

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6530 SENATE RESOURCES

94

1 (d) The land within legislative designations that constitutes
2 the mental health land trust shall be administered for the legisla-
3 tively designated purposes. The state shall continue to manage the
4 legislatively designated areas in accordance with state law and
5 policy; the authority of the state includes the issuance of permits,
6 rights-of-ways, mining leases, oil and gas leases, coal leases, timber
7 contracts, and other actions that do not constitute a conveyance in
8 fee simple. The income from the use of the trust land shall be depos-
9 ited into the general fund.

10 (e) Before the state may remove land that is part of the mental
11 health trust corpus from trust status, and in addition to any other
12 requirements of law, the commissioner, consistent with the state's
13 trust responsibilities, shall identify replacement land, equal in
14 value at the time of replacement, within legislative designations and
15 incorporate them into the mental health trust corpus. The
16 commissioner annually shall report any actions under this subsection
17 to the board established under AS 47.30.661.

18 * Sec. 5. Section 2(a), ch. 132, SLA 1986, as amended by sec. 9,
19 ch. 48, SLA 1987, is repealed.

April 30, 1990

AMENDMENTS TO THE 4/28/90 DRAFT CS FOR CSSB 493 (HESS)

In the Senate

- P. 1, l. 7: Add "; and providing for an effective date" between "trust" and "."
- P. 1, l. 17-18: Delete "selected or patented to the state" and substitute " the state receives"
- P. 1, l. 19: Delete "At least every five years, commencing," and insert "Commencing"
- P. 1, l. 21: Insert "annually" between "redetermined" and "as"
- P. 2, l. 21-22: Delete "selected by or patented to the state" and substitute "the state receives"
- P. 2, l. 27: Delete "selected by or patented to the state" and substitute "the state receives"
- P. 2, l. 20: Add new sections to read:

* Sec. 6. The provisions of this Act are not severable.

* Sec. 7. This Act takes effect immediately in accordance with AS 01.10.070(a).

April 30, 1990

ADDITIONAL AMENDMENT TO DRAFT CS FOR CSSB 493 (HESS)

P. 1, l. 23-29 and p. 2., l. 1-13: delete all text and insert:

(1) the commissioner of natural resources shall, in consultation with the commissioner of community and regional affairs, assign all of the original mental health land grant received by the state under the Alaska Mental Health Enabling Act to geographic areas;

(2) the number of acres of mental health land in each area shall be divided by the total number of acres received by the state to determine the "weighting factor;"

(3) the weighting factor for each area shall be multiplied by the annual average percentage change in value of the land in that area, as determined by the commissioner of community and regional affairs under the full value determination procedure specified in AS 14.17.140, to determine the "weighted value change" for that area;

(4) all of the weighted value changes shall be added together to determine the "revaluation factor," expressed as a decimal; and

(5) one plus the revaluation factor shall be multiplied by the previous total value of mental health land received by the state to arrive at the redetermined value of the mental health trust corpus.

*Beneficiaries want
to think this over
before endorsing.
(Adopt in Finance?)*

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : CSSB 493
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: 2-Mar-90
Title: An Act relating to the reconstitution
and administration of the mental health trust.
Sponsor: Coghill
Requestor: Senate HESS

Agency Affected: Natural Resources
BRU: Land & Water Mgmt
Management & Administration
Components: Land & Water Mgmt
Commissioner's Office

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						
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: 2-Mar-90
Approved by Commissioner: [Signature] Lennie Gorsuch Date: 2-Mar-90
Agency: Department of Natural Resources

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

FISCAL NOTE

REQUEST: SB493

Revision Date: _____ Agency Affected: Health & Social Services
 Title: An Act relating to the reconstitution BRU: _____
and administration of the Mental Health Trust
 Sponsor: Sen. Coghill Components: _____
 Requestor: Sen. Coghill

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY92	FY93	FY94	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	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact in FY90.

Prepared by: Richard Renninger
 Division: Administrative Services

Phone: 465-3331
 Date: March 1, 1990

Approved by Commissioner: [Signature]
 Agency: Health & Social Services

Date: 3/2/90

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

POSSIBLE COMMITTEE SUBSTITUTE FOR CSSB 493 (HESS)

For an Act entitled: "An Act relating to the reconstitution and administration of the mental health trust; and providing for an effective date."

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

* Section 1. FINDINGS. The legislature finds:

(1) in chapter 48, SLA 1987, the legislature enacted a framework for settlement of the mental health trust controversy;

(2) under chapter 48, it was contemplated that

(i) the state and the plaintiffs and intervenors in the mental health trust land litigation, Weiss v. State, 4FA-82-2208, would reach consensus on procedures to determine the value of the original one million acre mental health land grant,

(ii) the original mental health land not in legislatively designated areas (e.g., parks, game refuges, etc.) would be exchanged for equal value general grant land in such areas,

(iii) the original mental health land and the equal value exchange land in those areas then would constitute the mental health trust corpus which the state would lease from the trust for eight percent of its fair market value per year, and

(iv) the original mental health land not in legislatively designated areas would be removed from trust

tatus;

(3) the state and the plaintiffs and intervenors in the Weiss case have been unable to reach consensus on the procedures to be used to value the original one million acre land grant and the pool of potential exchange land, the plaintiffs and intervenors arguing that procedures producing a value of \$2.243 billion should be used and the state arguing that procedures producing a value of \$564.7 million should be used;

(4) continued controversy over land issues, matters having nothing to do with the state's mental health program, is not in the best interest of either the trust or the public;

(5) instead, it is in the best interest of both the trust and the public to ask the court, before the legislature acts to finally resolve this matter, to determine under AS 13.36.035 the state's powers and duties as trustee under the mental health trust;

(6) while the process of determining what the state's powers and duties as trustee are, it is in the best interest of both the trust and the public to permit some transactions with respect to mental health land (i.e., transactions other than sales, leases, or exchanges) to go forward, as long as the trust is fairly compensated for the use of its land;

(7) the trust is currently being compensated for the use of its land under sec. 11, ch. 48, SLA 1987, which requires that five percent of the state's unrestricted general fund revenues be allocated annually to the mental health trust income account, AS

37.14.011;

(8) annually allocating five percent of the state's unrestricted general funds to the mental health trust income account fairly compensates the mental health trust for the current use of its land because

(a) even the most aggressive management of the land for the purpose of generating revenue cannot be guaranteed to generate any given amount of funds,

(b) the dedication of five percent of the state's unrestricted revenues to the mental health trust income account provides predictability in the amount of funds available,

(c) there are no administrative expenses associated with generating funds for the account in this manner, while there would be substantial administrative expenses if funds had to be generated for the account through aggressive management of the land for that purpose, and

(d) the average per acre earnings for trust lands in other states in fiscal year 1988 was \$8.97, the highest per acre earnings (in the State of Washington because of its prime and easily accessible timber lands) was \$45.68, and the dedication of five percent of the state's unrestricted revenue will result in earnings of approximately \$100 per acre for the the mental health trust;

(9) under sec. 2(d), ch. 132, SLA 1986, as repealed and

reenacted in sec. 9, ch. 48, SLA 1987, "the commissioner of natural resources may not sell, lease, or exchange mental health trust land of the state without the prior approval of the [interim mental health trust] commission," a majority of which represents the plaintiffs and intervenors in the Weiss case;

(10) at its January 25, 1990 meeting, the majority of the interim mental health trust commission representing the plaintiffs and intervenors voted to disapprove any further transactions on mental health land, an action which if interpreted to preclude transactions other than sales, leases, and exchanges will have serious adverse effects on the economy of the state and, as a result, have serious adverse political consequences for the recipients of mental health services; and

(11) it is in the best interest of both the trust and the public, in light of the compensation currently paid under sec. 11, ch. 48, SLA 1987, for the use of mental health land, to allow transactions other than sales, leases, or exchanges, including the granting of rights-of-way, permits, and other authorizations, to go forward so long as provision is made for any additional compensation to which the trust may be entitled beyond that already provided by the state.

* Sec. 2. PURPOSES. The purposes of this Act are:

(1) to direct the attorney general to seek a determination from the court under AS 13.36.035 of the state's powers and duties under the mental health trust; and

(2) to make clear that the commissioner of natural resources has the authority to enter into transactions other than sales, leases, or exchanges with respect to mental health land, including the granting of rights-of-way, permits, and other authorizations, while providing for any additional compensation to which the trust might be entitled beyond that already provided by the state.

* Sec. 2. (a) The attorney general will seek a determination from the court under AS 13.36.035 of the state's powers and duties under the mental health trust. At minimum, the attorney general will seek a determination with respect to the following possible resolutions of the mental health trust land controversy:

(1) the approach taken in ch. 48, SLA 1987 (i.e., valuing the original one million acre land grant, exchanging it for land of equal value in legislative designations, and renting it back for 8 percent of its value per year);

(2) making permanent ch. 48's transitional provision (i.e., paying the trust 5 percent of the state's unrestricted general fund revenues) in return for removing mental health land from trust status;

(3) implementing ch. 48 with the value of the original one acre land grant determined to be \$2.43 billion, \$564 million, or some other value;

(4) eliminating the trust over time by paying the trust for its land and then appropriating the money paid for

mental health programs; and

(5) any other approach for which the attorney general, in his or her discretion, believes it is appropriate to seek a determination from the court whether such an approach might satisfy the state's obligations under the mental health trust.

(b) To enable the legislature to deal with this issue in a timely manner, the attorney general will request that the court give expedited consideration to determining the state's powers and duties as trustee under the mental health trust.

(c) The attorney general will report the court's determination with respect to the state's powers and duties as trustee under the mental health trust to the legislature no later than the tenth day of the First Session, Seventeenth Alaska Legislature.

* Sec. 4. Section 2(d), ch. 132, SLA 1986, as repealed and reenacted in sec. 9, ch. 48, SLA 1987, is amended to read:

(d) The commissioner of natural resources is responsible for the management of the mental health land of the state as public trust under P.L. 84-830, 70 Stat. 709. Except as provided in (e) of this section, the commissioner of natural resources may not sell, lease, or exchange mental health trust land of the state or an interest in the mental health trust land of the state without the prior approval of the commission. In reviewing a proposal for the sale, lease,

or exchange of mental health trust land from the commissioner of natural resources, the commission may approve the proposal of the commissioner on its determination that the proposal is consistent with the terms of the trust established by the Alaska Mental Health Enabling Act. A proposal for something other than a sale, lease, or exchange of mental health trust land of the state, including a proposal for a right-of-way, permit, or other authorization, may be approved by the commissioner of natural resources on a determination that the proposal is consistent with the terms of the trust established by the Alaska Mental Health Enabling Act. A proposal for something other than a sale, lease, or exchange of mental health trust land of the state is consistent with the terms of the Alaska Mental Health Enabling Act if it includes a provision for any additional compensation to which the trust may be entitled beyond the compensation already provided by the state.

* Sec. 7. This Act takes effect immediately in accordance with AS 01.10.070(c).

6-2242D✓
Bradley
4/27/90

Original sponsor(s): SEN. COGHILL

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 493 ()
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the reconstitution and adminis-
7 tration of the mental health trust."

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

9 * Section 1. AS 37.14.011(b) is amended to read:

10 (b) The amount determined under (c) of this section as the [FAIR
11 MARKET] rental value of the land constituting the mental health trust
12 corpus is the earnings of the trust and the commissioner of revenue
13 shall annually allocate that amount from the general fund to the
14 mental health trust income account.

15 * Sec. 2. AS 37.14.011(c) is repealed and reenacted to read:

16 (c) The rental value of the land constituting the mental health
17 trust corpus is equal to eight percent of the value of the land se-
18 lected or patented to the state under sec. 202 of the Alaska Mental
19 Health Enabling Act. At least every five years, commencing with 1992,
20 the value of the land selected or patented to the state under sec. 202
21 of the Alaska Mental Health Enabling Act, shall be redetermined as
22 follows:

23 (1) the number of acres of land selected or patented to the
24 state under sec. 202 of the Alaska Mental Health Enabling Act in each
25 municipality that assesses land for property tax purposes shall be
26 divided by the total number of acres of land selected or patented to
27 the state under sec. 202 of the Alaska Mental Health Enabling Act that
28 is located in municipalities that assess land for property tax pur-
29 poses; the result of this division is the "weighting factor";

1 (2) the weighting factor for each municipality that assess-
2 es land is multiplied by the average percentage change in assessed
3 land values for that municipality since that municipality's assessed
4 values were used to revalue land selected or patented to the state
5 under sec. 202 of the Alaska Mental Health Enabling Act; the result is
6 the "weighted value change" for that municipality;

7 (3) all of the weighted value changes must be added togeth-
8 er to arrive at the "revaluation factor," expressed as a decimal;

9 (4) one plus the revaluation factor must be multiplied by
10 the previous total value of land selected or patented to the state
11 under sec. 202 of the Alaska Mental Health Enabling Act to arrive at
12 the redetermined value of land selected or patented to the state under
13 sec. 202 of the Alaska Mental Health Enabling Act.

14 * Sec. 3. AS 37.14.011 is amended by adding a new subsection to read:

15 (d) The commissioner of natural resources shall calculate the
16 redetermined value of the trust under (c) of this section and provide
17 the redetermined value to the commissioner of revenue and the board
18 established under AS 47.30.661.

19 * Sec. 4. AS 38.05 is amended by adding a new section to read:

20 Sec. 38.05.801. RECONSTITUTION AND ADMINISTRATION OF MENTAL
21 HEALTH LAND TRUST. (a) The value of all land selected by or patented
22 to the state under the Alaska Mental Health Enabling Act, as of
23 September 7, 1987, is \$2,243,000,000.

24 (b) All land within legislative designations on the effective
25 date of this Act constitutes the corpus of the mental health land
26 trust.

27 (c) On reconstitution of the trust under this section, land
28 selected by or patented to the state under sec. 202 of the Alaska
29 Mental Health Enabling Act that is not within legislative designations

1 is removed from trust status.

2 (d) The land within legislative designations that constitutes
3 the mental health land trust shall be administered for the legisla-
4 tively designated purposes. The state shall continue to manage the
5 legislatively designated areas in accordance with state law and
6 policy; the authority of the state includes the issuance of permits,
7 rights-of-ways, mining leases, oil and gas leases, coal leases, timber
8 contracts, and other actions that do not constitute a conveyance in
9 fee simple. The income from the use of the trust land shall be
10 deposited into the general fund.

11 (e) Before the state may remove land that is part of the mental
12 health trust corpus from trust status, replacement land, equal in
13 value at the time of replacement, shall be designated mental health
14 land and added to the trust corpus. Before replacement, the commis-
15 sioner shall identify the land proposed as replacement land and recom-
16 mend the proposed replacement to the board established under AS 47.-
17 30.661. If the board approves the replacement, the commissioner shall
18 transfer the land to the trust. If the board does not approve the
19 transfer, the question of whether the proposed replacement land is
20 equal in value to the land proposed to be removed from the trust shall
21 be referred for decision to the legislative budget and audit commit-
22 tee.

23 * Sec. 5. AS 38.05.800 and sec. 2(a), ch. 132, SLA 1986, as amended by
24 sec. 9, ch. 48, SLA 1987, are repealed.

6-2242D
Bradley
4/28/90

Original sponsor(s): SEN. COGHILL

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 493 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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7 tration of the mental health trust."

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11 MARKET] rental value of the land constituting the mental health trust
12 corpus is the earnings of the trust and the commissioner of revenue
13 shall annually allocate that amount from the general fund to the
14 mental health trust income account.

15 * Sec. 2. AS 37.14.011(c) is repealed and reenacted to read:

16 (c) The rental value of the land constituting the mental health
17 trust corpus is equal to eight percent of the value of the land se-
18 lected or patented to the state under sec. 202 of the Alaska Mental
19 Health Enabling Act. At least every five years, commencing with 1992,
20 the value of the land selected or patented to the state under sec. 202
21 of the Alaska Mental Health Enabling Act, shall be redetermined as
22 follows:

23 (1) the number of acres of land selected or patented to the
24 state under sec. 202 of the Alaska Mental Health Enabling Act in each
25 municipality that assesses land for property tax purposes shall be
26 divided by the total number of acres of land selected or patented to
27 the state under sec. 202 of the Alaska Mental Health Enabling Act that
28 is located in municipalities that assess land for property tax pur-
29 poses; the result of this division is the "weighting factor";

1 (2) the weighting factor for each municipality that assess-
2 es land is multiplied by the average percentage change in assessed
3 land values for that municipality since that municipality's assessed
4 values were used to revalue land selected or patented to the state
5 under sec. 202 of the Alaska Mental Health Enabling Act; the result is
6 the "weighted value change" for that municipality;

7 (3) all of the weighted value changes must be added togeth-
8 er to arrive at the "revaluation factor," expressed as a decimal;

9 (4) one plus the revaluation factor must be multiplied by
10 the previous total value of land selected or patented to the state
11 under sec. 202 of the Alaska Mental Health Enabling Act to arrive at
12 the redetermined value of land selected or patented to the state under
13 sec. 202 of the Alaska Mental Health Enabling Act.

14 * Sec. 3. AS 37.14.011 is amended by adding a new subsection to read:

15 (d) The commissioner of natural resources shall calculate the
16 redetermined value of the trust under (c) of this section and provide
17 the redetermined value to the commissioner of revenue and the board
18 established under AS 47.30.661.

19 * Sec. 4. AS 38.05.800 is repealed and reenacted to read:

20 Sec. 38.05.800. RECONSTITUTION AND ADMINISTRATION OF MENTAL
21 HEALTH LAND TRUST. (a) The value of all land selected by or patented
22 to the state under the Alaska Mental Health Enabling Act, as of
23 September 7, 1987, is \$1,800,000,000.

24 (b) All land within legislative designations on September 7,
25 1987, constitutes the corpus of the mental health land trust.

26 (c) On reconstitution of the trust under this section, land
27 selected by or patented to the state under sec. 202 of the Alaska
28 Mental Health Enabling Act that is not within legislative designations
29 is removed from trust status.

1 (d) The land within legislative designations that constitutes
2 the mental health land trust shall be administered for the legisla-
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4 legislatively designated areas in accordance with state law and
5 policy; the authority of the state includes the issuance of permits,
6 rights-of-ways, mining leases, oil and gas leases, coal leases, timber
7 contracts, and other actions that do not constitute a conveyance in
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11 health trust corpus from trust status, and in addition to any other
12 requirements of law, the commissioner, consistent with the state's
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18 * Sec. 5. Section 2(a). ch. 132, SLA 1986, as amended by sec. 9,
19 ch. 48, SLA 1987, is repealed.

6-2242D
Bradley
4/28/90

Original sponsor(s): SEN. COGHILL

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 493 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 23, 1990

SUBJECT: Mental health land
(CSSB 493 (Resources))

TO: Senator Bettye Fahrenkamp
Chair, Senate Resources Committee

FROM: Richard A. Bradley 
Legislative Counsel

Nancy Petersen has requested the enclosed CS.

Some points may be made.

While we have not altered the draft, we note that the "except as provided in (e)" has been repealed in Sec. 4 of the bill. But since (e) itself is not repealed, the authority granted under (e) continues, notwithstanding the elimination of the reference to it.

Note that I added "fee" in the phrase "transfer fee title" in the second sentence; it seems to be what is implied.

I have not revised the third sentence though it seems adequately clear that an exchange may well involve the transfer of the fee; since an equivalency may result, there may have been an implicit acceptance of those transfers.

In that sentence, I have changed "material" to "materials"; compare AS 38.05.110.

If I may be of further assistance, please advise.

RAB:gc
G14/027

Enclosure

6-2242J
Bradley
4/23/90

Original sponsor(s): SEN. COGHILL

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 493 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the reconstitution and adminis-
7 tration of the mental health trust; and providing for
8 an effective date."

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

10 * Section 1. FINDINGS. The legislature finds that

11 (1) in ch. 48, SLA 1987, the legislature enacted a framework for
12 settlement of the mental health trust controversy;

13 (2) under ch. 48, SLA 1987, it was contemplated that

14 (A) the state and the plaintiffs and intervenors in the
15 mental health trust land litigation, Weiss v. State, 4FA-82-2208,
16 would reach consensus on procedures to determine the value of the
17 original 1,000,000 acre mental health land grant;

18 (B) the original mental health land not in legislatively
19 designated areas such as parks and game refuges, would be exchanged
20 for equal value general grant land in such areas;

21 (C) the original mental health land and the equal value
22 exchange land in those areas then would constitute the mental health
23 trust corpus that the state would lease from the trust for eight
24 percent of its fair market value a year; and

25 (D) the original mental health land not in legislatively
26 designated areas would be removed from trust status;

27 (3) the state and the plaintiffs and intervenors in Weiss v.
28 State have been unable to reach consensus on the procedures to be used to
29 value the original 1,000,000 acre land grant and the pool of potential

1 exchange land, the plaintiffs and intervenors arguing that procedures
2 producing a value of \$2,243,000,000 should be used and the state arguing
3 that procedures producing a value of \$564,700,000 should be used;

4 (4) continued controversy over land issues, matters having
5 nothing to do with the state's mental health program, is not in the best
6 interest of either the trust or the public;

7 (5) instead, it is in the best interest of both the trust and
8 the public to ask the court, before the legislature acts to resolve this
9 matter, to determine under AS 13.36.035 the state's powers and duties as
10 trustee under the mental health trust;

11 (6) while the process of determining what the state's powers and
12 duties as trustee are, it is in the best interest of both the trust and the
13 public to permit transactions with respect to mental health land, other
14 than fee simple sales, to go forward, as long as the trust is being fairly
15 compensated for the use of its land and the integrity of the mental health
16 trust corpus is preserved;

17 (7) the trust is currently being compensated for the use of its
18 land under sec. 11, ch. 48, SLA 1987, which requires that five percent of
19 the state's unrestricted general fund revenue be allocated annually to the
20 mental health trust income account, AS 37.14.011;

21 (8) annually allocating five percent of the state's unrestricted
22 general funds to the mental health trust income account fairly compensates
23 the mental health trust for the current use of its land because

24 (A) even the most aggressive management of the land for the
25 purpose of generating revenue cannot be guaranteed to generate a given
26 amount of funds;

27 (B) the dedication of five percent of the state's unre-
28 stricted revenue to the mental health trust income account provides
29 predictability in the amount of funds available;

1 (C) there are no administrative expenses associated with
2 generating funds for the account as there would be if funds had to be
3 generated for the account through aggressive management of the land
4 for that purposes; and

5 (D) the average per acre earnings for trust lands in other
6 states in fiscal year 1988 was \$8.97, the highest per acre earnings,
7 in Washington state because of its prime and easily accessible timber
8 lands, was \$45.68, and the dedication of five percent of the state's
9 unrestricted revenue will result in earnings of approximately \$100 per
10 acre for the mental health trust;

11 (9) under sec. 2(d), ch. 132, SLA 1986, as repealed and reenact-
12 ed in sec. 9, ch. 48, SLA 1987, "the commissioner of natural resources may
13 not sell, lease, or exchange mental health trust land of the state without
14 the prior approval of the [interim mental health trust] commission," a
15 majority of which represents the plaintiffs and intervenors in Weiss v.
16 State;

17 (10) at its January 25, 1990, meeting, the majority of the inter-
18 im mental health trust commission representing the plaintiffs and interve-
19 nors voted to disapprove further transactions on mental health land, an
20 action which, if allowed to stand, will have serious adverse effects on the
21 economy of the state and, as a result, have serious adverse political
22 consequences for the recipients of mental health services; and

23 (11) it is in the best interest of both the trust and the public,
24 in light of the compensation currently paid under sec. 11, ch. 48, SLA
25 1987, for the use of mental health land, to allow transactions other than
26 fee simple land sales or transfers, including leases and exchanges of
27 mental health land, to go forward so long as provision is made to compen-
28 sate the trust for its loss.

29 * Sec. 2. PURPOSES. The purposes of this Act are to

1 (1) direct the attorney general to seek a determination from the
2 court under AS 13.36.035 of the state's powers and duties under the mental
3 health trust;

4 (2) limit the interim mental health trust commission's disap-
5 proval of transactions with respect to mental health land to fee simple
6 land sales or transfers; and

7 (3) authorize the commissioner of natural resources to enter
8 into transactions other than fee simple land sales with respect to mental
9 health land, including leases, exchanges, material sales, rights-of-way,
10 permits, and other authorizations, while providing compensation to the
11 trust for a loss that is not otherwise compensated for by the state.

12 * Sec. 3. The attorney general shall seek a determination from the
13 court under AS 13.36.035 of the state's powers and duties under the mental
14 health trust. At minimum, the attorney general shall seek a determination
15 with respect to the following possible resolutions of the mental health
16 trust land controversy:

17 (1) the approach taken in ch. 48, SLA 1987, that is, valuing the
18 original 1,000,000 acre land grant, exchanging it for land of equal value
19 in legislative designations, and renting it back for eight percent of its
20 value per year;

21 (2) making permanent the transitional provision of ch. 48, SLA
22 1987, that is, paying the trust five percent of the state's unrestricted
23 general fund revenue in return for removing mental health land from trust
24 status;

25 (3) implementing ch. 48, SLA 1987, with the value of the origi-
26 nal 1,000,000 acre land grant determined to be \$2,430,000,000,
27 \$564,000,000, or some other value;

28 (4) eliminating the trust over time by paying the trust for its
29 land and then appropriating the money paid for mental health programs; and

1 (5) any other approach which the attorney general believes to be
2 appropriate to seek a determination from the court if the approach might
3 satisfy the state's obligations under the mental health trust.

4 (b) To enable the legislature to deal with this issue in a timely
5 manner, the attorney general shall request that the court give expedited
6 consideration to determining the state's powers and duties as trustee under
7 the mental health trust.

8 (c) The attorney general shall report the court's determination with
9 respect to the state's powers and duties as trustee under the mental health
10 trust to the legislature no later than the 10th day of the First Session of
11 the Seventeenth Alaska State Legislature.

12 * Sec. 4. Section 2(d), ch. 132, SLA 1986, as amended by sec. 9, ch. 48,
13 SLA 1987, is amended to read:

14 (d) The commissioner of natural resources is responsible for the
15 management of the mental health land of the state as a public trust
16 under P.L. 84-830, 70 Stat. 709. The [EXCEPT AS PROVIDED IN (e) OF
17 THIS SECTION, THE] commissioner of natural resources may not sell or
18 transfer fee title to [, LEASE, OR EXCHANGE] mental health trust land
19 of the state [OR AN INTEREST IN THE MENTAL HEALTH TRUST LAND OF THE
20 STATE WITHOUT THE PRIOR APPROVAL OF THE COMMISSION]. In reviewing a
21 proposal for the [SALE,] lease [,] or exchange of mental health trust
22 land, or for a material sale, other disposal of less than a fee simple
23 interest in mental health trust land, right-of-way, permit, or other
24 authorization, the commissioner may approval the proposal on a [FROM
25 THE COMMISSIONER OF NATURAL RESOURCES, THE COMMISSION MAY APPROVE THE
26 PROPOSAL OF THE COMMISSIONER ON ITS] determination that the proposal
27 is consistent with the terms of the trust established by the Alaska
28 Mental Health Enabling Act. A proposal is consistent with the terms
29 of the Alaska Mental Health Enabling Act if it is not a sale and, for

1 leases, material sales, and other disposals of less than a fee simple
2 interest, includes a provision for compensating the trust for a loss
3 that is not otherwise compensated for by the state.

4 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).
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FISCAL NOTE

REQUEST: SB493

Revision Date: _____ Agency Affected: Health & Social Services
 Title: An Act relating to the reconstitution BRU: _____
and administration of the Mental Health Trust
 Sponsor: Sen. Coghill Components: _____
 Requestor: Sen. Coghill

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY92	FY93	FY94	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	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact in FY90.

Prepared by: Richard Renninger *(Signature)*
 Division: Administrative Services

Phone: 465-3331
 Date: March 1, 1990

Approved by Commissioner: *James M. Hansen*
 Agency: Health & Social Services

Date: 3/2/90

Distribution (by preparer):

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

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : CSSB 493
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: 2-Mar-90
Title: An Act relating to the reconstitution and administration of the mental health trust.
Sponsor: Coghill
Requestor: Senate HESS

Agency Affected: Natural Resources
BRU: Land & Water Mgmt Management & Administration
Components: Land & Water Mgmt Commissioner's Office

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						
---------	--	--	--	--	--	--

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: 2-Mar-90

Approved by Commissioner: Lennie Gorsuch Date: 2-Mar-90
Agency: Department of Natural Resources

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

A M E N D M E N T

Offered in the
Senate Resources Committee

TO: CSSB 493 (HESS)

Page 1, line 8:

Insert the following section and renumber the remaining sections accordingly:

"*Section 1. AS 37.14.011 (b) is amended to read:

(b) The amount determined under (c) of this section as the [FAIR MARKET] rental of the land constituting the mental health trust corpus is the earnings of the trust and the commissioner of revenue shall annually allocate that amount from the general fund of the state to the mental health trust income account"

Page 1, line 10:

Delete "fair market" .

Page 1, line 25, after "assessed" insert "land"

Page 2, lines 19 - 20:

Delete "and all land made subject to legislation designations in the future constitute" and insert "constitutes"

Page 2, line 27, following "purposes." delete the last sentence of (d) and insert: "The state will continue to manage the legislatively designated areas in accordance with state policy; the state's authority includes, but is not limited to the issuance of permits, rights-of-way, mining leases, oil and gas leases, coal leases, timber contracts, and other actions that do not constitute a conveyance in fee simple. The state is entitled to all income derived from the use of the trust land."

Page 3, line 10:

Delete all material and insert "*Sec. 5. Sec. 2(a), ch. 132, SLA 1986, and AS 38.05.800 are repealed."

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①

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✓ Page 1, line 10:

②

Delete "fair market"

✓ Page 1, line 25, after "assessed" insert "land"

③

Page 2, lines 15 - 17:

Delete subsection (a) and insert the following:

(a) The legislature reaffirms 1987 SLA Chapter 48 (Chapter 48) as a proposed mechanism to settle the Mental

④

Health Trust Lands litigation (Weiss v. State, 4FA-82-2208 Civil). The legislature accepts the Final Report of the Interim Mental Health Trust Commission on Approved Procedures for Determining the Fair Market Value of Alaska's Mental Health Trust Lands, dated December 20, 1989, and finds that the Commission has satisfied the procedural requirements and followed the process established by Chapter 48. The value of land selected by or patented to the State under the Alaska Mental Health Enabling Act is the value calculated under the procedures approved by the Interim Mental Health Trust Commission by its resolution of November 7, 1989.

3 Page 2, lines 19 - 20:

Delete "and all land made subject to legislation designations in the future constitute" and insert "constitutes"

4 Page 2, line 27, following "purposes." delete the last sentence of (d) and insert: "The state will continue to manage the legislatively designated areas in accordance with state policy; the state's authority includes, but is not limited to the issuance of permits, rights-of-way, mining leases, oil and gas leases, coal leases, timber contracts, and other actions that do not constitute a conveyance in fee simple. The state is entitled to all income derived from the use of the trust land."

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132, SLA 1986, and AS 38.05.800 are repealed."

MENTAL HEALTH TRUST CORPUS
REVENUES
STATE CONSERVATION SYSTEMS
(pre 1987)

<u>Designation</u>	<u>Annual Revenue</u>	<u>Source</u>
Parks	\$160,000	user fees, permits & concessions
Public Use Areas	\$100,000	leases, timber, gravel sales, permits
Forests	\$150,000	timber sales
Refuges	<u>\$2,500,000</u>	oil & gas rents and royalties
9.5 million acres	\$2,910,000	

These estimates are approximate and reflect averages and activities with variable terms.

BREAKING THE MENTAL HEALTH LAND IMPASSE

As a possible means of breaking the current impasse over mental health land, the state could ask the court for instructions before taking further legislative action to resolve the controversy. Unlike the normal situation where the courts only decide whether legislative action is legal after the Legislature acts, courts will give advisory opinions when a trust is involved. Trustees can obtain such advisory opinions by asking the court for instructions with respect to trust administration. See Restatement (Second) of Trusts § 259 (1959); AS 13.36.035(a), especially subsection (3).

The obvious advantage to asking the court for instructions is that the court can answer all of the legal questions surrounding various policy options before the Legislature decides, as a policy matter, which option is most appropriate. By limiting its consideration to those options which the court will already have ruled are consistent with the state's powers and duties as trustee, the Legislature will know that, whatever option it chooses, it will be acting consistently with the trust.

Questions which could be asked include:

1. Is the approach taken by the Legislature in chapter 48, SLA 1987 -- i.e., valuing the original one million acre land grant, exchanging it for land of equal value in legislative designations, and renting the land back for 8 percent of its value per year -- consistent with the state's trust obligation? Could other percentages -- 5? 10? etc.? -- be used?

2. Would it be consistent with the trust to make permanent chapter 48's transitional provision -- paying the trust 5 percent of the state's unrestricted general fund revenues -- in return for removing mental health land from trust status? Could other percentages -- 2? 8? etc.? -- be used?

3. Would determining the value of the original one million acre land grant to be \$2.43 billion, as the Weiss plaintiffs' representatives on the Interim Mental Health Trust Commission believe and as reflected in SB 483 and HB 548, be consistent with the trust? Would determining it to be \$564 million, as the Department of Natural Resources believes, be consistent?

4. May the state eliminate the trust over time by paying the trust for its land and then appropriating the money paid for mental health programs? Normally, trustees may not expend trust principal. In the Weiss case, however, the court said the state must reimburse the trust for the fair market value of all mental health land which the state has sold, but that the state should receive a set-off against that liability for mental health expenditures and that the state, as a consequence, may end up with no monetary liability to the trust. If the state can sell mental

health land and spend the proceeds, the state presumably also could eliminate the mental health trust over time by purchasing land from the trust and then spending the money for mental health programs.

Other questions also could be asked, limited only by the ingenuity of those considering this issue. The primary point is that the Legislature would know the answers before acting, and not be subject to judicial second-guessing after-the-fact.

VALUATION PROCEDURES

Valuation Procedures were obtained through extensive review of all methods of land valuation used by real estate and natural resources assessors. They were determined after adoption of standard and specific industry methodologies, modified for use within the severe constraints of available time and money. Above all, Commission actions reflected the necessity for deriving fair market value — instead, for example, of obtaining an inflated value — from the procedures in order to assure fairness to all residents of Alaska.

1. Surface Estate

Procedures: The difference between the results of the State appraisal and that of the Plaintiffs, split equally between the two values, was approved.

Methods Explored: The original procedure provided for an *opinion of value* process by three geo-panels of appraisers, an opportunity for review and questioning by interested parties, referral back to the panels for re-evaluation of their original values when necessary, and mediation, including the possibility of site visits.

However, due to the large number of questioned values and the limited funds available, the Commission agreed to use a *sampling strategy* for the review. Results varied widely. The State assigned a value of \$499.8 million. The Plaintiff's appraisers assigned a value of \$833,280,096.

Decision of Commission: The Commission recognized that such differences are usually resolved through mediation. However, mediation was not an option due to limited funds. The Commission determined that the only reasonable procedure it could approve was to split the difference between the two figures.

2. Timber

Procedure: The methodology, data, assumptions and judgments utilized in *An Economic Evaluation of Timber Potential on Mental Health Grant Lands and Legislatively Designated Replacement Lands - Final Report* by McMahon, Wallingford, and Wehrman, August, 1988 was approved.

Opinion of the Plaintiff: The Plaintiffs disputed the appropriateness of deducting the approximately \$31 million in reforestation costs, because the timber should be valued as if "sold" to the State as "standing timber."

Decision of Commission: The Commission regarded these costs as essential to sustained yield forest management and because the original selections were made with the intention that they would become the core of a State forest system.

3. Oil and Gas

Procedure: The methodology, data, assumptions and judgments utilized in the *Hydrocarbon Potential of Mental Health Grant (Trust) Lands and Legislatively Designated Replacement Pool Lands in Alaska* by Arey, Hansen, Kornbrath, Philips, Ryherd and Smith, July, 1988, with the fair market value being the midpoint between the low to the high range, was approved.

Opinion of the Plaintiff: The Plaintiffs assert the State's analysis did not follow the procedures approved by the Commission and that the value range appears grossly low, although no separate valuation was submitted to support this assertion.

Decision of Commission: The Commission rejected the assertion, in light of the lack of any specific valuation from the Plaintiffs.

4. Minerals, Coal and Aggregate

Procedure: The methodology, data assumptions and judgments utilized in *Mineral, Coal and Aggregate Resource Appraisal of Alaska Mental Health Trust Lands* by Paul Metz and Colin Dixon, dated December 31, 1988 was approved.

Methods Discussed: The industry standard for valuation of minerals, coal and aggregate is the *income or discounted cash flow approach*. This approach, adopted by the Commission, resulted in an estimated \$1.5 billion value. DNR used the *comparable sales approach*, which produced an initial value of zero and later, after revision, a value of approximately \$16 million.

Decision of Commission: The Commission rejected the use of the comparable sales approach because it was 1) not in accordance with accepted industry valuation practices, 2) considered unrealistic and unreasonable in light of the fact that these lands were all within the three major active mining districts of Alaska and had been selected by a team of experts as representing the most promising lands in these areas, 3) not pursued with any sort of rigor by the State, and 4) not supported by its own independent study.



ALASKA'S MENTAL HEALTH TRUST LANDS

A Summary of *Procedures For Determining the Fair Market Value of Alaska's Mental Health Trust Lands*

March, 1990

OVERVIEW

The Interim Mental Health Trust Commission approved its *Procedures for Determining the Fair Market Value of Alaska's Mental Health Trust Lands* on Dec. 20, 1989. The Department of Natural Resources (DNR), in a dissenting report released Feb. 1, 1990, disputed the Commission's findings.

The Commission, DNR, and the Plaintiffs in the Mental Health Trust Lands lawsuit have now reached a standstill. At stake are services for developmentally disabled and seriously mentally ill individuals, including senior citizens with Alzheimer's and dementia and alcoholics with psychoses, as determined by Judge Greene in the 1988 *Weiss v. State* decision. These persons are the beneficiaries of the trust.

Using valuation procedures adopted by the Commission, the total value of the original one million acre trust is \$2.2 billion. Under DNR's valuation procedures, this figure approximates only \$564 million. This difference amounts to over \$1.6 billion.

The Legislature must now reaffirm the process it established in 1986, when it created the Commission and in 1987, when it passed Chapter 48, SLA 1987, of effecting a resolution of the litigation. It must either confirm the work adopted by its mandated Commission or provide sufficient funds to allow for complete valuation.

Without legislative action, Plaintiffs to the lawsuit may be forced to challenge title to approximately 750,000 acres of Mental Health Trust lands and take other actions, as necessary steps to protect their rights against the continuing breach of the trust by the State of Alaska in properly discharging its fiduciary responsibilities in managing the trust.

RECOMMENDATIONS

Beneficiaries of the Mental Health Trust, through the Mental Health Trust Coalition, recommend that the Legislature:

1. recognize the dilemma over valuation procedures; and
2. intervene on behalf of disabled people to confirm the Commission's adopted valuation procedures; and
3. pass legislation that acknowledges the Commission's work under Chapter 48 and adopt its conclusions in the Final Report.

BACKGROUND

This brochure is based on the results of the Mental Health Trust Commission's report of Dec. 1989 and borrows heavily from other documents used to develop the procedures. It identifies the valuation procedures approved by the Commission, indicates points of agreement and disagreement, and recommends action to resolve the issue.

The Mental Health Trust Coalition, formed in Fall, 1989, represents the beneficiaries. Its express purpose is to be an active voice in administrative, legislative, judicial and other matters which may affect the provision of services for these disabled individuals.

The Coalition endorses the Commission's Final Report, *Approved Procedures for Determining the Fair Market Value of Alaska's Mental Health Trust Lands*. Its conclusions were the result of several years of intensive research, analysis, negotiation, scrutiny, and public review, which have combined to create procedures widely accepted as industry standard, within the necessary constraints of time and money.

The task given to the Commission was an exceedingly difficult one, one which was made even more difficult by the discord among the members over which procedures were acceptable to consider and the exact application of the term *fair market value* in consideration of those procedures. Of concern to observers of the process was the apparent lack of good faith and unwillingness of DNR to reach a compromise.

As the Commission noted in its report, "the actual task of arriving at satisfactory valuation procedures was much bigger, complicated and controversial than anyone initially envisioned. Indeed, for a brief period between April and July, 1989, the Commission considered publicly stating that "continued work on valuation procedures no longer appeared possible."

Part of the problem may lie in the composition of the Commission itself. During the entire process, the State of Alaska has had a built-in conflict of interest. Not only does the Commissioner of Natural Resources sit on the Commission, but the Commission must submit its report to the Commissioner, who then decides whether or not to agree with the Commission's majority viewpoint.

The second conflict of interest lies in the assignment of a single Attorney General (AG) to act as counsel both to DNR and to the Commission. Again, if all three Commissioners were in agreement, any conflict of interest would be suppressed or minimized by agreement. However, as long as DNR is in the minority, the AG must answer to two masters. Throughout the entire process, it became clear that the AG has consistently taken the side of the State.

Between June 9, 1986 and November, 1989 the Commission held over 30 meetings, all open to the public, for discussion of the valuation procedures. Because the Coalition has a vested interest in the Commission's proceedings, representatives have attended almost every meeting. On our own initiative, we have independently hired consultants to review industry-accepted standard valuation procedures of the various categorical lands and requested the right to present their findings to the Commission. Due to the open nature of the meetings, the Commission granted this right.

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AUKE BAY, AK 99821



State of Alaska

Refuges, Forests and Parks

February 1990

Name	Statute	Acres
Fish & Game Designations (AS 16.20)		
Walrus Island State Game Sanctuary	(AS 16.20.090-140)	9,700
McNeil River State Game Sanctuary	(AS 16.20.160-170)	83,800
	Total sanctuary acres	93,500
Palmer Hay Flats State Game Refuge	(AS 16.20.032)	26,000
Mendenhall Wetlands State Game Refuge	(AS 16.20.034)	3,800
Susitna Flats State Game Refuge	(AS 16.20.036)	300,800
Trading Bay State Game Refuge	(AS 16.20.038)	160,960
Cape Newenham State Game Refuge	(AS 16.20.030)	14,000
Izembek (Lagoon) State Game Refuge	(AS 16.20.030)	181,440
Creamer's Field Migratory Waterfowl Refuge	(AS 16.20.039)	1,664
Goose Bay State Game Refuge	(AS 16.20.030)	10,880
Anchorage Coastal Wildlife Refuge	(AS 16.20.031)	32,500
Minto Flats State Game Refuge	(AS 16.20.037)	500,000
	Total refuge acres	1,232,044
Port Moller Critical Habitat Area	(AS 16.20.550)	127,000
Port Heiden Critical Habitat Area	(AS 16.20.555)	72,000
Cinder River Critical Habitat Area	(AS 16.20.560)	26,000
Egegik Critical Habitat Area	(AS 16.20.565)	8,000
Pilot Point Critical Habitat Area	(AS 16.20.570)	46,000
Kalgin Island Critical Habitat Area	(AS 16.20.575)	3,500
Fox River Flats Critical Habitat Area	(AS 16.20.580)	7,100
Chilkat River Critical Habitat Area	(AS 16.20.585)	4,800
Kachemak Bay Critical Habitat Area	(AS 16.20.590)	222,000
Clam Gulch Critical Habitat Area	(AS 16.20.595)	2,500
Copper River Delta Critical Habitat Area	(AS 16.20.600)	597,000
Anchor River & Fritz Creek Critical Habitat Area	(AS 16.20.605)	19,000
Tugidak Island Critical Habitat Area	(AS 16.20.615)	50,240
Dude Creek Critical Habitat Area	(AS 16.20.610)	4,083
Willow Mountain Critical Habitat Area	(AS 16.20.620)	22,720
Redoubt Bay Critical Habitat Area	(AS 16.20.625)	183,640
	Total critical habitat area acres	1,395,583
Forestry Designations (AS 41.15-17)		
Tanana Valley State Forest	(AS 41.17.400)	1,786,000
Haines State Forest Resource Mgmt. Area	(AS 41.15.300-330)	247,000
	Total forestry acres	2,033,000

Park Units (AS 41.21-23)

Chilkat State Park	(AS 41.21.111-120)	6,045
Chugach State Park	(AS 41.21.121-125)	495,000
Kachemak Bay State Park	(AS 41.21.131-134)	165,370
Kachemak Bay State Wilderness Park	(AS 41.21.140-143)	210,240
Denali State Park	(AS 41.21.151-152)	421,120
Wood/Tikchik State Park	(AS 41.21.161-167)	1,428,320
Shuyak Island State Park	(AS 41.21.172-178)	11,000
Pt. Bridget State Park	(AS 41.21.181-183)	2,800
Marine Parks:	(AS 41.21.300-306)	*14,440
Beecher Pass, Bettles Bay, Chilkat Islands, Dall Bay, Funter Bay, Horseshoe Bay, Joe Mace Island, Oliver Inlet, Saint James Bay, Sawmill Bay, Security Bay, Shelter Island, Shoup Bay, South Esther Island, Sullivan Island, Surprise Cove, Taku Harbor, Thoms Place, Zeigler Cove		
* does not include 22,510 acres of water		
Captain Cook State Recreation Area	(AS 41.21.415-425)	3,620
Caines Head State Recreation Area	(AS 41.21.435-445)	5,961
Nancy Lake State Recreation Area	(AS 41.21.455-465)	22,685
Chena River State Recreation Area	(AS 41.21.475-490)	254,080
Willow Creek State Recreation Area	(AS 41.21.491-495)	3,583
Kenai River Special Management Area	(AS 41.21.502-514)	2,693
Alaska Chilkat Bald Eagle Preserve	(AS 41.21.611-630)	49,000
	Total Park Acres	3,095,957

Other Designations

Delta Junction Bison Range Area	(AS 16.20.300)	*72,000
Matanuska Valley Moose Range	(AS 16.20.340)	**132,500
Nelchina Public Use Area	(AS 41.23.010-040)	2,350,000
Hatcher Pass Public Use Area	(AS 41.23.100-130)	5,100
Ernie Haugen Public Use Area	(AS 41.23.050-080)	420
Recreation Rivers:	(AS 41.23.400-510)	***243,000
Alexander Creek, Kroto Creek & Moose Creek, Lake Creek, Little Susitna River, Talachulitna River, Talkeetna River		
	Total other designations	2,803,020

* does not include additional 17,500 acres within military withdrawal

** does not include selected land

*** does not include borough or private land

NOTE: Most figures are approximate and many include tide and submerged acreage. Fish & Game estimates that half of the acreage designated in Title 16 is submerged.

Fish & Game designations	2,721,127
Forestry designations	2,033,000
Park designations	3,095,957
Other designations	2,803,020
Total legislative designations	10,653,104



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MINERAL, COAL, AND AGGREGATED RESOURCE

APPRAISAL OF

ALASKA MENTAL HEALTH TRUST LANDS

BY

PAUL A. METZ and COLIN DIXON

December 31, 1988

C O N F I D E N T I A L

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DAVID T. WALKER

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OF
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PAUL A. METZ and COLIN DIXON

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prepared at the Request of
DAVID T. WALKER, ESQ., and JAMES B. GOTTSTEIN, ESQ.
for
The Interim Mental Health Trust Commission

C O N F I D E N T I A L

TABLE OF CONTENTS

	Page
Introduction	1
Part I -- Metallic Mineral Resources	4
Previous Investigations	4
Methodology	11
General Assumptions	11
Delphi Method	17
Geologic Models	20
Tonnage Grade Models	21
Cash Flow Models	23
Net Present Value Estimate	25
Multiplier Effects	27
Multiple Use Values	28
Part II -- Coal Resources	31
Previous Investigations	31
Methodology	31
Net Present Value Estimate	34
Part III -- Sand and Gravel Resources	36
Previous Investigations	36
Methodology	36
Net Present Value Estimate	39
Part IV -- Summary and Conclusions	41
References Cited	42

Appendices

Appendix A - Mineral Deposit Models including Tonnage Grade Data and Model Cash Flow Estimates	A-1
Appendix B - Expected Mineral Resource Net Present Value by Parcel	B-1
Appendix C - Example of the Calculation of an Expected Net Present Value of a Parcel of Land	C-1

Tables

Table 1 - Metal Prices as of August 1987 (average in pounds sterling per metric ton)	56
Table 2 - Net Present Value of 4 percent Net Smelter Returns for various Mineral Deposit Types included in this Investigation	57

Introduction

The United States Congress passed the Alaska Mental Health Enabling Act of 1956, P.L. No. 84-830, 70 Stat. 709, "To confer upon Alaska autonomy in the field of mental health, transfer from the Federal Government to the Territory the fiscal and functional responsibility for the hospitalization of committed mental patients, and for other purposes." In Sec. 202 of the Act, Congress granted the territory the right to select up to 1,000,000 acres of federal land to serve as a source of revenue to support a mental health program in Alaska. In subsection (202)e, the Alaska Mental Health Enabling Act specifically prescribed that the land grant and any income from the land grant be administered as a "public trust and such proceeds and income shall be applied to meet the necessary expenses of the mental health program of Alaska."

The Tenth Alaska State Legislature enacted Chs. 181 and 182, SLA 1978, which in part reclassified mental health lands as general grant lands. The Supreme Court of the State of Alaska held that the Act established a public trust and that the Tenth Legislature breached that trust by reclassifying mental health land as a general land grant. State v. Weiss, 706 P.2d 681 (Alaska 1985). As a remedy the court ruled that former trust land still in state ownership be returned to the

trust and that the trust be compensated for the fair market value of former trust lands that were sold, disposed, or transferred from state ownership less the value of state expenditures for the mental health program up to the time of disposition. Id. at 683-684.

In 1987 the Alaska Legislature passed an Act Relating to the Alaska Mental Health Trust to: establish a Mental Health Trust Income Account, Reconstitute and provide administrative structure for the Mental Health Land Trust, and establish the Alaska Mental Health Board. In Sec. 2C of this act, Alaska Statute 37.14.011 is amended to direct the Commissioner of Natural Resources (the "Commissioner") to determine the fair market value as of September 6, 1987 of the lands selected by and patented to the state under Sec. 202 of the Alaska Mental Health Enabling Act.

Although the Commissioner has initiated some action to comply with Alaska Statute 37.14.011 in "Minerals, Coal, and Aggregate Potential of Alaska Mental Health Trust and Related Lands", by the Staff of the Alaska Division of Geological and Geophysical Surveys ("ADDGS"), January 4, 1988 and "Hydrocarbon Potential of Mental Health Grant (Trust) Lands and Legislatively Designated Replacement Pool Lands in Alaska (with Coal Valuation) by Arie, Hansen, Kornbrath, Phillips, Ryherd and Smith, July 1988, these reports do not place a fair

market value on the subject lands as required by law. The purpose of this report is to provide an estimate of the contribution of metallic minerals, coal, and sand and gravel resources to the fair market value of the subject lands.

This report is divided into four parts. Part I covers metallic mineral resources, Part II covers coal resources, Part III covers sand and gravel resources, and Part IV presents the summary and conclusions. The divisions are necessary not only to distinguish the major commodity groups but to separate the distinctly different evaluation methods for the three groups.

Part I -- Metallic Mineral Resources

Previous Investigations

Harris (1968) made a probabilistic regional appraisal of the base and precious metal resources in 126 million of the 375 million acres of Alaska. The model was based on a comparison of the base and precious metal mineral wealth of a control area including parts of Arizona, New Mexico and Utah that total 99 million acres. In selecting the appraisal technique Harris (1968) examined two basic methodologies.

The first is a simple appraisal based on a comparison of mineral density of the control area relative to the mineral density of Alaska. Mineral density is defined as the sum of the gross value of mineral production plus the gross value of proven mineral reserves divided by the total land area. The relatively well explored control area of Arizona and New Mexico had a base and precious metal density of \$270,000 per square mile in 1967 while the area of Utah had a comparable density of \$299,000 per square mile. The price vector for the gross metal value estimates was: Au, \$35.00/oz; Ag, \$1.30/oz; Pb, \$0.14/lb; Zn, \$0.13/lb; Cu, \$0.30/lb. Adjusting the above base metal price with the wholesale price index would result in calculated base metal prices nearly equivalent to actual prices in 1987. Adjusting the above mineral densities with

the August 1987 Consumer Price Index (CPI) relative to 1967 of 342.7 (Department of Commerce, 1988) would result in estimated densities of \$754,000 and \$1,025,000 per square mile, respectively. The above estimates would understate the true densities since precious metal prices have increased five fold for silver and 12.9 fold for gold. Assuming that the precious metals account for 50 percent of the gross metal value and that the average precious metal index is 800, the densities in 1987 would have been \$1,290,000 and \$1,760,000 per square mile, respectively.

The mineral density method does not directly account for the relationship of differences in geology to differences in mineral wealth. This is a fundamental limitation of the method and it follows from the above limitation that the mineral density method does not account for extremely high density values in historic mining districts and values approaching zero outside such districts.

In order to avoid this limitation, Harris (1968) divided the control area up into 387 unit cells (20 miles by 20 miles) and the area of interest in Alaska into 493 unit cells. For each cell in the control area, 25 geologic parameters were defined and measured. The cells were divided into three groups, group one density of \$10,000, group two density of \$10,000-\$100,000,000 and group three density greater than

\$100,000,000. A discriminant analysis was then completed on the control area cells to determine the contribution of the various geologic parameters to the assignment of the various cells to each of the groups. The discriminant equations explained between 25 and 75 percent of the variance between the groups. From the discriminant functions, probabilities were calculated for the assignment of each cell in the study area to a particular group. Expected values were then determined for each cell in Alaska.

The result indicated five cells with gross metal value that would exceed \$400 million (1967 dollars) and sixteen additional cells that range from \$100 million to \$400 million. The total gross value of these 21 cells is estimated at \$5.7 billion (1967 dollars). The value of these cells is based primarily on gold mineralization. Thus in 1987 dollars the total gross metal value would have been 12.9×5.7 billion = \$73.5 billion. The mineral density of the five highest cells in 1987 dollars would have exceeded \$12.9 million per square mile or \$20,000 per acre.

Harris (1968) considered the appraisal conservative due to the very limited extent of outcrop in Alaska (large amount of alluvial and vegetative cover) and the limited availability of geologic data.

The U.S. Geological Survey ("USGS") was called upon to prepare an appraisal of the mineral resources of Alaska as part of the drafting process of the Alaska National Interest Lands Conservation Act. The results of the appraisal were published as USGS Open-File Reports 78-1-B through F (Grybeck and DeYoung, 1978; Hudson and DeYoung, 1978; Eberlein and Menzie, 1978; MacKevett, Singer, and Holloway, 1978; and Patton, 1978). These investigations utilized the Delphi method whereby each of several U.S. Geological Survey experts examined the geologic literature for a particular area and estimated the number of mineral occurrences of particular ore deposit types in that area at the 10th, 50th, and 90th percentile levels of confidence. An average tonnage and grade for each deposit type was estimated from producing ore deposits in other parts of the world. The investigation does not allow direct calculation of either total gross metal content or gross metal value since the percentile estimates are not probabilities.

In order to expand the utility of the above USGS reports and to estimate the total number of probable mineral deposits with a particular average grade, Charles River Associates (1978) assumed two common discrete probability distributions (the Poisson and the negative binomial) and fitted these distributions to the percentile data. This resulted in the determination of an expectation of the number of mineral

occurrences for each area of the USGS investigations. From the average tonnage and grade data an expected gross metal content could be estimated for all the areas included in the USGS appraisal.

The above two investigations were limited by the same constraints as the Harris (1968) investigation. In addition, the studies did not include all metallic mineral deposit types nor did they include industrial minerals. Neither of the investigations resulted in a value per unit area estimate.

Metz (1987) examines the mineral potential of a 18,936 square mile area of Interior Alaska. A portion of the area includes several mining districts with significant placer gold production, known lode mineralization, and recent detailed geologic mapping and geochemical sampling. From the number of known mineral occurrences, geochemical anomalies, and probabilities of discovery of particular deposit types, and the mean gross metal value of each deposit type, an expected gross metal value and mineral density is estimated for each of the four areas as follows:

1. Birch Creek Drainage
 - a. Gross metal value: \$2.3 billion
 - b. Mineral density: \$420,000 per square mile or \$656 per acre.

2. Beaver Creek Drainage
 - a. Gross metal value: \$17.9 billion.
 - b. Mineral density: \$4.74 million per square mile or \$7,400 per acre.

3. Fortymile River Drainage
 - a. Gross metal value: \$29.0 billion
 - b. Mineral density: \$4.80 million per square mile or \$7,500 per acre.

4. Minto Flats Drainage
 - a. Gross metal value: \$23.3 billion
 - b. Mineral density: \$6.41 million per square mile or \$10,000 per acre.

The range in density estimates reflect the diverse geology of the four areas and the limited geological data available due to the sparse outcrop particularly in the Birch Creek drainage relative to the other drainages. However the estimates for Beaver Creek, Fortymile River and the Minto Flats drainages are in the same order of magnitude as the constant dollar adjusted estimate from Harris (1968).

The ADGGS Staff Report (1988) is another attempt to use the Delphi methodology. This methodology is also used by Harris and Azis (1970); Barry and Freeman (1970); Harris (1973); Freyman and Barry (1971); Harris and Euresty (1973) for various mineral resource appraisals in western USA and Canada.

For the evaluation of the potential metallic mineral resources of the Alaska Mental Health Lands, ADGGS reviewed pertinent data at 1:250,000 scale quadrangle. Areas with potential for the discovery and development of one or more

mineral deposit types were rated on a scale of one to five indicating very low to very high potential, respectively.

Of the 27 mineral deposit models described by the ADGGS, only 21 were considered to occur in the subject lands. The ADGGS mineral deposit models are only qualitatively defined and contain no tonnage or grade data. Tonnage and grade data are essential in determining gross metal value of each expected deposit and the expected net present value of the subject lands. Such tonnage and grade data are available for the various mineral deposit models in Cox and Singer (1986).

The ADGGS mineral potential estimates of one through five are relative estimates only and are not probabilities of the discovery and development of a mineral deposit. Without some probability estimate, expected mineral values of the Alaska Mental Health Lands could not be determined from the ADGGS Staff Report (1988). Such probability estimates could be made from the data of Koulomzine and Dagenais (1959), Bailey (1964), Charles River Associates (1978), Peters (1978), and DeGeoffroy and Wignall (1985).

Methodology

General Assumptions

Harris (1984 at p.1) provides a succinct perspective on mineral resource appraisal.

"Mineral resources exist only with respect to an economic and technological framework. A useful statement on mineral resources must also be a statement on specific economic conditions, technological capabilities, and the state of nature.

The term 'mineral' resources includes reserves, those accumulations of a mineral that are known and have been explored to the extent that there is reasonable assurance that the mineral could be produced from them economically, and minerals in known deposits that cannot be exploited economically. Together, these two kinds of mineral resources comprise the category of known resources, for these are the resources that we know most about and for which we have an immediate interest because of their support of current and near-future economic activities.

Appraisal of unknown resources, the category of resources that we know least about, is the subject of this book. These resources consist of both economic and subeconomic unknown resources. Obviously, the motivation for the appraisal of unknown resources must stem from issues that relate to a moderate- or long-term time frame. Such issues may include resource adequacy and mineral policy, issues that recently have received considerable attention and, in the case of oil, have become topics of household conversation. While these issues may be of primary concern to governments, because of the time lag from exploration to production, the large mineral firm also may be motivated to examine the long-term outlook for mineral consumption and potential mineral supply, hence mineral resources.

There is no elegant nor ultimately definitive means for estimating unknown mineral resources short of direct sampling of the earth's crust, e.g.

drilling at a spacing sufficient to locate and delineate the mineral deposits. While such a programme would most assuredly provide the best possible data for the appraisal of resources, it has not been demonstrated to be the most efficient means for appraisal, although some scholars urge its implementation (Ridge, 1974). Arguments justifying such a programme on the basis of economics have so far been superficial. At present, and probably in the future, unknown resources are inferred by models, hopefully founded on fact, of aspects of the economic-physical system within which resources are defined."

The concept that unknown resources can be appraised implies that within economic conditions, technological capabilities and the state of nature unknown resources have value. Value is a function of the expectation of their existence and the degree of effort expended in their discovery and development. The conversion of resources into reserves is a time consuming and expensive process that greatly increases the value estimates. In this appraisal, we will be considering primarily unknown resources although there are considerable proven reserves on some lands adjacent to the subject lands. In order to complete the appraisal, the following assumptions are necessary.

First, within the next twenty years, world economic conditions are not expected to be significantly different than today. Demand for mineral commodities will remain similar to current levels. Production from Alaska or lack thereof will not affect world markets. There will be no differential

inflation with respect to mineral commodities and there will be no price controls imposed on mineral commodities. All the metallic mineral commodities to be produced from the subject lands can be sold on the world market at the prevailing prices.

The time frame of twenty years is utilized since major deposits (gross metal value over \$1 billion) would be evaluated on a twenty year mine life. Smaller tonnages of ore for bulk mineable deposits would not provide economies of scale. However, small high grade deposit types may have smaller reserve bases and thus mine lives less than twenty years. Additional reserves over the minimum mine life will have little effect on the net present value even at low interest rates. This does not mean that the ultimate mine life may not be many multiples of twenty years. For instance Almaden mercury mine, Spain, has been in continuous production for 400 years, Rio Tinto copper-pyrite mine, Spain, for over 100 years, and Bingham Canyon copper mine, Utah, for about 80 years.

Brooks (1976) has modeled mineral supply as both a fixed stock and as a flow. A given mineral deposit is expected to have a finite life within its dimensional limits. However there is increasing evidence that metallogenic provinces and even mining districts within metallogenic provinces may act as

large reservoirs of mineral supply. Thus the flow model may be appropriate to both global supply and regional supply. Increasing regional metal production at decreasing constant dollar price level over the last century supports the flow model on at least the metallogenic province level. Since Alaska Mental Health Trust Land extend over several metallogenic provinces, the expected life of metal production from these lands will exceed our 20 year time frame.

Worldwide demand functions for the various mineral commodities have changed dramatically during this century but have remained relatively predictable over the last twenty years. Aluminum consumption has increased 1300 times since 1900 while tin consumption doubled in the same time period. Over the last two decades the aluminum and tin consumptions have changed by annual compound rates of 2 percent and -1.5 percent respectively. With relatively constant rates of growth in consumption, metal prices are expected to change at the same rate as the general price level and thus there will be no differential inflation. Thus prices of mineral commodities and the factor inputs for production in 1987 can be utilized to calculate discounted cash flows over the next twenty years.

Second, there will be no technological changes over the next twenty years that will affect either the demand for

mineral commodities or the costs of production. Current levels of technology are adequate to produce the mineral commodities that are expected to be found on Alaska Mental Health Lands. In addition current costs of production in Alaska particularly in areas of the Mental Health Trust Lands are comparable for comparable deposits in other parts of the world.

Third, there are several significant differences in the state of nature with respect to mineral deposits in Alaska versus other areas of western USA and Canada. Alaska has been subjected to considerably less public and private sector exploration activity than the above areas and thus it is expected that the marginal cost of exploration per dollar value of mineral commodity discovered will be less. This is a well recognized function in under-developed and under-explored regions of the world.

Since the mid to late 1970's mineral explorationists and mining geologists have begun to recognize the relationships between global plate tectonics and the concentration of metals in ore deposits (Mitchell and Garson, 1976, 1981). Specifically, metals are concentrated in the earth's crust due to the transfer of energy (primarily thermal) and mass. Plate boundaries are regimes of energy and mass transfer and thus are foci for metal deposit formation. Jones et al (1981) note

that Alaska is formed by a collage of micro-plates thus the region is composed of an anomalously high concentration of plate boundaries. This high concentration of plate boundaries should also result in a higher than worldwide average concentration of ore deposits. Similarly the size of ore deposits is related to the total energy and mass transfer, thus it is expected that ore deposits in Alaska may be anomalously large as well as anomalously numerous per unit area.

This anomalous size phenomenon is exemplified by the fact that although essentially unexplored Alaska contains the largest sedimentary-exhalative massive sulfide deposit (Red Dog) and the largest of the molybdenum porphyry type deposits (Quartz Hill) in the world. Also, the Alaska Juneau Mine was the largest underground bulk mineable gold deposit in the world. The Kennecott Mine was a major copper producer with an extremely high grade and no analogue deposit has been discovered in any other part of the world. The gold placer deposits of Fairbanks and Nome are giants by worldwide standards and precursors to the recent major lode discoveries in these two mining districts. The Goodnews Bay platinum deposit remains the largest U.S. source of platinum, the tin granites of the Seward Peninsula contain 90 percent of the U.S. tin resources, and the Ni-Cu-Co deposits of Brady Glacier contain most of the U.S. resource of cobalt.

From the above and from the fact that higher grade deposits are discovered and utilized first, it can be inferred that the major mineral deposits to be discovered in Alaska over the next few decades will have tonnages and grades that will greatly exceed the worldwide averages.

As a final state of nature it is assumed that there was in 1987 legal access to the mineral resources on the Mental Health Lands. Furthermore, the Trust would act as any other landowner with respect to the economic rent it charged on its land for mineral resource extraction and that prudent mineral industry decision makers would not be adversely affected by the litigation and recent legislation with respect to the subject lands.

Delphi Method

Dalkey (1969) describes the Delphi Method and Harris (1984) details its use in various mineral resource appraisals. For this appraisal we supplement the Delphi procedure of ADGGS. The mineral deposit types described in the ADGGS Staff Report (1988) and assigned to the various parcels of Mental Health Trust Lands were correlated with the mineral deposit models of Cox and Singer (1986). The models of Cox and Singer (1986) are much more comprehensive and descriptive than the ADGGS models but more importantly the former models include

tonnage and grade data from numerous analogue deposits that are currently in production in various locations worldwide (See Appendix A).

The second step of this investigation is to calculate probabilities of discovery and development of each mineral deposit type. The categories of potential (one through five) assigned by ADGGS to each parcel (section) of the subject land must be considered in the calculation of the above probabilities.

As previously discussed the USGS mineral potential assessment in Open-File Reports 78-1-B through F (1978) do not directly provide probabilities of discovery of commercial deposits. Charles River Associates (1978) calculate probabilities for various deposit types for each area of the USGS inventory. The expected number of deposits for the various areas in the USGS investigation ranged from 0.55 to 51.21. On a per acre basis these expectations can be restated as probabilities that range from 1 in 1×10^6 to 1 in 3×10^5 .

The above probabilities, although small, agree well with the range of probabilities for success in regional exploration programs for metallic minerals in Canada and other parts of the United States (Koulomzine and Dagenais, 1959; Bailey, 1964, and Peters, 1978). North American exploration activity

over the last 40 years has resulted in the discovery of at least one major mineral deposit (gross mineral value in excess of \$1 billion) for every one thousand mineral properties examined. Although mineral properties constituting a mineral holding have a great range in size an average of about 1000 acres per property is assumed.

In Alaska there have been approximately 250 major mineral occurrences discovered in the last 20 years with limited mineral exploration activity. Of the 375 million acres of land in Alaska only about 20 percent is open to mineral entry thus the success rate in Alaska is about 3 per million acres (Metz, 1978; Bundtzen et al, 1988).

Within mining districts, success rates may be much higher and may exceed 10 per 100 properties examined. For properties in mining districts that have been the subject of detailed geochemical and geophysical surveys the success rate may reach 1 in 3 (Koulomzine and Dagenais, 1959).

Each parcel (section) of the subject land is listed in Appendix B. For each parcel, the various mineral deposit types are listed as are the probabilities of discovery of each deposit type.

Geologic Models

The geologic models of Cox and Singer (1986) were used to replace the ADGGS models. The former models are detailed enough to check the ADGGS assignments of mineral deposit types to each of the parcels and the relative potential for that deposit type within the parcel.

The ADGGS investigation included descriptions of 27 mineral deposit models but only 21 were actually projected to occur in the subject lands. There are an additional 13 mineral deposit models in Cox and Singer (1986) that were not considered by the ADGGS staff and are listed as follows:

1. Duluth or Noril'sk, Cu-Ni-PGE.
2. Synorogenic-Synvolcanic, Ni-Cu.
3. Alaska PGE (Cr-Pt).
4. Replacement, Mn.
5. Volcanogenic, Mn.
6. Volcanogenic, U.
7. Epithermal, Mn.
8. Volcanic hosted, Sn.
9. Simple, Sb.
10. Sandstone hosted, Pb-Zn.
11. Sedimentary, Mn.
12. Sedimentary, P_2O_5 .
13. Beach, Ti.

Also the ADGGS inventory did not include industrial minerals such as limestone (portland cement and agricultural grades), dimension stone, clays including kaolinite, zeolites and heavy minerals such as monozite, olivine, and zircon. Although some of these categories could add significantly to

the inventory such as Alaska PGE, Simple Sb, and the heavy minerals from beach deposits such as titanium, monozite, olivine, and zircon, these additional commodities could not be included in the current evaluation due to time and cost constraints. Future inventories by ADGGS must include all of the above commodities. Of particular significance are heavy mineral concentrate that form as beach deposits. Alaska has an extremely large coastal area that could be a major source of these commodities.

Tonnage Grade Models

The tonnage and grade models from Cox and Singer (1986) allow the estimation of the gross metal value of each of the deposit types (See, Appendix A). For the various reasons previously stated, the tonnage and grade data used to calculate gross metal value for each type of deposit was the minimum tonnage and grade of the upper ten percent of all the deposits used in the tonnage and grade models. The utilization of these tonnage and grade estimates can be further justified by the fact that the tonnage and grade models are derived from operating mines. Published tonnage and grade data for operating mines usually only includes measured reserves for a twenty year or less mine life and not indicated or inferred ore. Ultimate production may be many times the actual measured reserve of a mine in any time period. An

extreme case is the Keno Hill Mine, Yukon Territory, Canada that has operated since the late 1920's with only two years of proven reserves blocked ahead of production. The mine is the largest current silver producer in Canada with total production in excess of 250 million ounces but with proven reserves of less than 10 million ounces.

Even at the upper ten percent level the placer gold model underestimates the tonnage and grade of the giant Alaska placer deposits such as Fairbanks and Nome. Fairbanks and Nome have produced an order of magnitude more gold than the largest deposits listed for the placer model.

The production of gold from the Tertiary continental clastics of the Las Medulas deposit of northern Spain was nearly two orders of magnitude greater than the largest deposits listed in the placer model. There are numerous Tertiary continental clastic deposits in Alaska that have potential for Las Medulas size placer gold deposits (Metz, 1985). Furthermore, these Tertiary sediments are found on Mental Health Trust Land in the Healy, Tyonek, and Kenai Peninsula areas. These sediments were not considered as sources of placer deposits by ADGGS. They are considered in this investigation but the gross metal value estimates are based on the tonnage and grade data from Cox and Singer (1986). The discovery of one Las Medulas size placer gold

deposit on the subject lands would more than double the currently estimated net present value.

Cash Flow Models

The gross metal value as of August 1987 is calculated from the tonnage and grade data and the London Metal Exchange average monthly prices (See Table 1). A mine life for the various deposit types is estimated from the mining rates of comparable deposits and an annual gross revenue to the property owner (the Trust) is calculated as a net smelter return ("NSR"). This NSR method is an industry norm that avoids the problem of determining reasonable direct and indirect cost of extraction, mineral beneficiation, and smelting or refining. Net smelter return royalties in Canada and the U.S. range from 2 to 10 percent for lode deposits and 10 to 15 percent for placer deposits. For this investigation 4 percent NSR will be used for lode deposits and a 10 percent NSR will be used for placer mineralization. These royalty rates then allow the calculation of a gross annual revenue to the Trust from each deposit type (See Table 2).

This method of calculating cash flow to the Trust does not ignore the economic constraints of cost or the minimum required rate of return on investment of the operating mining company. First, the assumption that the deposits are in the

upper ten percent of those worldwide assures that the gross revenue generated by these deposits will be greater than 90 percent of the operating mines worldwide.

Second, the probabilities that were used to calculate expectations were not just probabilities of discovery but were probabilities of the discovery of world class size economic concentrations of metal. The economic viability of the deposits that are expected to be discovered on the subject lands is also enhanced by two major factors. First, the Mental Health Trust Lands are located primarily near population centers with established infrastructure thus decreasing the capital cost requirements of the expected mining operations. Second, two of these population centers, Juneau and Fairbanks, were established as mining communities. The potential for major ore deposits in these areas is much higher than that for areas outside these historic mining districts. In fact, the five highest potential cells defined by Harris (1968) were located adjacent to Juneau (2 cells) and Fairbanks (3 cells).

Third, the major population centers of Alaska are currently experiencing low cost electrical energy relative to other mineral producing centers in western Canada and the U.S.A. For instance, commercial rates in Fairbanks are approximately \$0.05/kw-hr while in Elko, Nevada (a major gold

mining center), the rate is 50 percent higher at \$0.075/kw-hr (Schumacher, 1987). Similarly, fuel oil and gasoline are cheaper in both Fairbanks and Anchorage than in Eiko. With high unemployment, wage rates are lower in Alaska than they are in most of the active mining centers in western Canada and the U.S.A. The expectations of low operating costs and the minimum royalty payments considered in the cash flow models act as an incentive for major companies to invest in mineral exploration and development on the subject lands.

Net Present Value Estimate

The fair market value of the subject lands is the net present value of the cash flow that can be expected from the land over the period of mineral resource utilization. In the tonnage and grade models and in the cash flow models it is assumed that the total endowment of a given deposit is known and fixed. As previously discussed mineral deposits may produce minerals for several multiples of the estimated mine life. Mining districts and metallogenic provinces tend to act as a source of material flow rather than as a source of a fixed or limited stock (Brooks, 1976; Morse, 1976). The questionable total exhaustibility of the subject lands notwithstanding, it is assumed that the cash flows will be discounted over the minimum expected mine life for each deposit type.

The net present value of the expected net smelter returns depends on the selection of an appropriate interest rate. Arguments can be made for utilizing the prime lending rate, the average rate of return on capital for the industry, or a rate that the owners of the resource may receive on invested capital. Prime lending rates have fluctuated dramatically over the last two decades and have ranged from less than 5 to over 20 percent since World War II. Rates of return on capital in the mining industry over the same period have averaged just above 5 percent. For this investigation an interest rate of 10 percent is assumed and is considered to be conservative.

Appendix C is an example of the calculation of an expected value of a parcel of land.

The net present value of the expected 4 percent NSR royalty is listed for each parcel of land in Appendix B. The total of the expected net present values for all parcels is \$1.51 billion. This is the estimated fair market metallic mineral value of the subject lands.

This value is considered a minimum estimate for the following reasons:

1. Not all possible metallic mineral deposit types were considered and no industrial mineral deposits were considered.
2. The tonnage and grade models although for the upper ten percent of all deposits do not reflect the ultimate recoverable metal from the various deposit types.
3. The discovery of a single world class size placer deposit similar to Fairbanks or Nome would substantially increase the net present worth while the discovery of a Las Medulas size deposit would increase the net present worth by 50 percent.
4. The interest rate of 10 percent is very conservative.

Multiplier Effects

Major mineral discoveries have had dramatic effects on the economies of nations and/or entire regions. The discovery of vast quantities of precious metals in the Americas in the 16th century greatly stimulated the economy of Spain and that of all of western Europe. The discovery of oil in the Middle East in the 20th century has changed the economic structure of the host countries as well as the economic structures of all free market countries.

The quantification of these effects is difficult and not unequivocal. The effects are less dramatic for minerals than for petroleum development and are dependent on the degree of processing, refining, fabrication, or manufacturing that takes place. The multiplier effects of mineral development in industrialized economies that are also mineral producers have been estimated. From the Canadian experience the effects range from three to more than 5 times the value of the mineral commodities produced.

Multiple Use Values

During the exploration phase of mineral utilization, large tracts of land (up to one million acres) may be required to support a single major discovery. During this phase, other uses generally can take place on the land without materially affecting the exploration process. Upon discovery, the land area required for mineral development is reduced to several thousand or even several hundred acres. During this phase, single use will occur at the mine and mill site. After extraction these areas may again return to multiple use. (Examples include the iron ranges of Michigan, Wisconsin, and Minnesota, the Pb-Zn districts of the Mississippi Valley, and the precious metal mining areas of the Colorado Mineral Belt, all of which are major recreational areas today.) In extreme cases the land may be converted into a single use such as

national parks, wilderness areas or wildlife refuges (examples include Isle Royal National Monument, major historic copper mining; Death Valley National Monument, current and historic industrial mineral mining; Wrangel-St. Elias National Park, copper and gold mining).

At the local levels the effects of mineral utilization are more obvious with the formation of town and even major cities (San Francisco, California; Sudbury, Ontario; Denver, Colorado; Johannesburg, South Africa; Butte, Montana; Spokane, Washington; Juneau, Alaska; Whitehorse, Yukon Territory; Fairbanks, Alaska) to support mineral exploration and extraction. Initially during the discovery phase land values are based on the value of the contained minerals however during the development and production stage local land values are established and increased by the need for infrastructure, service industries, and housing facilities.

After the extraction of minerals from a particular deposit, the surface value of the land may exceed the initial acquisition cost of the mineral estate. As an example, the predecessor of Alaska Gold Company consolidated the placer gold properties of the Fairbanks District in the 1920's to facilitate large scale dredging operations. Mineral claims were purchased at \$100 per acre. Recently, the reclaimed dredge areas have been sold for more than \$10,000 per acre.

In terms of constant dollars (CPI 1920-1997 = 519.4), this is about 20 times the original mineral value of the land.

The need for land reclamation after mining has been recognized for decades. In 1977, Congress passed the Surface Mining Act to ensure continued productivity of land after mineral extraction has been completed. The law not only specifies reclamation practices but in certain cases mandates that the land be returned to at least its original level of productivity.

From the above discussion it must be emphasized that mineral values and surface values are additive rather than one exclusive of the other.

Although the multiplier effects and multiple use values of the subject land cannot be quantified with respect to this mineral appraisal, these factors should be considered with respect to the surface value appraisal and with respect to land use policy decisions affecting the Alaska Mental Health Trust Lands.

Part II -- Coal Resources

Previous Investigations

Merritt and Belowich (1988) review the potential coal resources on Alaska Mental Health Lands. Also included in their investigation is a bibliography of coal publications by quadrangle. However, no estimates are made of the potential tonnages of coal or the contribution of coal to the value of either the Trust or Replacement Pool Lands.

Methodology

Coal resource values must be appraised differently than metallic mineral resources. Coal, like industrial minerals, is usually sold to a specified final consumer (i.e. steam coal to a utility or metallurgical coal to a steel mill). Coal has a market because it meets a particular metallurgical specification or because it provides the lowest cost of delivered thermal units. Thus, the markets for coal are more restricted than those of metallic minerals and in-situ values are very sensitive to those markets. Most of the potential coal resources of the subject lands are low rank steam coals and the following discussion of markets will be limited to steam coal.

Currently the Alaska market for coal is very small with respect to the potential supply and even the Pacific Rim market is small compared to the total potential Pacific Rim supply. As an example, up to September 1987 Australia, the largest exporter of coal in the Pacific Rim, had a 30 percent excess capacity over its markets while only operating its mines on a single eight hour shift six days per week. Most coal mines operate 24 hours per day seven days per week.

In order to establish a value to a given potential coal mining site, a market must be defined. Markets for coal from the subject lands include both domestic and export.

Domestic markets for coal in addition to those served by the Usibelli Coal Mine are limited by the current excess power generating capacity of the power networks in central and southcentral Alaska. The completion of the Bradley Lake Hydroelectric Project will exacerbate the oversupply situation.

Excess electric power supply in the Railbelt and the Kenai Peninsula areas could be diminished by the development of several large scale open-pit metal mines. A 10,000 ton per day mining and milling operation would consume 15 to 20 megawatts. Two such deposits would eliminate the current excess capacity in the Healy-Fairbanks area.

With the current mineral development in southeastern Alaska including the Greens Creek Mine, the Alaska Juneau Mine and various properties in the Berners Bay area, there could be an electric power shortage in the near future. Coal fired steam plants could provide additional generating capacity at a lower capital and operating cost than either hydroelectric or oil fired plants.

Other domestic coal markets may include:

1. Small scale power plants in support of military projects such as the Air Force's Over-the-Horizon Radar System.
2. Small scale portland cement manufacturing.

Assuming that a coal demand of 150,000 tons per year resulted from either mineral development or one of the above two other potential markets, an estimated value of in-situ coal resources can be calculated. In order to complete such a calculation the following assumptions are made:

1. The revenue to accrue to the property owner (the Trust) would be a royalty based on the value of the coal delivered.
2. The above royalty would be 6.25 percent (which is greater than the current state royalty rate but only one half the federal rate).

3. The entire production would come from the subject lands.
4. The project life is twenty years.
5. The interest rate at which the cash flow is discounted is 10 percent.
6. The price of coal is \$40 per ton (comparable to the \$45 per ton for the Over-the-Horizon Radar Project).
7. There is no differential inflation over the life of the project.

The net present value of the cash flow to the Trust would be \$3.2 million. With the large quantities of coal on adjacent state and federal lands in Alaska it is probably unrealistic to expect more than 10 percent of the model production to come from Trust lands.

Net Present Value Estimate

Using the above methodology, it is possible to calculate a range of potential values of coal production from Trust lands. It is obvious from the above calculation that unless total demand for Alaska coal would increase by an amount equivalent to the current production of 1.5 million tons from the Usibelli Coal Mine, that the net present value of coal resources to the Trust is small. There is an extremely small probability that total demand will increase to 3.0 million

tons per year and there is even a smaller probability that the increase will be produced from Mental Health Trust Lands. The maximum expected net present value contribution of coal to the Trust lands is estimated at \$3.2 million.

Part III -- Sand and Gravel (Aggregate) Resources

Previous Investigations

Reger (1988a and 1988b) described the potential for sand and gravel on the subject lands and the Replacement Lands. Also included in (Reger 1988b) are references with respect to the evaluation of sand and gravel resources on state and federal land adjacent to the subject lands. No estimates of the potential volume or tonnage of material on the subject lands were provided by either Reger (1988a and 1988b) or by the authors of the references cited.

Methodology

Sand and gravel, as other industrial mineral resources, must be appraised differently than metallic mineral resources. It is generally assumed that the production from a single metal mine will not account for a major portion of the world supply, will not affect the price level of the commodity, and the total mine production can be sold at the prevailing world market price. The same assumptions are not true for industrial minerals including sand and gravel. Industrial minerals are sold to particular markets and usually at specifications defined by and unique to the purchaser. Generally the low unit value of the industrial mineral necessitates production

near the point of sale so as to minimize the relatively high cost of transportation. Thus the markets for industrial minerals are local rather than worldwide and more restricted with respect to quality. These factors limit the in-situ value of industrial minerals to the definition of a specific market.

In the case of sand and gravel, the total potential supply in Alaska is enormous. Even though the total endowment is large, material cannot be shipped great distances to areas of high demand such as Tokyo, Japan. Within Alaska, specific areas may have periods of high demand that cannot be met with local supply. The periods of rapid development in Anchorage and Prudhoe Bay are well documented periods of major shortages of sand and gravel and high unit prices of the commodity. In the case of Anchorage, peak demand periods allowed the economic transport of sand and gravel up to 50 miles. In the case of petroleum development on the North Slope of Alaska material was hauled in excess of 100 miles. However this is a relatively rare event and predicated on environmental as well as economic considerations.

Without defining a specific market, sand and gravel at a given site has zero value. Defining markets over a twenty year period for each potential material site on the subject lands would be a futile exercise. As an alternative, an

estimate may be made of the sand and gravel market share that may be supplied by the subject lands. This market share would be dependent on policy decisions of the Trust as well as policy decisions of the other major suppliers of material such as the State of Alaska and the federal government. Since much of the subject land is near population areas where demand is usually greatest, public policy could maximize the value of the sand and gravel resources on the subject lands.

The demand for sand and gravel rose rapidly with the discovery and development of oil in Alaska. Prior to 1962 annual consumption fluctuated near 5 million tons (3.5 million cubic yards) per year. From 1963 to 1973 the annual figures approached 20 million tons (14 million cubic yards). With the construction of the Trans-Alaska Pipeline haul road and the development of Prudhoe Bay, annual consumption ranged from over 110 million tons (78 million cubic yards) in 1974 to about 20 million tons (14 million cubic yards) in 1985. Levels of consumption would have continued to decrease in 1986 and 1987 without the major mineral developments at the Red Dog and Greens Creek Mines (Bundtzen et al, 1988).

The price levels for sand and gravel in 1987 ranged from \$2.40 to \$10.50 per ton (\$3.40 to \$14.90 per cubic yards), with a weighed average price of \$3.00 per ton (\$4.25 per cubic

yard). Royalty payments to land owners probably averaged \$0.30 per ton (\$0.42 per cubic yard).

In order to calculate a fair market value for the sand and gravel on the subject lands, the following assumptions are made:

1. Annual consumption of sand and gravel over the next twenty years will be at least 20 million tons (14 million cubic yards).
2. There will be no differential inflation with respect to the commodity and the price paid to landowners in 1987 is a fair market price.
3. With no major marketing effort by the Trust (Case I), 5 percent of the production in Alaska will come from the Mental Health lands.
4. With a major marketing effort by the Trust (Case II), 50 percent of the production in Alaska will come from the subject lands.
5. There exists adequate sand and gravel resources on the Trust lands to meet the largest levels of demand.

Net Present Value Estimate

Case I. Assuming total annual statewide consumption of 20 million tons (14 million cubic yards), a royalty payment of

\$0.30 per ton (\$0.42 per cubic yard), a market share of 5 percent, and an income stream for twenty years discounted at 10 percent, the net present value of sand and gravel resources is \$2.55 million.

Case II. With the same assumptions as Case I except a 50 percent market share, the net present value of the sand and gravel resources is \$25.54 million. The most probable scenario would be a market share of 20 to 30 percent, with a net present value of about \$13 million. In any case the contribution to the total mineral resource value of the subject lands is small. The contribution however will increase with the development of metallic mineral resources. Just as demand remained relatively high during the construction of the Greens Creek and Red Log Mines, demand is expected to increase with similar other mining projects. Unless there is an order of magnitude increase in either the price or demand for sand and gravel in Alaska, the contribution of this commodity to the total of Mental Health Trust Lands will remain small.

Part IV -- Summary and Conclusions

The expected fair market value of the Alaska Mental Health Lands with respect to metallic minerals, coal, and sand and gravel is \$1,506 million, \$3.2 million, and \$13 million, respectively. Thus, the corpus of the Trust is rounded out at \$1,522 million.

The value for metallic minerals is considered a conservative estimate. The value attributable from coal and sand and gravel is highly dependent on development of markets for these commodities. The development of markets is in part a function of public policy which in turn increases the level of uncertainty in the value estimates.

As defined in state law, the fair market value of the Mental Health Trust corpus is 8 percent of the fair market rental value of the land. From the above, the fair market annual rental value of the corpus of the Trust is calculated at \$121.8 million.

FY 91 MENTAL HEALTH TRUST INCREMENTS

PROGRAM	AMHB REQUEST	DHSS REQUEST	GOV FY 91 INCREMENT	HOUSE ADD ON	TOTAL Gov+House
HEALTH & SOCIAL SERVICES					
Comm Mental Health Grants					
MH Comprehensive Services	1,500.00				
MH Anchorage Crisis Facility		793.70		700.00	700.00
MH Prevention: Fund Additional Programs	100.00	50.00			
MH Maintain Clinic Services	481.60	481.60	481.60		481.60
MH Child & Adolesc. Serv.: Unmet need	750.00				
MH Institutional Discharge/ Kids		500.00	312.50	100.00	412.50
MH Day Treatment for Youth		150.00	150.00		150.00
MH Victims of Family Violence		-400.00	-400.00		-400.00
Designated Evaluation & Treatment					
MH Short Term Hospital/Volunt Commit	350.00	100.00		100.00	100.00
SVCS to CMI					
MH Comm. Support Serv: Red Unmet Need	3,500.00				
MH Institutional Discharge/Adults		1,286.10	250.00	1,000.00	1,250.00
MH Replace Fed\$-Crossover House		206.30	206.30	-100.00	106.30
MH OBRA-Nursing Home Discharges	500.00	500.00	500.00		500.00
MH Forensics Halfway House	400.00	400.00	400.00		400.00
MH OBRA-Active Treatment	200.00	200.00	200.00		200.00
MH Admin					
MH Increase Admin Support Staff	100.00	100.00	100.00		100.00
MH Management Info System	250.00	225.00	225.00		225.00
DD OBRA DD Specialist		32.50	32.50		32.50
DD Admin/ Quality Assurance	105.00	60.00			
ALL Address Human Resource Dev Needs	200.00	200.00			
MH Planning	150.00				
				-50.00	-50.00
	80.00	80.00			
OAC Respite Care/ Alzheimers/RSA to OAC	500.00	500.00		150.00	150.00
Emphasize Small Communities					
Community DD Grants					
DD OBRA- Active Treatment	700.00	700.00	700.00		700.00
DD DD Residential Services: Unmet Need	855.00	705.00	200.00	500.00	700.00
DD DD Vocational Services: Unmet Need	750.00	700.00	500.00	200.00	700.00
DD Case Managers for DD Clients	250.00	200.00			
DD DD Respite Services	650.00	400.00	200.00	300.00	500.00
Health Grants					
DD Infant Learning	425.00	1,120.60	200.00	600.00	800.00
DD Strengthen Child Care/DD	159.00				
DD Improve Homemaker Services	150.00				
DD Data Process Clerk	22.00	21.80			
DD Statewide Database for DD	45.00	45.00			
Foster Care					
MH Treatment Services		400.00	400.00		400.00
API					
MH Nurses Reclassification	266.80	266.80	266.80		266.80
MH Strengthen Treatment at API	8.50	8.50			
AK Youth Initiative					
MH Increase Service Capacity	225.00	300.00	300.00		300.00
MH Western Region Coordinator	75.00				
SOADA					
ALC Detoxification Centers	2,000.00	1,830.00	600.00	400.00	1,000.00
ALC Long Term Treatment Beds	1,003.65	1,003.70		500.00	500.00
ALC Resident Care for Preg Women	270.00	270.00	200.00	448.20	648.20
ALC Service Level Maintenance				458.40	458.40
MH Additional EMS Patrols	640.00	200.00			
ALC Hospital Emergency & Detox	750.00	470.00			
ALC Coord for Alc & Drug Ab Advisor Bd		88.60			
AMHB					
MH Position Reclassify	20.00				
MH Study MH Research & Training Institute	25.00				
DH&SS TOTAL	18,456.55	14,195.20	6,024.70	5,306.60	11,331.30

FY 91 MENTAL HEALTH TRUST INCREMENTS

PROGRAM	AMHB REQUEST	DHSS REQUEST	GOV FY 91 INCREMENT	HOUSE ADD ON	TOTAL Gov+House
ADMINISTRATION					
Older Alaskans Commission					
OAC Day Care Services: Alzheimers	520.00	520.00	520.00		
OAC Functional & Psych Assess: Alzheim	82.50	81.00	81.00		
OAC Family Support & Community Ed	70.00	70.00	70.00		
OAC Statewide Comm Needs Assessment	50.00	50.00			
CORRECTIONS					
MH Cook Inlet Pretrial		379.00	189.00		
GRAND TOTAL	19,179.05	15,295.20	6,884.70	5,306.60	12,191.30