.

This 24,000-acre parcel lies south and east of China Poot Bay, extending south to Sadie Cove. This land is in the center of Kachemak Bay State Park. China Poot Bay has high fish and wildlife habitat values. The land owned by SNA has high recreation and scenic values and lies directly across Kachemak Bay from Homer.

Commercial recreation development and timber harvest have been proposed on this land. Acquisition of SNA's land is crucial to protect the public recreation, wildlife, and scenic values of the park. Since October 1988, DNR, SNA and TTC have been actively involved in developing a land exchange. DNR was working towards separate exchanges with SNA for the land and TTC for the timber rights. Consistent with Alaska Statutes 38.50, we had intended to submit a final exchange agreement to the Legislature for approval this session. Efforts to develop a final exchange agreement were slowed because of significant disagreements over the appraised value of the land.

An appraiser hired by SNA arrived at two different values of SNA's land in the park -- \$22.7 million and \$25.6 million. We disagreed with both appraisals because the appraiser used only parkland as comparable properties to set the value of SNA land. The appraiser made few adjustments to comparables to address differences in size, location, and date of sale. DNR contracted for an independent appraisal that valued the land at \$12 million, which SNA disagreed with.

In February, DNR established an appraisal review panel to render their opinion of the value of SNA's land. The panel concluded the value of SNA's land, with the timber still in place, is \$17,820,000. Assuming that the timber was cut on a portion of the land, the panel arrived at values for SNA's land that ranged from \$11.62 to \$15.49 million.

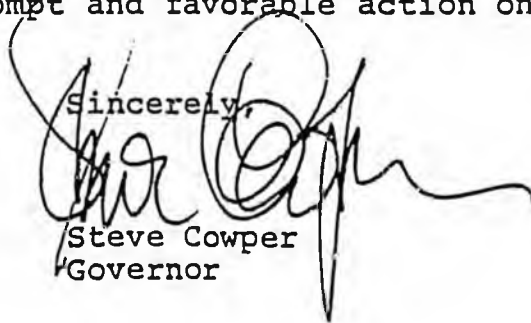
On February 28, after an exchange of offers, DNR offered SNA \$15.49 million, the highest value the panel arrived at assuming the timber was harvested on a portion of the land. SNA rejected this value unless the state was willing to pay the full value in cash. SNA would agree to a land exchange only if the state agreed to pay a higher value for SNA's land. DNR refused to consider an exchange that valued SNA's land higher than \$15.49 million because appraisals have not substantiated a higher value.

We agree that \$17.82 million is an acceptable value for SNA's land. This is at the high end of the appraised values, but this is a difficult parcel to appraise. This value should be the same whether SNA's land is acquired by exchange or through a cash purchase.

I support a cash purchase recognizing that past land trade efforts failed, in part, due to differing opinions of the value of SNA's land. SNA will not negotiate an exchange that is based on fair market value, but is willing to sell its land for cash at fair market value.

I request that the legislature appropriate the funds to purchase SNA's land and TTC's timber. The amount of time, effort, and money spent by the state, SNA, and the people of Alaska over fifteen years demonstrates that there is public support for making Kachemak Bay State Park whole. The length of time further demonstrates how difficult it has been to reach an agreement such as the one represented by this bill. I urge your prompt and favorable action on this measure.

Sincerely,



Steve Cowper
Governor

Funding Information: General Fund \$17,820,000
Other Funds -0-
\$17,820,000

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2

HOUSE BILL NO. 590

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act making a special appropriation to the Depart-
7 ment of Natural Resources for the purchase of the
8 inholdings of the Seldovia Native Association, and
9 the timber rights of the Timber Trading Company,
10 within the Kachemak Bay State Park; and providing for
11 an effective date."

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

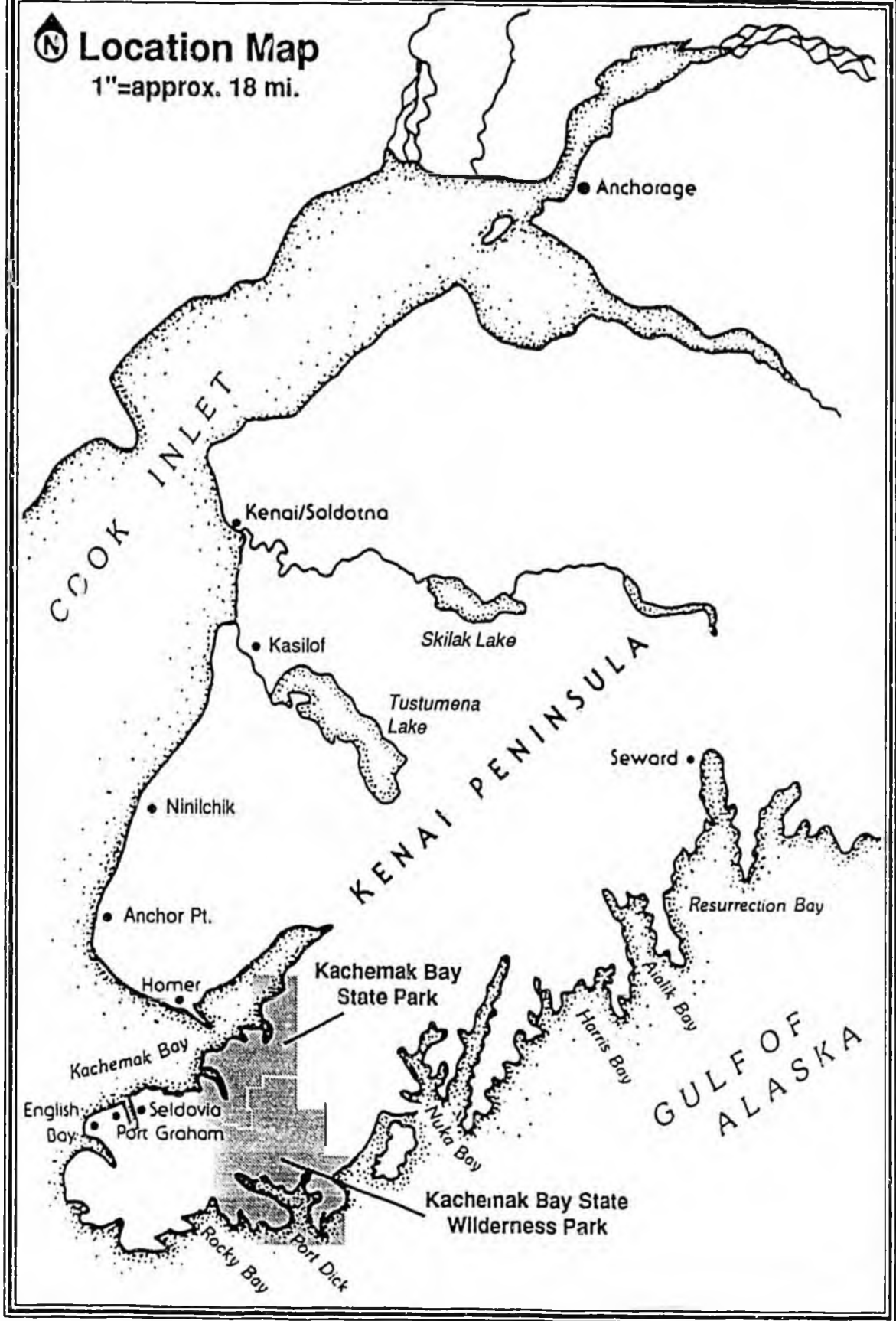
13 * Section 1. LEGISLATIVE FINDINGS. (a) The legislature finds that the
14 Kachemak Bay State Park is an important scenic and recreational area and
15 that the inholdings within the park, if developed, would seriously compro-
16 mise the integrity of the existing park land. The legislature finds,
17 therefore, that it is in the interest of the state to acquire the inhold-
18 ings of the Seldovia Native Association, and the timber rights of the
19 Timber Trading Company, within the Kachemak Bay State Park.

20 (b) The legislature further finds that the value, to the state, of
21 the Seldovia Native Association's inholdings, and the timber rights of the
22 Timber Trading Company, within Kachemak Bay State Park is \$17,820,000.

23 * Sec. 2. The sum of \$17,820,000 is appropriated from the general fund
24 to the Department of Natural Resources for the purchase of the inholdings
25 of the Seldovia Native Association, and the timber rights of the Timber
26 Trading Company, within the Kachemak Bay State Park as identified in the
27 Preliminary Exchange Agreement dated June 30, 1989, as amended as of the
28 effective date of this Act, between the state, the Seldovia Native
29 Association, and the Timber Trading Company.

N Location Map

1"=approx. 18 mi.



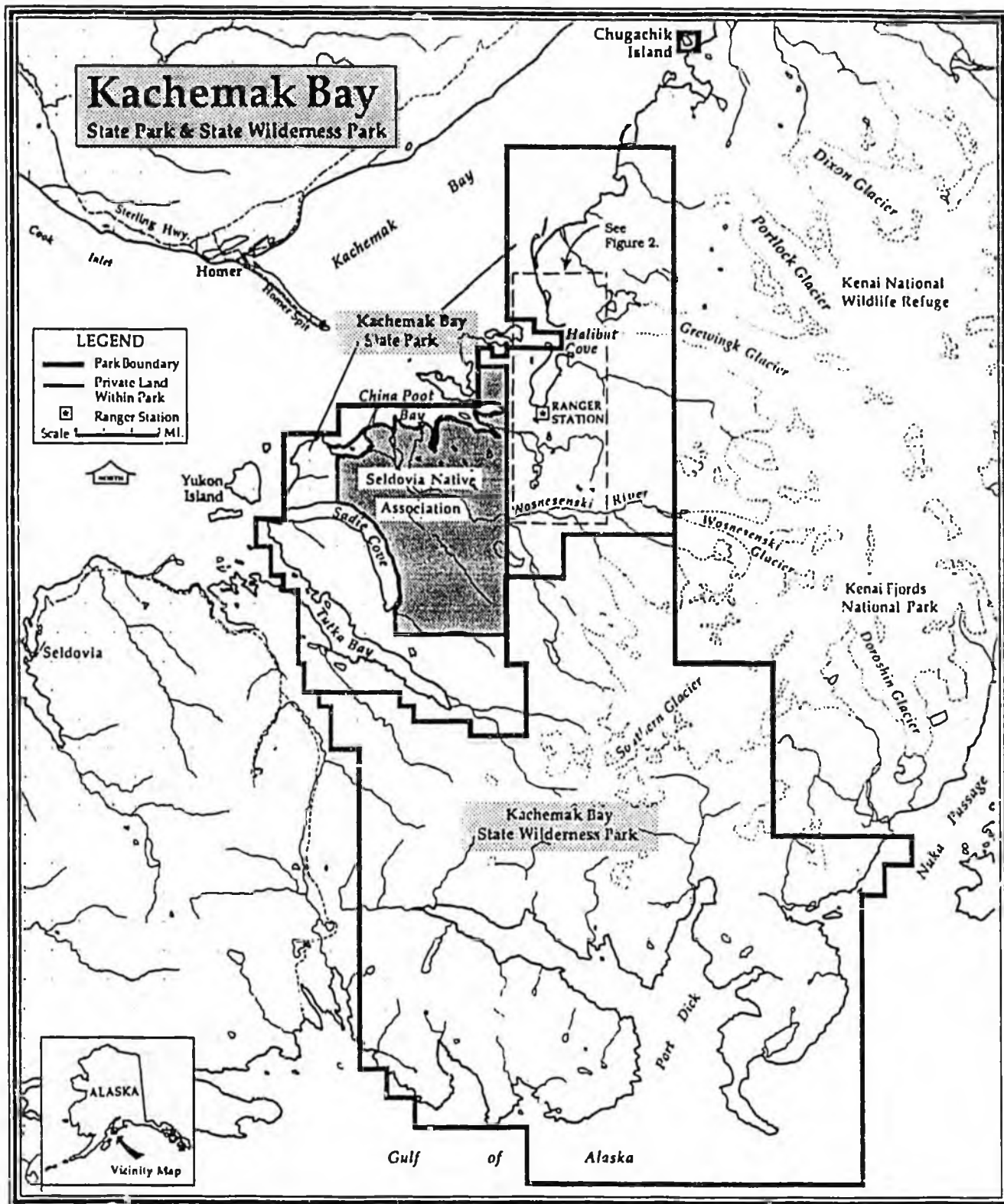


Figure 1.

History:

Kachemak Bay State Park was created by the Alaska Legislature in 1970. The following year, the U.S. Congress passed the Alaska Native Claims Settlement Act (ANCSA), which entitled Alaska Natives to receive land as settlement of aboriginal land claims (including federal lands that had already been transferred to the state).

SNA selected and received title to over 29,000 acres of its ANCSA settlement from lands within Kachemak Bay State Park. The SNA selections included key coastline and other high public use areas, including lands near China Poot Bay, one of the most beautiful and accessible sites within the park.

In 1979, a Memorandum of Understanding between SNA and the state Department of Natural Resources (DNR) was executed. Among other things, the memorandum committed the state and SNA to exchange SNA's park inholdings for state land of equal value.

In 1983 and again in 1985, the state and SNA successfully completed two small land exchanges. Two larger exchange attempts were unsuccessful, and further negotiations waned. At this writing, SNA still owns 23,642 acres within the park.

Recent Developments:

Roughly two years ago, it was disclosed that SNA had sold timber cutting rights on 15,400 acres of its park inholdings as well as other nearby SNA land to Koncor Forest Products Company, through its subsidiary Timber Trading Company (TTC).

With a twelve year timber harvest contract (from May 30, 1987 until April 30, 1999), TTC planned to begin logging operations in the near future. These plans dismayed a number of people who appreciate the recreational and scenic values of Kachemak Bay State Park, and who want to see the integrity of the park preserved.

Almost immediately, a statewide grass roots effort to revive the trade started, and a new round of negotiations began. Participants included representatives from DNR, SNA, TTC, members of the Kachemak Bay Citizen's Coalition, and local representatives.

The first step in the revived exchange process was to assemble a pool of state land to offer SNA. Once DNR completed this, the next step was an appraisal of SNA's land within the park.

An independent appraiser, under contract to SNA, arrived at two different values for SNA's property within the park, depending on the potential for timber harvest was treated: \$22.7 million and \$25.6 million. Market value of timber was considered in addition to this, and at one point, the total value of the inholdings was estimated to be in the area of \$32 million.

DNR officials disagreed with the methods used by SNA's appraiser, maintaining that these values were not substantiated. DNR then contracted for its own independent appraisal, which placed the land values at \$12 million. SNA disagreed with this value.

In February, an arbitration panel of three independent appraisers was selected by DNR and SNA to review the appraisals and render an opinion of the value of SNA's property. Though SNA agreed to the panel, it did not agree to be bound by the panel's results.

After some deliberation, the panel concluded that the value of SNA's land, with the timber left in place, was \$17.82 million. If timber on a portion of those lands were harvested, the value

for the land alone ranged from \$11.62 to \$15.49 million, depending on what assumptions were made regarding the impact of any potential timber harvest. SNA still felt these values were too low, but agreed to negotiate.

After an exchange of offers and counter-offers, an agreement was reached on February 28, 1990. Under the terms of this accord, the state declared its willingness to purchase the balance of SNA's lands within Kachemak Bay State Park for \$15.49 million. Though the figure is at the high end of the arbitration panel's valuation, DNR concedes that it is a very difficult parcel to appraise. SNA has assented to this price only if the state makes an outright purchase of the property, not an exchange of land.

Timber:

TCC's timber within the park has been recently appraised as having a market value of \$6.4 million, and the DNR has been working on state acquisition of TTC's timber within the park through an equal value timber exchange. State timber available for an exchange is limited. After considerable effort, TTC and the state agreed on two suitable parcels for an exchange: one near Thorne Bay on Prince of Wales Island, and the other at Frederick Point on Mitkof Island, near Petersburg.

The Thorne Bay timber is primarily red cedar (44%) and western hemlock (41%), with some Sitka spruce (11%). At this time, market prices for red cedar are dropping, and it is expected this trend will continue. This price drop has affected negotiations between the state and TCC. Additionally, there is some objection by Thorne Bay residents to harvest in this area, though such objection may be lessened if harvest would result in construction of a road to Tolstoi Bay.

The Mitkof Island parcel is composed mainly of western hemlock (61%) and Sitka spruce (36%). The timber values are high, and the market for hemlock & spruce appears to be relatively stable. However, substantial portions of Mitkof Island have already been harvested, and there is strong objection by Petersburg residents to any further harvest.

In light of the political reality that without approval from area residents, any exchange of timber (and subsequent harvest by TTC) of the Thorne Bay and Mitkof Island areas will be very difficult to accomplish, another option has been chosen: the cash purchase of TTC's timber within Kachemak Bay State Park.

Legislation:

House Bill 590 (and a Senate companion bill, Senate Bill 536) was introduced by the Governor on March 28, 1990. The measure provides an appropriation of \$17.82 million for the outright purchase of both land and timber inholdings within Kachemak Bay State Park.

What the State will Gain:

Seldovia Native Association's 23,642 acres are in the center of Kachemak Bay State Park, lying south and east of China Poot Bay, and extending southward to Sadie Cove. This comprises the "heart" of the park, and is noted as one of the most beautiful scenic areas in the state. Because of its high recreational values as well, state acquisition of these inholdings will protect and preserve the integrity of the park for generations to come.

Scenic and Recreational Values

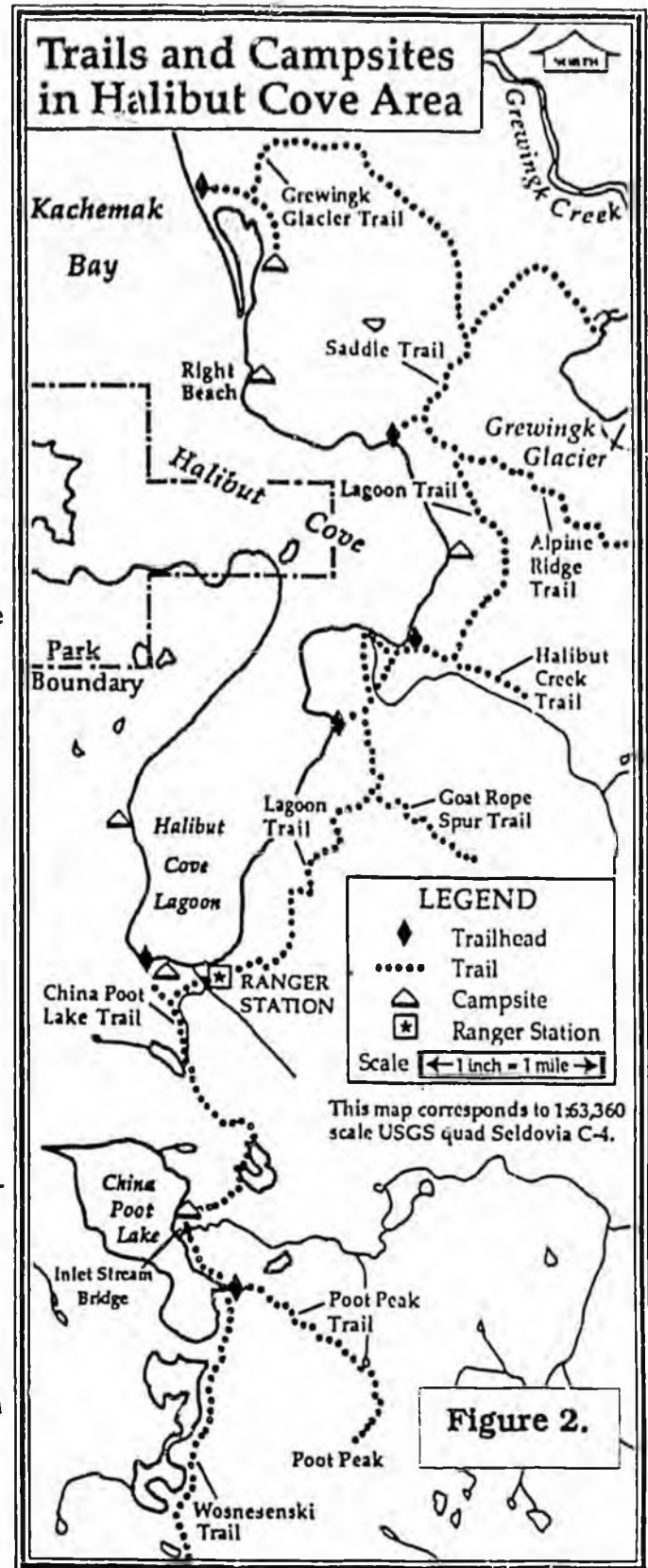
A large portion of SNA's park inholdings are highly visible from Homer and the Homer Spit, with China Poot Bay being the centerpiece for this breathtaking tableau. A photograph of China Poot, taken from the Homer side, was used by the Nation Geographic Society in its 1990 calendar, "Seashores of the World." The proposed timber harvest would include most of these scenic uplands.

Scenic flights and fly-in fishing trips are conducted by at least two Homer based flight services, and there are numerous charter boat operators offering scenic and fishing tours of the area. A major commercial lodge is located at China Poot Bay, directly across from SNA's land, and the Center for Alaska Coastal Studies is located on the Island Peninsula between Peterson Bay and China Poot Bay. There are smaller lodges, private residences and cabins located along Peterson Bay, Neptune Bay, Sadie Cove and Halibut Cove. Most park users feel strongly that any logging of this pristine area would threaten the primary uses of the park, which are based on fishing and tourism. The common focus of the Homer and Kachemak Bay communities is to enhance and encourage greater recreational opportunities, while retaining the wilderness values of the park.

Most recreational use of Kachemak Bay State Park is concentrated on or adjacent to water - pleasure boating, sport fishing, clam digging, kayaking, crabbing, shrimping, beachcombing, photography, scuba diving and wildlife observation. Visitor use figures for Kachemak Bay State Park are hard to determine, and are incomplete, but annual visitor use day counts taken during periods from 1982 to 1989 range from 21,444 (seven-month period in 1982) to 27,134 (four-month period in 1987). A visit to the bay on any summer day makes it obvious that the park is one of the most heavily used recreational areas in southcentral Alaska.

Since many beach areas provide firewood, tent sites, and occasional drinking water, they are important focal points for recreational activities, including picnicking, camping and hiking. Many of the existing trailheads in the park (see Fig. 2) are located on beaches, and thus are entry points for other upland activities - hunting, backpacking, mountaineering and skiing. As the trail system improves, backpacking is becoming more popular, and improved access has spurred an increase in mountaineering and skiing on the park's many snowfields and glaciers.

Natural fish runs, combined with Dept. of Fish & Game enhancement programs, provide fishing opportunities that attract large numbers of both sport and commercial fishermen to Kachemak Bay waters.



Gerald E. Grilly
Publisher



Howard Weaver
Editor

Michael Carey, Editorial Page Editor
Patrick Dougherty, Managing Editor

Katherine Fanning, Editor and Publisher 1971 to 1983
Lawrence Fanning, Editor and Publisher 1987 to 1971

Founded in 1946 by Norman C. Brown

Anchorage Daily News - Sent - March 31, 1990

Time to deal

State should buy Kachemak park inholdings

To appreciate how Homer-area residents feel about Kachemak Bay State Park, consider an analogy to Anchorage's Bicentennial Park. Several proposed developments in the city's midtown wilderness park have stirred angry opposition. But imagine the outcry if a private company owned Bicentennial Park's timber and wanted to turn loose the chainsaws.

That gives some sense of how people near Homer feel about the possibility that the jewel of a park across the bay will be logged. And that prospect is no idle threat. Seldovia Native Association owns some 25,000 acres in the park. The firm has already sold timber rights on one-sixth of the lands.

The state would like to protect the park. To do so, it's been trying to work a land exchange with the Seldovia firm for some 13 years without success.

But now comes hope a deal can be done. The state has dropped the idea of a land trade in favor of paying cash. A new state estimate of what Seldovia's land is worth has brought the two sides closer together than ever.

There's just one large hurdle left: The legislature must agree to fund the park purchase. Lawmakers should seize the moment.

Gov. Cowper is asking for \$17.8 million. That's not as much as the Seldovia firm and its timber partner want, but it's more than the land is worth as timber property. The three parties can fine-tune the price as the legislature reviews the funding proposal.

Failing to strike a deal will have bitter consequences. Any logging will disrupt China Foot Bay, one of the area's most popular and sensitive estuaries. A ugly scar will sit for all to see on the Homer side of the bay. As state parks director Neil Johannsen points out, the inevitable backlash could jeopardize public support for more appropriate logging projects.

But the situation needn't become so poisoned. Both sides agree the land's highest and best use is a park. The state is willing to pay a price that reflects that fact.

The legislature should give the parks division enough money to show the state is serious about a deal. If the two sides will then quit haggling over the price, Seldovia Native Association will have a solid deal for its shareholders and Kachemak Bay State Park will get the protection it deserves.

 F A X T R A N S M I T T A L *****
 N E M O
 TO: Mike Neumann / Pat Malone
 DEPT: Home FAX #: 4654565
 FROM: Mullins PHONE: 7622660
 CC: OVR FAX #:
 Post-It to and fax transmitted memo 7/5/71

1
 NO OF PAGES

HB 590

A M E N D M E N T

by Davidson

Page 1, Line 22

Replace "\$17,820,000" with "\$20,000,000"

Page 1, Line 23

Replace "\$17,820,000" with "\$20,000,000"

Summary of Land Appraisals

	4,435 acres cut-over land	19,367 acres	total
Appraisal Panel	\$ 2,440,000	\$ 13,050,000	15,490,000
	2,440,000	9,180,000- 11,790,000*	11,620,000- 14,230,000
Bill Mundy for SNA	443,500	25,170,000	25,618,500
Bill Mundy revised	443,500	22,277,050	22,715,550
Folletts for DNR	3,140,000	9,435,000	12,575,000
Folletts for DNR	3,140,000	8,810,000*	11,950,000

* valued as if adjacent to a 4,435 acre clearcut

Appraisal panel's value for entire SNA tract, with timber - \$17,820,000

Timber Appraisals

Timber Trading Company on SNA's land

48 MMBF commercially viable - all Sitka spruce

\$ 6.4 million

State Timber Pool

Thorne Bay - Prince of Wales Island

62 MMBF - red cedar (44%), western hemlock (41%),
Sitka spruce (11%).

\$ 27.85 million

Frederick Point - Petersburg - Mitkof Island

35.7 MMBF - hemlock (61%), Sitka spruce (36%)

\$ 23.53 million

MMBF = Million Board Feet

Alaska Recreation and Park Association

P.O. Box 102664
Anchorage, Alaska 99510-2664

RESOLUTION NO. 89-3

A RESOLUTION RECOMMENDING ADOPTION OF AN ACT
LIMITING THE LIABILITY OF A REAL PROPERTY OWNER
FOR DAMAGE OR INJURY TO A PERSON RESULTING FROM
RECREATIONAL USE OF REAL PROPERTY

WHEREAS, the Alaska Recreation and Park Association urges the State to exercise its responsibility to provide a broad spectrum of recreation opportunities for all Alaskans, and

WHEREAS, private lands constitute a large percentage of our State's land base, and host many recreational opportunities; and

WHEREAS, the potential for private lands to provide recreational opportunities is great; and

WHEREAS, local owners lacking protection under the law for land which could be defined as being improved under current state statutes by having a foot bridge or trail on it, put personal assets at risk when they allow their land to be used for recreational purposes; and

WHEREAS, the report by the President's Commission on Americans Outdoors recommends that "Local, State and Federal governments consider incentives to private land owners to increase public access, and review existing statutes, policies, regulations, and practices to assure that impediments providing public recreation on private lands are removed", and

WHEREAS, 48 states excluding Alaska have recreational use statutes which provide protection for private landowners when the public uses their land for recreation; and

WHEREAS, the report by the President's Commission on Americans Outdoors recommends further that "Federal and State governments enact or improve recreational use statutes to provide greater protection to governmental entities and private providers who allow the public to use their land for recreation."

NOW THEREFORE, BE IT RESOLVED that the Alaska Recreation and Park Association urges the Alaska State Legislature adopt an act limiting the liability of a real property owner for damage or injury to a person resulting from recreational use of real property.

CITY OF VALDEZ, ALASKA

RESOLUTION NO. 9005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, RECOMMENDING ADOPTION OF AN ACT LIMITING THE LIABILITY OF A REAL PROPERTY OWNER FOR DAMAGE OR INJURY TO A PERSON RESULTING FROM RECREATIONAL USE OF REAL PROPERTY.

WHEREAS, the City of Valdez urges the State to exercise its responsibility to provide a broad spectrum of recreation opportunities for all Alaskans; and

WHEREAS, private lands constitute a large percentage of our State's land base and host many recreational opportunities; and

WHEREAS, the potential for private lands to provide recreational opportunities is great; and

WHEREAS, local owners lacking protection under the law for land which could be defined as being improved under current state statutes by having a foot bridge or trail on it, put personal assets at risk when they allow their land to be used for recreational purposes; and

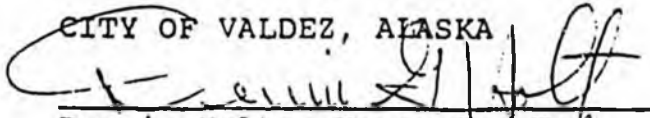
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WHEREAS, 48 states excluding Alaska have recreational use statutes which provide protection for private landowners when the public uses their land for recreation; and


WHEREAS, the report by the President's Commission on Americans Outdoors recommends further that "Federal and State governments enact or improve recreational use statutes to provide greater protection to governmental entities and private providers who allow the public to use their land for recreation."

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, that the City of Valdez urges that the Alaska State Legislature adopt an act limiting the liability of a real property owner for damage or injury to a person resulting from recreational use of real property.

CITY OF VALDEZ, ALASKA


Dennis Holtz, Mayor Pro Tem

ATTEST:


Jeanne Donald, City Clerk

RECEIVED
JAN 15 1990

January 11, 1990

James G. Dumont, Legislative Committee Chair
Alaska Recreation and Park Association

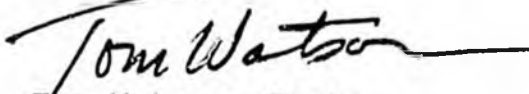
Dear Mr. Dumont,

The Kodiak State Parks Citizens Advisory Board has reviewed the following Senate bills and proposed act:

- Senate Bill 228: An Act Relating to Civil Liability of Certain Volunteers.
- Senate Bill 229: An Act Relating to Government Liability for Damage or Injury Resulting From Hazardous Recreational Activities.
- Recommended Adoption of An Act Limiting the Liability of a Real Property Owner for Damage or Injury to a Person Resulting from Recreational Use of Real Property.

The Advisory Board passed a motion favoring such legislation as far as the concept is concerned. The majority of the advisory board favored the concept as it relates to providing for a more prudent liability insurance environment for those engaged in the type of activities expressed in the above-mentioned bills and proposal.

Sincerely,



Tom Watson, Chair
Kodiak State Parks Advisory Board
c/o POB 228
Kodiak, AK 99615

cc: Scott Burgess

Alaska Municipal League

Policy Statement

1990



Adopted at the Business Meeting
of the 39th Annual Local Government Conference
of the
ALASKA MUNICIPAL LEAGUE
Juneau, Alaska
November 17, 1989

put personal assets at risk due to that lack of protection. To promote and support volunteering, the League supports efforts to remove barriers to encourage volunteers in outdoor recreation activities.

3. Liability of Property Owner: The League supports legislation that would limit the liability of a real property owner for damage or injury to a person resulting from recreational use of real property.

The potential for private lands to provide recreational opportunities is great. Under current statute, landowners are liable for damage or injury to a person resulting from recreational use of their "improved" property. "Improvements" include such things as bridges and trails. Alaska is one of only two states that do not have recreational use statutes that give protection for private landowners when the public uses their land for recreation.

4. Liability for Failure to Take an Incapacitated Person into Custody: The League supports legislation removing any implied liability of a municipality for failing to take a person incapacitated by alcohol into custody.

The decision of the Alaska Supreme Court in *Busby v. Municipality of Anchorage*, which interpreted the intent of the Alaska Legislature in enacting AS 47.37.170 (b), judicially created a duty to take persons incapacitated by alcohol into custody. The effect of this decision has been that municipalities with police powers have been forced to pick up all persons who appear to be incapacitated and put them in a treatment facility, where possible, or in state or municipal correctional facilities. This has been quite expensive for local governments and has required a commitment of already limited public safety resources that Alaska's municipalities can ill afford. The League believes the legislative intent was not to create such a duty for municipalities in enforcing state law, a duty which burdens municipalities with an obligation they are neither equipped nor fairly required to meet. Therefore, the League supports legislation that would remove any such implied liability.

F. STATE POLICIES AFFECTING LOCAL COMMUNITIES

1. State Public Safety Responsibility:

a. The League strongly urges the Legislature to provide funding for the Department of Public Safety so that an adequate level of services can be maintained statewide.

b. The League recognizes the critical need for mandatory certification, training, and background verification for village police officers in the State of Alaska.

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591

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: HB 591 No. 1
PUBLISH DATE: HOUSE 3/30/90

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Natural Resources
 Title: Ratifying Oil and Gas Lease
Sale 50 BRU: Petroleum Management
 Sponsor: Rules Committee Components: Petroleum Management
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUNDING: (Thousands of Dollars)

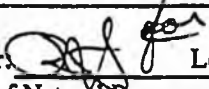
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Sec Attached

Prepared by: Larry Ostrovsky Phone: 465-2400
 Division: Commissioner's Office Date: March 29, 1990
 Approved by Commissioner:  Lennie Gorsuch Date: March 29, 1990
 Agency: Department of Natural Resources

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

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

al
2HB 591
2HB 592

March 30, 1990

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

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting two bills related to oil and gas lease sales and consistency determinations. As part of this package, I am also transmitting to the Senate Finance Committee (where the bill currently resides) a set of amendments to SCS CSHB 128(Res). Collectively, this package confirms existing oil and gas lease sale practices, confirms existing coastal consistency determination practices, and ratifies Oil and Gas Lease Sale 50. This package is necessary to avoid the serious adverse consequences of the Alaska Supreme Court's decision in Trustees for Alaska v. State of Alaska, ___ P.2d ___ (Op. No. 3537; March 16, 1990). The three items will be discussed separately below.

Amendments to SCS CSHB 128(Res):

The proposed amendments to SCS CSHB 128(Res) respond to the court's holding that the "best interest finding" for Oil and Gas Lease Sale 50 (Camden Bay), required by AS 38.05.035(e), failed to consider the environmental safety of transportation facilities should the Arctic National Wildlife Refuge (ANWR) remain unavailable for shore-based support facility siting under federal law. The decision overlooks the fact that the best-interest finding did address transportation to the extent feasible at the time of the lease sale, incorporating suggestions from, among others, the Department of Environmental Conservation (DEC) and the Department of Fish and Game (ADF&G). To the extent that the court engrafted a new requirement onto the best-interest statute -- to require the Department of Natural Resources (DNR) to undertake a detailed study of hypothetical development and transportation scenarios and their feasibility -- it is at odds with federal precedent and the court's own reasoning. With regard to federal environmental impact statements for oil and gas lease sales, a federal court of appeals recently observed, quoting an

earlier federal case:

To require a cumulative EIS at the leasing stage . . . would be tantamount to "demanding that the Department specify the probable route of a highway that may never be built from points as yet unknown to other points as yet unknown over terrain as yet uncharted in conformity with state plans as yet undrafted. A more speculative exercise can hardly be imagined."

The federal court concluded that such an exercise would "result in a gross misallocation of resources." Park County Resource Council, Inc. v. United States Department of Agriculture, 817 F.2d 609, 624, and 623 (10th Cir. 1987). Moreover, the Alaska Supreme Court's opinion regarding Sale 50 realized that economic feasibility of eventual production need not be assured in advance for the lease sale to be in the best interest of the state. The same is true of the feasibility of any transportation system: the lessee bears the risk of designing and obtaining approval for any future transportation facilities under laws applicable at the time of any production.

This set of amendments expressly identifies the subjects that DNR must discuss in an oil and gas best-interest finding by setting out the complete list of factors that must be addressed. The legislation is intended to preclude a court from determining the "important factors" that must be addressed before the executive decision is made concerning whether an oil and gas lease sale is in the best interest of the state. It is further intended to make clear that speculation concerning future activities that would be subject to independent permitting requirements is not necessary at the time of the lease sale decision. By specifying that only "reasonably foreseeable cumulative effects" be discussed, it is intended that DNR need not speculate concerning the location and size of discoveries, the economic feasibility of ultimate development, the technological feasibility of production or transportation, future environmental or other laws that may apply at the time of any future development, or other such factors that cannot reasonably be foreseen at the time of leasing.

These changes will have two salutary effects on the state's leasing program. First, they will reduce the uncertainties that now interfere with the efficacy of the state's five-year leasing program. The legislature, DNR, and potential lessees would have more assurance that lease sales would be less subject to judicial interference. Second, because the amendments conform to existing practices, the bill will obviate the need for an increased appropriation to make even more extensive and specialized best-interest findings. (The finding in Lease Sale 50 was 89 pages long,

and was based on a record more than 11,000 pages long.) If hypothetical development and transportation systems and their risk must be analyzed, DNR would need a greatly expanded budget for conducting the best-interest findings, and the Department of Law would need a larger budget to advise and defend against the inevitable challenges based upon contrary speculations.

Bill on Coastal Consistency Determination Statutes

The proposed amendments to AS 44.19.145(a)(11) and AS 44.19.152 are necessary to confirm existing procedures for issuance of coastal consistency determinations. In its opinion, the court held that, because Lease Sale 50 involved more than one lease, AS 44.19.145(a)(11) required the Division of Governmental Coordination (DGC) to conduct an independent review and render the coastal zone management consistency determination for the lease sale, notwithstanding the fact that statutory responsibility for holding the lease sales is vested in a single agency (DNR). Given the fact that DEC, ADF&G, and the North Slope Borough all agreed with DNR that the lease sale is consistent with the applicable plan, requiring DGC to render the determination in such a case would add no extra protections, while creating unnecessary bureaucracy.

The opinion also suggests that in those cases where DGC must render a consistency determination, it must conduct an independent review of the substantive issues. This is contrary to the common meaning of the term "render," and inconsistent with existing, long-established administrative practices. Consistent with its basic charge to coordinate the resource agencies to "avoid duplication" (AS 44.19.145(d)(1)), DGC has always viewed itself as a coordinating agency, without the staff or authority to transform itself into a separate permitting agency. Here, DNR, DEC, ADF&G, and the North Slope Borough agreed that the lease sale was consistent with the applicable coastal zone management plan. For DGC to make an independent judgment would require a vastly enlarged appropriation to hire more personnel (especially high-cost employees with specialized technical qualifications) where the resource agencies and their technical staffs have already agreed that a project is consistent. Failure to pass the bill would result in a needless waste of state resources, while creating bureaucratic delay -- results contrary to the fundamental purposes of OMB.

Finally, the bill would avoid delays in making coastal consistency determinations for projects regulated by all of the resource agencies -- DNR, DEC, and ADF&G. Such delays would impair projects under each resource agency's laws pending the creation of sufficient DGC staff to handle DGC's new responsibilities under the court's opinion.

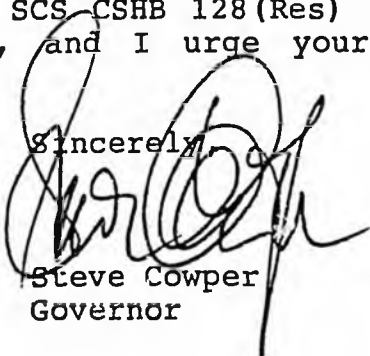
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The other bill would ratify Oil and Gas Lease Sale 50. The court did not invalidate the sale, the state has filed a petition for rehearing, and remand proceedings could very well result in the eventual affirmation of the sale. Nevertheless, considerable uncertainty and delay are inevitable without expeditious ratification. Plaintiffs have already asked the Supreme Court to "clarify" its decision by declaring the leases invalid, have sought an injunction against current, ongoing exploration under a lease in the sale area, and are certain to fight any affirmation of the lease sale in both administrative and judicial fora.

This lease sale was planned in accordance with the legislature's prescribed five-year public planning process, starting in 1981. The sale was held almost three years ago. Extended uncertainty would result in diversion of administrative and legal resources from other projects, and exploration within the sale area would be chilled or stopped. If the sale is ultimately canceled or invalidated, the state might have to refund bonus bids (\$6.6 million) and rents, half of which have been deposited in the Permanent Fund, and could possibly be liable for exploration expenditures and the value of any discovery that might be made before cancellation or invalidation. One lessee has already spent about \$50 million exploring a Sale 50 lease.

Therefore, in light of the very serious practical and financial ramifications of the current situation, these bills and the amendments to SCS CSHB 128(Res) are vital to the state's best interests, and I urge your prompt and favorable action on them.

Sincerely,



Steve Cowper
Governor

HB

592

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: HB 592 No. 1
 PUBLISH DATE: HOUSE 3/30/90

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Natural Resources
 Title: Issuance of State Consistency BRU: Petroleum Management
 Determinations
 Sponsor: Rules Committee Components: Petroleum Management
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

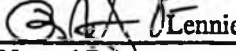
POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Larry Ostrovsky Phone: 465-2400
 Division: Commissioner's Office Date: March 29, 1990

Approved by Commissioner:  Lennie Gorsuch Date: March 29, 1990
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STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 30, 1990

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Speaker of the House
Alaska State Legislature
P.O. Box V
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Sincerely,



Steve Cowper
Governor

H B

599

HOUSE COMMITTEE REPORT

(9)

Date Referred: June 26, 1990

FURTHER REFERRALS:

Date of Committee Action: 6/26/90

The RESOURCES Committee considered:

SSHB 599

SS HOUSE BILL NO. 599

"An Act relating to subsistence uses of fish and wildlife and creating the Subsistence Review Commission; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with CS SSHB 599 the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) 6/26/ Gov's ofc
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

FURNACE

(Check approp. column)

Do Not Pass No Rec Amend

Cliff Davidson DAVIDSON
Richard Foster FOSTER
Jacko JACKO
MAVARRE MAVARRE
HUDSON HUDSON
DAVIS DAVIS
MENARD MENARD

Signature	FURNACE	Do Not Pass	No Rec	Amend
<u>Cliff Davidson</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Richard Foster</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Jacko</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>MAVARRE</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>HUDSON</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>DAVIS</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>MENARD</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Cliff Davidson
Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Subsistence Commission
Sponsor: _____
Requestor: _____

Agency Affected: Dept. of Fish and Game
BRU: Subsistence
Components: Subsistence

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	60,000	60,000	30,000	0	0	0
CONTRACTUAL	10,000	10,000	5,000	0	0	0
SUPPLIES	2,000	2,000	1,000	0	0	0
EQUIPMENT	5,000	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	77,000	72,000	36,000	0	0	0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	77,000	72,000	36,000			
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

9 members
12 meeting days a year at \$5,000 per day for travel and per diem.
Staff provided by AK Dept. of Fish and Game and Dept. of Law.

Prepared by: Steve Behnke Phone: 465-4147
Division: Subsistence Date: June 22, 1990
Approved by Commissioner: [Signature] Date: 6/22/90
Agency: _____

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

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Subsistence
Sponsor: _____
Requestor: _____

Agency Affected: Dept. of Fish and Game
BRU: Subsistence
Components: Subsistence

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	-0-	-0-	-0-			
TRAVEL	-0-	60.0	30.0			
CONTRACTUAL	-0-	10.0	5.0			
SUPPLIES	-0-	2.0	1.0			
EQUIPMENT	-0-	-0-	-0-			
LAND & STRUCTURES	-0-	-0-	-0-			
GRANTS, CLAIMS	-0-	-0-	-0-			
MISCELLANEOUS	-0-	-0-	-0-			
TOTAL OPERATING	-0-	72.0	36.0			

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	72.0	36.0			
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	72.0	36.0			

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

No appropriation is required for FY 91

Prepared by: _____ Phone: _____
Division: _____ Date: _____
Approved by Commissioner: Garrey Peska, Chief of Staff Date: 6/26/90
Agency: _____

Distribution (by preparer):

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

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

June 26, 1990

cc
SSN 599
SSN 8297

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

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting sponsor substitutes for HB 599 and HJR 97 [[[SB 553 and SJR 86]]], relating to subsistence. The substitute for the bill deletes the original bill's provisions that would have created the Subsistence Review Commission, leaving only the change in the definition of "rural area." The substitute for the constitutional-amendment resolution deletes the original version's reference to "other renewable natural resources" from proposed art. VIII, sec. 19. I believe that these new versions address the subsistence question more satisfactorily, and I urge your early passage of both measures.

Sincerely,

A large, stylized handwritten signature of Steve Cowper in dark ink.

Steve Cowper
Governor

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. GRUENBERG

TO: HB 599

Page 2, following line 24:

Insert a new bill section to read:

"* Sec. 6. The Alaska State Legislature finds that it is in the best interest of all citizens of the state to retain state subsistence laws as those laws existed before December 22, 1989, until the citizens of the state have voted on an amendment to the Alaska State Constitution relating to a subsistence preference at the 1990 general election. The Alaska State Legislature respectfully requests the Alaska Supreme Court to stay the effect of its decision in McDowell v. State, 785 P.2d 1 (Alaska 1989) until the lieutenant governor certifies the election returns of the 1990 general election on an amendment to the Alaska State Constitution relating to a subsistence preference."

Renumber the following bill sections accordingly.

Page 2, line 28:

Delete "and 6"

Insert ", 6, and 7"

adopted
6/26

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. GRUENBERG

TO: HB 599

Page 1, line 7, after "wildlife":

Insert ", relating to the definition of 'rural area,'"

Page 2, lines 21 - 24:

Delete all material.

Insert new bill sections to read:

"* Sec. 5. AS 16.05.258 is amended by adding a new subsection to read:

(g) The Board of Fisheries and Board of Game, meeting jointly under AS 16.05.315, shall adopt by regulation a definition of "rural area" for purposes of managing subsistence uses of fish and game under this chapter. The definition of "rural area" adopted under this subsection must be consistent with the requirements of 16 U.S.C. 3113 - 3115 in order that the state may retain management of fish and game on federal land.

* Sec. 6. AS 16.05.940(26) is repealed."

Renumber the following bill sections accordingly.

Page 2, line 28:

Delete "6"

Insert "7"

Page 3, line 1:

Delete "Section 5"

Insert "Sections 5 and 6"

Delete "takes"

Insert "take"