

**ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672**  
**7679 SENATE RESOURCES**

## SECTIONAL ANALYSIS

### CS FOR HB 143 (FINANCE) GENERAL GRANT LAND SELECTIONS

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

#### Section 1:

Deletes the limitation on the size of a general grant land entitlement for a municipality based on population. Returns to the former "10 percent of vacant, unappropriated or unreserved land".

#### Section 2:

Permits the governing body of a city to request expeditious certification of its entitlement by resolution and requires the entitlement to be certified within six months after receipt of the resolution.

#### Section 3:

Adds a cross reference to the new appeal procedure added under section 5 of the bill.

#### Section 4:

Requires the director of the division of lands to disapprove a selection only upon a finding that the public interest in retaining state ownership of the land outweighs the municipality's interest in obtaining the land. The Department of Community and Regional Affairs is required to review each selection and recommend approval or disapproval of it to the director.

#### Section 5:

Before disapproving a selection, the director is required to notify the municipality. The municipality may submit a written response and, if the selection is disapproved, file notice of an appeal. The appeal will be heard by a municipal land mediation committee and the decision of that committee may be appealed by the municipality to the superior court.

#### Section 6:

When placing restrictions on the shape of a selection consideration must be given to the burden of survey costs on

the municipality, alternatives to preserve access, and other municipal interests.

Section 7:

Requires the commissioner of natural resources to consult with Department of Community and Regional Affairs prior to adopting regulations necessary to carry out the general grant land entitlement program.

Section 8: Adds a statement of policy to the general grant land entitlement program.

Section 9:

Requires the director of lands to delay entitlements until after January 2, 1994. Entitlements which have been delayed will be certified by January 1, 1996. Requires the director to redetermine and recertify the entitlement of each municipality incorporated after June 1, 1986 in accordance with the new provisions of the bill, by January 1, 1996.

Section 10:

Makes section 1 of the bill retroactive to June 2, 1986.

Section 11:

The bill has an immediate effective date.

WALTER J. HICKEL  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

**Hickel Administration Position on CS HB 143 (Finance)**

**General Grant Land Selections for Municipalities.**

The Departments of Community and Regional Affairs, Natural Resources, and Fish and Game, support this bill, but believe some clarifying adjustments related to appeal procedures, the shape of a selection and the delay of certification may be needed. We firmly support municipal land transfers as a basis for local government self-determination. The delay in new entitlement certifications until 1994 will allow the state to freely complete its final land selection project before additional lands are transferred to local governments.

FISCAL NOTE

No. 3

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

Bill Version: Hb 143

(H) Publish Date: 3/15/91

Revision Date: 3-14-91

Department Affected: Fish and Game

Title: Municipal Land Grant Selections

BRU: Habitat

Component: Habitat

Sponsor: Representative MacLean

Requestor: \_\_\_\_\_

COMPONENT SERIAL NO. 

	4	8	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

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

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	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

Estimate of current year impact: no impact on current year

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Frank Rue, Director Phone: 465-4105

Division: Division of Habitat Date: 3/14/91

Approved by Commissioner: CARL ROSIER by [Signature] Date: 3/14/91

Agency: Department of Fish and Game

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMS, & Impacted Agency(ies).

COMMITTEE COPY

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. HB 143

Revision Date: \_\_\_\_\_ Department Affected: Community & Regional Affairs

Title: "An Act..general grant land selections...." BRU: Local Government Assistance

Component: Local Government Support

Sponsor: Rep MacLean

Requestor: \_\_\_\_\_

COMPONENT SERIAL NO. 

	6	7	5
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Remond Henderson, Director *Remond Henderson* Phone: 465-4708

Division: Administrative Services Date: 2/28/91

Approved by Commissioner: *[Signature]*

Agency: Community & Regional Affairs Date: 2/28/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

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**MEMORANDUM**

March 19, 1991

**SUBJECT:** General Grant Land Selections (HB 143)  
**TO:** Representative Eileen MacLean  
**FROM:** Tamara Brandt Cook  
Director *TBC*

You have supplied me with a document labeled "Hickel Administration Position on HB 143" which contains the suggestion that removal of the 20 acre per person cap under Section I of the bill be limited to boroughs incorporated after July 1, 1987. You have informed me that, if this were done, the Northwest Arctic Borough would not qualify for any additional general grant land. You have asked whether this suggestion comports with legislative intent expressed in Section 11, Ch. 34, SLA 1987. That section provides

The general grant land entitlement authorized for the Northwest Arctic Borough under AS 29.65.030(a), as amended in sec. 2 of this Act, is a partial entitlement for the borough. After completion of the Northwest Area Plan prepared under AS 38.04.065, the governor shall submit to the legislature recommendations for additional general grant land entitlements for the Northwest Arctic Borough consistent with the general grant land entitlement policy developed by the governor. The governor shall also submit recommendations for additional general grant land entitlements for other newly-formed municipalities consistent with the general grant land entitlement policy developed by the governor.

Clearly, the language of that section reflects an intent on the part of the legislature that additional general grant land be made available to the Northwest Arctic Borough. Since the change advocated in the position paper to HB 143 will have the effect of limiting the provision that makes additional land entitlements available so that it will not apply to the Northwest Arctic Borough, it appears that the legislative intent that the borough receive additional land will no longer be accomplished through HB 143 if this change is adopted. That intent could, of course, be accomplished through some other legislation in a different way.

Representative Eileen MacLean

March 20, 1991

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You have also asked whether the change advocated in the position paper comports with the "Municipal Grant Land Entitlement Policy" dated March 12, 1990, a copy of which you supplied me with. The policy actually consists of two parts that are relevant to this issue. First, it is stated to be policy that the basic municipal land entitlement shall not be less than 10% of the vacant, unappropriated, unreserved state land within the municipality's boundaries--an amount greater than the amount certified to the Northwest Arctic Borough under existing AS 29.65.030. However, the second part of the policy appears to modify the first by stating that a municipality be granted land in addition to that certified under AS 29.65.030(b) (presumably a reference to existing law) only upon demonstrated need for land for specific purposes. The policy contains no recommendation that the 20 acre per capita cap be removed for either new or existing municipalities. The relationship between the first part of the policy (that municipalities receive 10% of the land) and the second part (that they receive additional land only upon demonstrated need) is unclear. However, it may be that, under this policy, the governor will recommend additional land for the Northwest Arctic Borough (and, presumably others) only if the borough demonstrates the required need.

Because the position paper recommends retaining the provision removing the 20 acre per resident cap, it comports with the first prong of the "Municipal Grant Land Entitlement Policy". However, to the extent that the position paper advocates limiting application of a provision that would make additional land available without a demonstration of need, it comports with the second prong of the policy. This demonstrates the ambiguity inherent in the policy itself. Note, additionally, that nothing in the position paper will help implement the second prong of the policy - that of making some additional land available if need is demonstrated. It suggests no mechanism for that.

TBC:lmb  
91-087.lmb

A SPECIAL REPORT

**MUNICIPAL GENERAL GRANT  
LAND ENTITLEMENTS**

A State-Municipal Partnership

DEPARTMENT OF NATURAL RESOURCES  
Division of Land and Water Management

January 1990

Prepared by Dennis P. Daigger

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## INTRODUCTION

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

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

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

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

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

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

municipality receiving the land has an outstanding municipal land grant entitlement, the acreage of the conveyance is subtracted from this balance.

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

## BACKGROUND: MUNICIPAL LAND GRANTS

### Legislative History

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

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

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

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

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

This act provided:

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

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availability of state lands in the borough."

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

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

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

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

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

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

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

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

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

Features of the new law were:

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

2) "vacant, unappropriated, unreserved" (VUU) land was now statutorily defined based on a two part test: 1) the grant type

under which the state acquired the land from the federal government and 2) the state's land classification system;

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

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

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

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

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

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

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

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

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

12) A comprehensive and detailed definitions section was added.

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

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

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

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In 1985 university trust land was removed from the group of lands available to a municipality with a per capita entitlement of less than one and one-half acres. This resulted from successful litigation by the University Board of Regents against the state over management of its land trust corpus.

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

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

- 1) Expands general grant entitlements to capture all state VUU land within the municipal boundaries between September 16, 1970 and January 1, 1983;
- 2) Bases entitlements of cities and boroughs incorporated after July 1, 1978, on the maximum amount of VUU land within their boundaries between incorporation and two years thereafter;
- 3) Establishes upper limit of entitlements to newly incorporated municipalities not to exceed 20 acres per capita based on the population of the municipality on the date of incorporation;
- 4) Extends selection deadline of boroughs and unified home rule municipalities listed in AS 29.65.010 to October 1, 1990.
- 5) Invalidates all selections of school or mental health trust lands occurring after October 4, 1985 the date of the mental health land trust litigation decision;
- 6) Prohibits a municipality from trading entitlement land for federal subsurface rights or any interest in the Arctic National Wildlife Refuge;
- 7) Categorizes material and public recreation classified land as VUU;
- 8) Categorizes resource management classified land as VUU if the classification occurred on or after September 1, 1983;
- 9) Specifies that the new entitlement for the Northwest Arctic Borough is a partial entitlement. Additional entitlement for the Northwest Arctic Borough and municipalities incorporating after the Northwest Arctic Borough depends upon the governor's recommendation to the legislature, after completion of the Northwest Area Plan, for additional entitlement consistent with

his general grant land entitlement policy.

10) Reinstates the 89,850 acre entitlement to the North Slope Borough lost through litigation in 1978.

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

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

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

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

The Municipality of Anchorage received \$4,000,000 as deficiency payment under AS 29.18.208 for 4,000 acres of entitlement land and in 1985 entered into an agreement with the state to zero out

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a yet unfulfillable entitlement with 4,628 designated acres of state land within the municipal boundaries. Prior to the agreement, 20,671 acres of land had been approved or patented to the municipality. Under the settlement Anchorage can also receive up to 1,000 acres of National Forest Community Grant land at Girdwood if land is ever conveyed to the state.

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

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

#### VUU Land Definitions History

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

In 1978, the amended law adopted specific definitions for VUU land.

Following were the limitations placed on this definition:

- 1) Land must be Statehood Act section 6(a) or 6(b) land that has been patented or tentatively approved to the state and excludes the mineral estate;

- 2) Land cannot have been set aside by statute for one or more particular uses or purposes;

- 3) Land must be unclassified or if classified is classified agricultural, grazing, commercial, industrial, private recreational, residential, utility or open-to-entry.

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

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

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

#### 1978 Entitlement Status

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

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

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

Although all land selections for municipalities with entitlements from the 1978 law are in place, somewhat less than half of the

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land has been patented to them. The state cannot convey land to a municipality until the federal government has patented the land to the state. However, all 1978 municipal selections have, with few exceptions, been approved or rejected. When the state approves a selection, the municipality assumes management responsibility as if it owned the land. By statute municipalities can create third party interests on approved selections prior to patent with the approval of the director. The director generally confers broad management authority to a municipality on an approved selection unless there is an overriding public interest requiring continued involvement by the state.

**1988 Entitlement Certification Results**

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

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

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

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

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

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

The amendments to AS 29.65 in 1987 resulted in certifications of new or enhanced entitlements to nine cities of the 147 cities in existence on January 1, 1988. Kupreanof, Petersburg, Pelican, Tenakee Springs, Whittier and Wrangell each had state general grant land within their boundaries that were VUU. The previous agreements, settlements and legislation, however, resulted in the entitlements being certified at zero acres. The conveyances to Kupreanof, Petersburg and Wrangell were done under the authority of AS 38.05.810 and as provided in AS 29.65 \_\_\_\_\_ if a municipality with an entitlement is conveyed land under .810 it may be charged against the entitlement. Wrangell administratively appealed this certification because the amount of land that they received in 1978 was less than 10% of the VUU land that was available for the 1988 certification. The director reconsidered the facts and agreed with the City of Wrangell that their entitlement should be the full 10 percent of the VUU land within the city boundaries.

## BACKGROUND: TIDELAND CONVEYANCES TO MUNICIPALITIES

### Legislative History

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

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

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

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

Thus territorial tidelands constituted a federal trust early in Alaska's history and as such could not be disposed of through

Municipal General Grant Land Entitlements  
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lease or sale. Additionally, permanent improvements were not authorized to be constructed upon tide and submerged land.

The importance of improved tidelands to the vitality of the territory's economy and the health of its people is readily apparent. It was a territory whose economy, mobility and recreation were intimately tied to the sea. Log transfer facilities, seafood processors, municipal docks, private boat ways and even residences were partially or wholly constructed on tidelands with no method for individuals or businesses to acquire proper authorization for use. The need for these activities was readily recognized by the federal managers. However, the mechanism for authorizing such use was non-existent.

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

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

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

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

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

1) The corporation must have been incorporated on or before January 3, 1959;

2) Tidelands subject to conveyance lay between the mean high tide line and the pierhead line, the harbor line or in their absence, a line subject to the approval of the director;

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

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

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

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

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

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

## GENERAL GRANT LAND ENTITLEMENT DISCUSSION

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

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

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

3) 10% of the maximum total acreage of VUU land within the boundaries between date of incorporation and two years after that

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date for cities incorporated after July 1, 1978 (AS 29.65.030).

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

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

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

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

## PURPOSES FOR GENERAL GRANT LAND ENTITLEMENTS

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

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

The provisions of Alaska Native Claims Settlement Act (ANCSA) defeated state's title to selected and tentatively approved land within the vicinity of ANCSA village corporations. This results in extremely limited or totally absent state land bases in or near ANCSA cities (population centers) for a new borough to realize the first two purposes. The provisions of ANCSA 14(c)(3) do however, compensate for this shortcoming by requiring that an ANCSA village corporation convey up to 1,280 acres of land to the municipal corporation. This provision includes title to the remaining surface estate of the improved land and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable community needs.

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

## SUMMARY

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

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

The 1987 amendments to AS 29.65 created new entitlements for two cities totalling over 1,200 acres, reestablished an 89,850 acre entitlement for a borough and expanded entitlements for seven cities and one borough for over 130,000 net acres.

Over 1,000,000 acres of state land have been committed under AS 29.65 to 41 municipalities statewide for local use. The state has patented nearly 430,000 acres of uplands to 48 municipalities since statehood and 25,000 acres of tidelands to 28 cities.

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

MUNICIPAL ENTITLEMENT CERTIFICATION SUMMARY

City	1978 Entitlement	Other Entitlement	1988 Entitlement	New Acres Under Ch34, SLA 1987
Anderson	0.0	0.0	1,182.0	1,182.0
Bethel	40.0	0.0	0.0	
Cordova	235.0	0.0	0.0	
Delta Junction	400.0	0.0	481.8	81.8
Dillingham	1.0	0.0	0.0	
Fairbanks	15.0	0.0	0.0	
Homer	16.0	0.0	0.0	
Hoonah	15.0	0.0	0.0	
Houston	405.0	0.0	0.0	
Kensi	307.0	0.0	0.0	
Ketchikan	0.5	0.0	4.0	3.5
Kodiak	32.0	0.0	0.0	
Kupreanof	0.0	180.8	0.0	
North Pole	0.5	0.0	0.0	
Ouzinkie	240.0	0.0	0.0	
Pelican	0.0	8.9	0.0	
Petersburg	0.0	461.3	0.0	
Port Alexander	0.0	0.0	53.0	53.0
Port Lions	35.0	0.0	0.0	
Seward	562.0	0.0	565.0	3.0
Skagway	500.0	0.0	7,977.0	7,477.0
Soldotna	14.0	0.0	0.0	
Tenakee Springs	0.0	2,958.0	0.0	
Thorne Bay	0.0	612.0	675.0	63.0
Valdez	4,805.0	0.0	7,593.0	2,788.0
Whittier	0.0	600.0	0.0	
Wrangell	0.0	310.0	551.0	241.0
Yakutat	104.0	0.0	0.0	
<b>TOTALS</b>	<b>7,727.0</b>	<b>5,131.0</b>	<b>19,081.8</b>	<b>11,892.3</b>

TABLE 1

CONVEYANCE SUMMARY: UNIFIED HOME RULE MUNICIPALITIES AND BOROUGHS

CONVEYANCES BY AUTHORITY

City or Borough	Incorp	.347	AS 07	AS 29	.810	.320 Legislative	Other
<i>Aleutians East Borough</i>	Oct-87						
<i>Bristol Bay Borough</i>	Oct-82			2,672.7			
<i>City &amp; Borough of Juneau</i>	Jul-70			3,622.6	11.1	832.9	
<i>City &amp; Borough of Sitka</i>	Dec-71	1.8		1,390.3	6,064.6	194.5	0.6
<i>Fairbanks North Star Borough</i>	Jan-64			83,964.9	44.9		
<i>Haines Bcrough</i>	Jul-68			1,082.8			
<i>Kenai Peninsula Borough</i>	Jan-64			79,206.0	181.9		117.9
<i>Ketchikan Gateway Borough</i>	Sep-63			4,033.3			
<i>Kodiak Island Borough</i>	Sep-63			11,654.0	14.3		
<i>Lake &amp; Peninsula Borough</i>	Apr-89						
<i>Matanuska-Susitna Borough</i>	Jan-64		40.3	201,623.4	400.3		79.3
<i>Municipality of Anchorage</i>	Sep-75	391.1		12,883.7	5,897.1	1,328.5	1,256.4
<i>North Slope Borough</i>	Jul-72						
<i>Northwest Arctic Borough</i>	Jun-86						
<b>TOTALS</b>		<b>392.9</b>	<b>40.3</b>	<b>402,133.6</b>	<b>12,614.1</b>	<b>2,375.9</b>	<b>0.0 1,453.3</b>

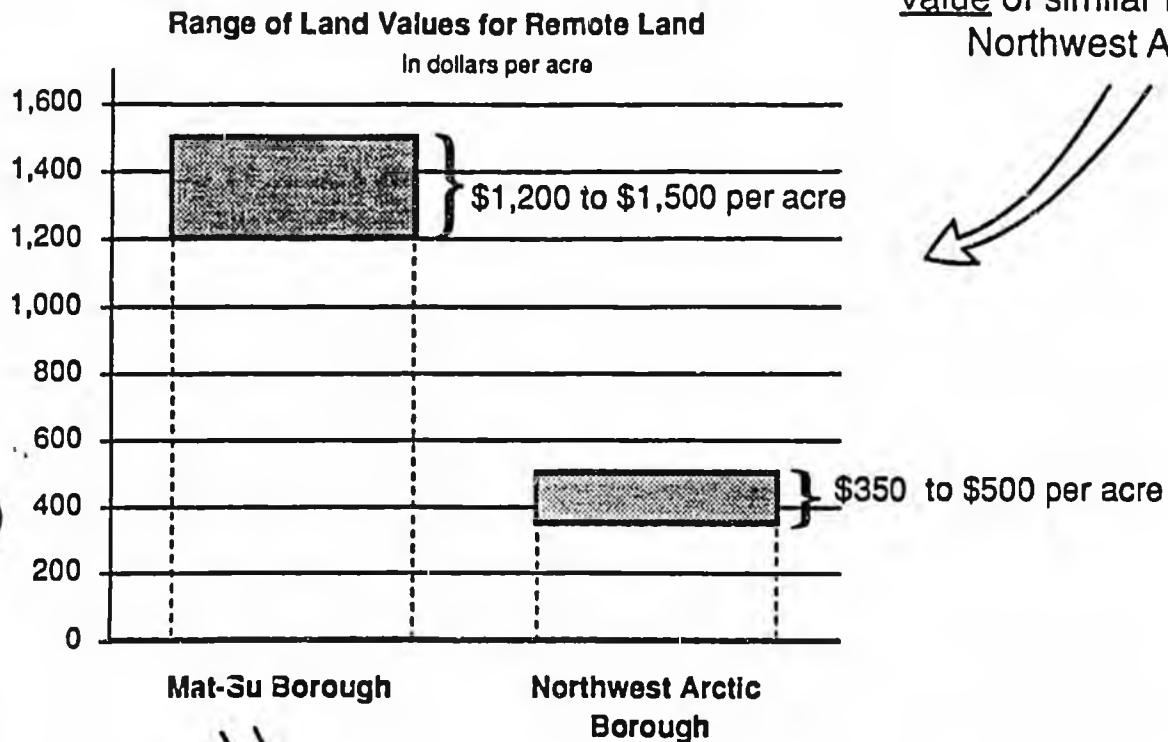
CONVEYANCE SUMMARY: CITIES

CONVEYANCES BY AUTHORITY

City or Borough	Incorp	.347	AS 07	AS 29	.810	.320	Legislative	Other
Aniak	May-72				24.6			
Barrow	Jan-59					870.0		
Bethel	Jan-67	82.1		5.0	317.0			42.4
Cordova	Jan-09			0.5		321.7		
Craig	Jan-22				18.2	73.0		
Delta Junction	Dec-60			340.3	40.0			
Dillingham	Jan-63				10.7			
Fairbanks	Jan-03			0.5	90.1			
Fort Yukon	Feb-59							0.3
Haines	Jan-10			20.0		100.1		
Homer	Jan-64					6,831.1		292.8
Hoonah	Jun-46	105.5				201.4		
Houston	Jan-66			418.8				
Hydeburg	Oct-27					175.0		
Kake	Nov-52					218.3		1.4
Kasaan	Feb-76				0.4			
Kenai	May-60	3,594.7		356.3	175.0	2,752.1		1.9
Ketchikan	Jan-00				1.2	100.7		
King Cove	Jan-47					178.1		
Klawock	Jan-29					272.5		
Kodiak	Jan-40	281.0		1.2	15.4	219.0		
Kotzebue	Mar-73					392.8		
Kupreanof	Aug-75			180.8				
McGrath	Jun-75				13.5			7.7
Nenana	Jan-21							35.0
Nome	Jan-01					5,717.0		42.1
North Pole	Jan-53				19.7			
Palmer	Jan-61				3.5			
Pelican	Jan-43				4.9	60.1	8.0	
Petersburg	Jan-10			231.1	314.7	448.5		12.4
Sand Point	Oct-68				2.2			
Saxman	Sep-29					53.6		
Seldovia	May-45				21.6	118.0		
Seward	Jan-12			483.1	40.1	1,677.3		
Shungnak	Mar-78				0.6			
Stagway	Jan-00			122.1		193.5		
Soldotna	Jan-67			111.8	381.8			66.3
Tenakee Springs	Oct-71					30.2		204.8
Thome Bay	Aug-62			246.2				
Unalakleet	Jan-42							0.3
Valdez	Jan-01			4,420.2		1,398.0		34.8
Wasilla	Jan-74				129.8			
Wrangell	Jan-03			18.8	238.7	148.8		
Yakutat	Jun-48			123.0	31.2	248.3		
<b>TOTALS</b>		<b>4,053.3</b>	<b>0.0</b>	<b>7,092.1</b>	<b>1,970.3</b>	<b>22,848.4</b>	<b>8.9</b>	<b>744.9</b>

TABLE 3

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



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

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

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

*Lake and Peninsula Borough*

*P. O. Box 495*

*King Salmon, Alaska 99618*

*(907) 246-3421*

*Fax: (907) 246-6602*

May 3, 1991

The Honorable Richard Eliason  
Senate President  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Re: General Grant Land Selections/HB 143

Dear Senator Eliason:

Early in the session, Representative MacLean introduced HB 143 which added wildlife habitat to vacant, unappropriated, unreserved (VUU) lands. New municipalities are entitled to ten percent of VUU lands within their boundaries. Also, the twenty acre per capita restriction was removed in the original version of HB 143. However, in CS for HB 143, habitat lands were removed from VUU. Enclosed is a land status map of the Lake and Peninsula Borough. Please note that the amount of acreage to which we will be entitled (in very dark blue) under current law is so small it is hardly worth the time, money and effort to pursue selection and conveyance.

The removal of the 20 acre per capita cap will benefit new municipalities with small populations such as ours (1,844) if wildlife habitat is included in VUU lands. With the bill as it stands right now, Lake and Peninsula Borough will be entitled to receive approximately 15,000 acres. Some of those acres are undesirable, e.g., mountain tops and swamp lands. Consequently, we would select considerably less than the acres to which we are entitled. Removing the 20 acre cap and adding wildlife habitat lands to the VUU category would entitle this borough to approximately 115,000 acres, much more appropriate for a borough which covers some 25,000 square miles.

Senator Eliason  
May 3, 1991  
Page two

Added in the committee substitute for HB 143 was a provision to extend the time during which eligible land may be certified by DNR and selected by municipalities. This is helpful since the land grant program has not been funded in DNR's budget for several years so little or no agency technical assistance will be available to us. The extension of time to select may also allow for additional lands to be included which have not yet been conveyed by the federal government to the state.

The Hickel administration supports municipalities selecting some non-VUU lands if it can be demonstrated that such conveyances would be in the public interest. A process would be developed to address this and, as it would no doubt be complicated and cumbersome, would place an unrealistic and unreasonable burden on municipalities since those lands would not be certified by DNR as eligible--we would have to justify being given ineligible (non-VUU) lands. Further, the administration states the Governor will present a policy on municipal land selection to the first session of each Legislature. Such a policy invites inconsistency and might discourage unorganized areas from incorporating.

The Lake and Peninsula Borough would appreciate your support in adding wildlife habitat areas to VUU lands, extending the time in which municipalities may make land selections, and keeping the twenty acre per capita cap out of the formula.

If you should have questions or if there is additional information I can provide, please do not hesitate to contact me. Thank you very much for your time and consideration.

Sincerely,



Chow Taylor  
Borough Manager

Enclosure as stated



231 W EVERGREEN AVE.  
PALMER, ALASKA 99645

# CITY OF PALMER



Phone (907) 745-3271

A HOME RULE CITY

April 4, 1991

The Honorable Cliff Davidson  
Representative  
State of Alaska  
Box V  
Juneau, Alaska 99811

RE: HB 143

Dear Representative Davidson,

On April 2, 1991, the House Resources Committee held hearings on HB 143 regarding Land Entitlements which impacted the new boroughs. An amendment was being discussed which could benefit the Northwest Arctic Borough with additional land under a revised formula.

During the testimony which I gave, the City of Palmer is one of those few communities which did not receive a land entitlement and not having any state land within its corporate boundaries has no chance of receiving an entitlement.

Back in 1986, the City of Anderson had the entitlement procedure changed so they could acquire their entitlement in land which was situated outside their corporate limits.

With declining revenues both on the State and local front, a land entitlement allocation to the City of Palmer of property outside the corporate limits could help to stave off increasing taxes through diversification.

After my testimony on April 2, 1991, I did not have enough time to stay for the outcome of HB 143 due to other commitments. Is there is a possibility of amending HB 143 before it passes out of your committee which would allow municipalities that have not received an entitlement, such as the City of Palmer to select land outside their corporate boundaries; or making an appropriation which would allow us to use these funds only to acquire vacant private land which

The Honorable Cliff Davidson - April 4, 1991  
Page 2

may be adjacent to the City for economic development.

I would appreciate your consideration of this matter which is an inequity for some municipalities.

Should you have any questions, please feel free to contact me.

Yours truly,

---

David L. Sculak  
City Manager  
City of Palmer

DLS/cac

cc: Mayor Carte'  
Representative Ron Larson  
Representative Patrick Carney  
Senator Curt Menard  
Senator Jalmar Kerttula  
Scott Burgess, AML



RECEIVED

Office of the City Manager  
April 2, 1991

Representative Cliff Davidson, Chairman  
House Resources Committee  
House of Representatives  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Davidson:

On March 27th David Dengel of my staff testified before your committee via teleconference. I would like to reiterate what Mr. Dengel stated concerning the City of Valdez's position regarding House Bill 143. The City of Valdez supports the passage of House Bill 143.

Section 4 of the bill as proposed will amend the Alaska Statute to require the Director of the Division of Land & Water Management for the Department of Natural Resources to approve or disapprove each selection for patent within nine months of selection by a municipality. The City of Valdez supports this change, in that it is important to all municipalities that lands be transferred from the state to local government as rapidly as possible. To this end the City of Valdez would like to recommend that the legislature make the transfer of these lands to municipalities a priority for the Department of Natural Resources.

According to the Department of Natural Resources it has been some time since land has been transferred to Municipalities through the Municipal Entitlement Land Program. This is due primarily to budget constraints according to the department.

The City of Valdez also supports Section 6 of the bill which would prohibit the Commissioner from placing restrictions on the shape of a parcel of land that may be selected by a municipality. This is important in that a number of instances, the existing regulation that requires the width and depth of a parcel not exceed a 4 to 1 ratio makes it impossible for lands to be selected, surveyed and transferred in an economical fashion.

The City of Valdez wholeheartedly endorses the policy that is set forth in Section 8 which states that it is the policy of the state to provide for expeditious transfer and patent of land to a municipality. To accomplish this policy the Department of Natural Resources needs sufficient funding and direction from the

Representative Davidson  
April 2, 1991  
Page 2

legislature to fulfill this policy.

Finally, the City of Valdez would like to see that Section 9 of the bill is further amended to provide for allowing all State land within a municipality to be eligible for selection by that municipality unless it has been set aside by statute for one or more particular uses or purposes.

If you should have any questions concerning the City of Valdez's position on this bill, I would ask that you contact Dave Dengel, Director of Community Development. Mr. Dengel will be more than willing to discuss this bill with you or members of your staff.

Sincerely,

  
Doug Griffin  
City Manager

cc: Senator Jalmar Kertulla  
Senator Curt Menard  
Representative Gene Kubina  
Deputy Commissioner Marty Rutherford,  
Department of Community and Regional Affairs  
David Dengel, Director of Community Development



March 26, 1991

## POSITION PAPER

### HB 143 - Relating to general grant land selections

The Alaska Municipal League supports HB 143, relating to general grant land selections, in concept. Quoting from the AML 1991 Policy Statement:

State Policies: The League supports state policies that encourage rather than discourage the formation of new municipalities. (Page 50)

Conveyance and Land Use: d. The League urges a cooperative intergovernmental effort to expedite conveyances of lands not yet jointly agreed upon by considering municipal, state, and federal interests in lands affected by the land selection process. (Page 31)

Land Entitlements: The League calls upon the Governor and the Alaska Department of Natural Resources to take appropriate action to correct the inequities and overcome any and all remaining obstacles to fulfilling land entitlements for all municipalities. (Page 33)

With declining state assistance to municipalities and increased responsibilities, there are increasing disincentives for areas of the state to incorporate. To the degree HB 143 increases the amount of state land available to municipalities to produce revenues through sales or leases and an expanded tax base and to aid in community expansion, the AML supports the legislation as an incentive to incorporation.

The AML supports increasing land entitlements to encourage municipalities to incorporate and to assist newly-formed municipalities produce revenues and provide for community development (Section 1). The population cap is arbitrary and has no relation to a municipality's need for land or land value. If the state is concerned about the amount or type of land to be conveyed in a given area, i.e. resource management, then perhaps some other mechanism or protection is needed to deal with specific cases.



RECEIVED

APR 02 1991

COMMISSIONER'S OFFICE  
COMMUNITY & REGIONAL AFFAIRS

Office of the City Manager  
April 2, 1991

Representative Cliff Davidson, Chairman  
House Resources Committee  
House of Representatives  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Davidson:

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According to the Department of Natural Resources it has been some time since land has been transferred to Municipalities through the Municipal Entitlement Land Program. This is due primarily to budget cuts according to the department.

The City of Valdez also supports Section 6 of the bill which would prohibit the Commissioner from placing restrictions on the shape of a parcel of land that may be selected by a municipality. This is important in that a number of instances, the existing regulation that requires the width and depth of a parcel not exceed a 4 to 1 ratio makes it impossible for lands to be selected, surveyed and transferred in an economical fashion.

The City of Valdez wholeheartedly endorses the policy that is set forth in Section 8 which states that it is the policy of the state to provide for expeditious transfer and patent of land to a municipality. To accomplish this policy the Department of Natural Resources needs sufficient funding and direction from the

Representative Davidson  
April 2, 1991  
Page 2

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Finally, the City of Valdez would like to see that Section 9 of the bill is further amended to provide for allowing all State land within a municipality to be eligible for selection by that municipality unless it has been set aside by statute for one or more particular uses or purposes.

If you should have any questions concerning the City of Valdez's position on this bill, I would ask that you contact Dave Dengel, Director of Community Development. Mr. Dengel will be more than willing to discuss this bill with you or members of your staff.

Sincerely,

  
Doug Griffin  
City Manager

cc: Senator Jalmar Kertulla  
Senator Curt Menard  
Representative Gene Kubina  
Deputy Commissioner Mary Rutherford,  
Department of Community and Regional Affairs  
David Dengel, Director of Community Development

**TESTIMONY OF DAVID S. CASE  
ON BEHALF OF THE NORTHWEST ARCTIC BOROUGH**

**HOUSE RESOURCES COMMITTEE HEARING  
ON HB 143**

**MARCH 27, 1991**

THE HONORABLE GEORGIANNA LINCOLN, VICE CHAIR  
HOUSE RESOURCES COMMITTEE

Madam Chair and Members of the House Resources Committee, I appreciate the opportunity to be asked to testify before this committee on House Bill 143.

INTRODUCTION

My name is David Case, I am an attorney for the Northwest Arctic Borough, but in my practice I represent Native corporations and governments throughout rural Alaska. I travel widely and often throughout Alaska, and have negotiated, written books and articles and taught courses involving federal and state land and resource allocation issues in Alaska. HB 143 is a much needed remedy to a long festering municipal land allocation problem in rural Alaska.

POPULATION CAP

The most glaring inequity in the current law is the 20-acre per capita cap on municipal entitlements imposed under AS 29.65.030(a). Section 1 of HB 143 would repeal this cap. The cap was imposed in 1987 and replaced the prior municipal entitlement standard of 10% of state selected, vacant, unappropriated and unreserved ("VUU") land. At the time, the 20 acre cap may have seemed reasonable for the Mat-Su Borough, because on a per capita basis, it was the highest entitlement given

any municipality up to that time. However, it should be noted that had the Mat-Su Borough been restricted to its 20 acre cap based on its population on the date of its incorporation (as is the case under current law) their entitlement would have been no more than 216,880 acres, instead of the 355,210 acre entitlement they received under the 1987 amendments, many years after that borough was incorporated. Not only is the population cap wholly arbitrary, it was arbitrarily applied even to the Mat-Su Borough. In any event, any per capita limitation on land entitlement unfairly discriminates against rural boroughs.

In the first place, the 20 acre cap was not imposed until after all of the urban boroughs had been formed. The effect of this coincidence is that all of the urban boroughs received a land entitlement based on (or equivalent to) the original 10% factor. The more recently formed rural boroughs are limited to the 20 acre, per capita requirement. The discrepancy is even more glaring, because the rural boroughs are often fairly large in area, but relatively small in population. Among other things, a low population means a relatively narrow tax base. Under these circumstances, borough lands offer one of the prime possibilities for revenue production through sales or leases. If anything, rural boroughs with small populations and narrow tax bases ought to be entitled to more land than urban boroughs. The current statutes have just the opposite effect.

The discrimination is also apparent when it comes to land valuation. The lands in urban areas with larger populations are almost certain to be more valuable in economic terms than the lands in rural areas with smaller populations. With this in mind, the legislature ought to do everything possible to increase the entitlements of rural boroughs in order to maximize their potential for economic independence. Moreover, urban legislators ought to support such a philosophy, because in the long run, economic independence in rural Alaska may mean less reliance on state subsidies for rural programs and service delivery. HB 143 will further that goal by putting more land into the hands of rural boroughs to their ultimate economic benefit.

### THE CONSTITUTION

Alaska prides itself on the local government structure imbedded in Article X of the our constitution. In January, 1990, the Department of Natural Resources said in its "MUNICIPAL GENERAL GRANT LAND ENTITLEMENTS" Report that Sections 1 and 3 of Article X "unselfishly define" the relationship between state and local government. The report goes on to say that the state general grant lands to local governments were intended to provide: (1) a means of creating or expanding the tax base, (2) a means to generate revenue through land sales and leases, and (3) a land base for community expansion and other public purposes.

When it comes to the rural boroughs, the current law does exactly the opposite. It can hardly be characterized as "unselfish" when it drastically and discriminatorily reduces the land entitlements of rural boroughs. In the case of the Northwest Arctic Borough, the difference between a 20 acre per capita limit and a 10% limit is about 150,000 acres. If the state is truly intent on maximizing local self-government and encouraging local production of revenue to support local government, then the state general grant lands program should be structured so that it maximizes those goals.

#### ADMINISTRATION POLICY

In its recently announced "MUNICIPAL GRANT LAND ENTITLEMENT POLICY" of March 12, 1991, the Hickel administration supports a municipal land entitlement of not less than 10% of the VUU state land within a municipality's boundaries. The policy goes on to say that a municipality may acquire more land than its certified entitlement for various purposes specified in the policy. While this is an improvement over the previous administration's policy which only restrictively permitted a municipality to exceed the 20 acre per capita requirement, it will not extend the 10% limit to previously incorporated boroughs whose municipal entitlement has already been certified. As far as we can tell, this limitation extends only to the Northwest Arctic Borough. We can see no reason for such obviously inequitable treatment.

In its opposition to HB 143, the administration says (without explanation) that they do not "believe the cap should be retroactively removed." Madam Chair, whatever may be said about the per capita cap, either it is good policy for all municipalities or it is good policy for no municipality. It simply can't be that it is bad policy for all municipalities except one, especially when that municipality did not have any say in the formation of the policy in the first place. Neither the governor nor the Department of Resources ("DNR") have given any explanation for this perhaps unintentional inequity. Without any sound explanation, it should not be enacted into law. Were such a law to be applied to individuals, it would be held unconstitutional. While municipalities may not have all the constitutional rights of individuals, we do not think they should be treated as though they have no rights at all. Now that the administration is on record as supporting the 10% entitlement, it should apply to all municipalities equally and not arbitrarily exclude some. Indeed, that was the promise of the 1987 legislation as well.

#### 1987 "PARTIAL" ENTITLEMENT

In 1987, the legislature enacted the previous amendments to the general grant land entitlement statute. HB 143 would now further amend those entitlements. In doing so, we think HB 143 would also redeem the promise of the 1987 legislation that:

The general grant land entitlement authorized for the Northwest Arctic Borough . . . is a partial entitlement for the borough. After completion of the Northwest Area Plan . . . the governor shall submit to the legislature recommendations for additional general grant land entitlements for the Northwest Arctic Borough consistent with the general grant land entitlement policy developed by the governor. (Emphasis added).

Sec. 11, Ch. 34 SLA 1987.

We think it is fair to say that the governor's March 12, 1991 policy for general grant land entitlements clearly embraces the idea that "the basic municipal land entitlement shall not be less than 10% of the vacant, unappropriated, unreserved state land within the municipality's boundaries." To be consistent with that policy, and consistent with the previous 1987 enactment, the legislature now ought to implement the full 10% entitlement for the Northwest Arctic Borough.

### SELECTION ADJUDICATION AND POLICY

Sections 2 through 8 of HB 143 would enable cities to request an expedited certification of their entitlement (Section 2) and give them an additional 90 days to select additional land after a final decision on an appeal under subsection (d). Section 4 would involve the Department of Community and Regional Affairs ("DCRA") in DNR's selection adjudication decision and would impose a requirement that before disapproving a municipal land selection that the director should determine that the "public interest in retaining state ownership of the land outweighs the municipality's interest in obtaining the land." Section 5 would impose more equitable appeal procedures than are now in place for resolving municipal land selection disputes through a mediation committee, which might also reduce the threat of protracted litigation. Section 6 would prohibit any limitation on restrictions of shapes of parcels that may be selected by a municipality. (We are not sure that there should be no limitation on parcel shape, but we think the current four to one width to length ratio is arbitrary and not well suited to municipal land selections. We understand the four to

one ratio was derived from a similar ratio imposed upon mining claims, but that is all the more reason to think it is not a good standard for other forms of land selections.) Section 7 would require DNR to consult with DCRA in the formulation of regulations to implement the land selection statute. (We think the involvement of DCRA in municipal land selection matters is a beneficial and appropriate change that will tend to maximize the possibility of realizing the constitutional goals of maximum local self-government.) We also welcome the succinct statement of municipal land selection policies as described in Section 8 of HB 143.

#### WILDLIFE HABITAT CLASSIFICATION

We are aware that the redefinition of VUU land in Section 9 to include "wildlife habitat other than critical wildlife habitat" is a controversial portion of this bill. However, we think the concern DNR has expressed about this provision is overdrawn and can be properly addressed in the adjudication provisions specified in Sections 4 and 5 of the bill. Under proposed AS 29.65.050(c), the director will have substantial discretion to determine whether or not retaining wildlife habitat land is in the "public interest" such that it outweighed the municipality's interest in obtaining the land. The review and mediation opportunities under proposed AS 29.065.050(d) would enable all parties to fully consider whether retaining wildlife habitat in state ownership was truly in the public interest.

DNR is also already on record as acknowledging that:

[The land] classifications [in the Northwest Arctic area] are broad and have not taken into account future transfer of land to municipalities. Much land is classified in categories not available for transfer, such as Wildlife Habitat Land and Mineral Land. However, settlement of municipal entitlement is a high priority of the department and current classifications will not preclude considering of parcels of land for reclassification and transfer to a municipality. (Emphasis added.)

Northwest Area Plan 4-5 (February, 1989).

Rather than reclassifying land (and amending the Northwest Area Plan), it would be far more direct to rely on the new adjudication procedures to determine whether conveying Wildlife Habitat Land would be in the "best interest" of the state. Rather than put the burden on newly formed boroughs to enter into lengthy land reclassification debates with DNR, it would be better to put the burden on DNR to determine the best interest of the state in the first place. If the borough disagrees with that determination as to wildlife habitat (or any other lands) then it would be appropriate for the borough to invoke the mediation and appeal procedures specified in HB 143. This offers a much more efficient procedure and in the long run will be less costly to municipalities with relatively limited resources. Virtually all of the lands selected by the state within the borough have moderate to high wildlife and fisheries values, so "Wildlife Habitat" might be expected to be a predominant land classification within the borough. See descriptions of Selection Regions 3, 4, 5 and 6 in DNR's publication, "PROMISED LAND," a History of Alaska's Selection of its Congressional Land Grants" at pages 82-88.

## RECERTIFICATION

Finally, the borough is concerned that the language in Section 10 of HB 143 may have the unintended effect of depriving the borough of the opportunity to recertify its land entitlement under the provisions of the proposed legislation. It is clear (from the terms of Section 11 of the bill) that the bill is intended to be retroactive "to" June 2, 1986. However, as presently drafted, recertification is only available to a municipality incorporated "after" June 2, 1986. Since the Northwest Arctic Borough was incorporated "on" June 2, 1986 the word "after" might have the unintended effect of depriving the borough of recertification. We suggest that the date simply be changed so that the language allows recertification for all municipalities incorporated "after June 1, 1986."

## CONCLUSION

Thank you Madam Chair for the opportunity to testify before your committee. On behalf of the borough, I can say that we certainly look forward to your positive consideration of this legislation as a matter of equity, sound planning and to fulfil the promise of the Alaska constitution to all its municipalities and the promise of the 1987 Alaska Legislature to the Northwest Arctic Borough in particular. I would be happy to try to answer any questions or respond to any comments members of the committee may have.

# ALEUTIANS EAST BOROUGH

SERVING THE COMMUNITIES OF

■ KING COVE ■ SAND POINT ■ AKUTAN ■ COLD BAY ■ FALSE PASS ■ NELSON LAGOON

February 22, 1991

Representative Eileen MacLean  
P.O. Box V  
Juneau, Ak 99811

Re: HB 143

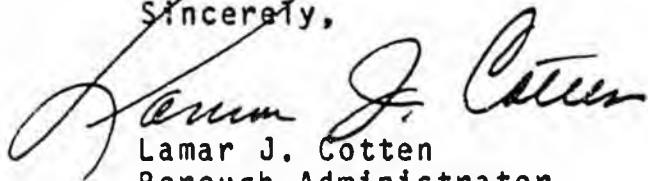
Dear Representative MacLean:

The Aleutians East Borough was formed in 1987. In the existing municipal land entitlement program, it is eligible to receive approximately 7,000 + acres. The program allows for possibly up to 40,000 acres based on the 20 acre per person category requirement. The Borough, because of land classification restrictions, obviously will receive considerably less.

In light of the land entitlements by those who incorporated in the '60's, the AEB is concerned about being treated fairly and equitably under this program. This is compounded by the fact that the State of Alaska settled a dispute with the University of Alaska and an important element of that settlement was the conveyance of some of the little State-owned property in any settlement within the Borough. Additionally, most lands that are available to the Borough, are not of comparable value to that of say the Mat-Su or Kenai Peninsula Borough under their municipal entitlement program. The Borough therefore views the changes as proposed in the HB 143 as a positive step in the right direction to assist not only this Borough with its land entitlement programs but also serve as needed changes which will serve as incentive for other areas to seriously consider a borough organization in the future.

The AEB therefore supports the concept of HB 143 and recommends its passage.

Sincerely,



Lamar J. Cotten  
Borough Administrator

LJC:emn

LAKE AND PENINSULA BOROUGH  
P.O. Box 495  
King Salmon, Alaska 99613

MEMORANDUM

To: ~~Rena~~  
From: Chow Taylor, Borough Manager  
Date: February 22, 1991  
Re: HB 143

The Lake and Peninsula Borough supports HB 143. By including wildlife habitat other than critical wildlife habitat in the definition of VUU lands the amount of lands selectable by this borough would be significantly increased.

In the Lake and Peninsula Borough, although DNR has not yet certified VUU lands, we believe we will be entitled to select only around 8,000-9,000 acres. If habitat lands were added, since there is a large amount of habitat land in the north end of the borough, we would be entitled to much more. I do believe, under this scenario you are right in removing the 20 acres per person cap.

In the event wildlife habitat is not added to the VUU definition, I would suggest language be added to increase the percentage of VUU lands a borough may select to at least seventy percent. In a borough which covers over 25,000 square miles, the amount of land available to us under current law is unreasonably small.

We also support the addition of Community and Regional Affairs as the first agency to review selections. That agency works extensively and closely with municipalities statewide and therefore has a better perspective as to what is reasonable and what is not. We also agree DCRA should be consulted as regulations are developed.

Thank you for the opportunity to comment.

SECOND SESSION OF THE ELEVENTH ANNUAL  
NORTH AND NORTHWEST ALASKA MAYORS' CONFERENCE  
KOTZEBUE, ALASKA  
MARCH 19-20, 1991

RESOLUTION NO. 91-41

A RESOLUTION REQUESTING OF THE NORTH AND NORTHWEST ALASKA MAYORS'  
CONFERENCE URGING THE 1991 LEGISLATURE TO PASS HOUSE BILL NO. 143 "AN  
ACT RELATING TO GENERAL GRANT LAND SELECTION".

WHEREAS, the delegates to the Alaska Constitutional Convention thought-  
fully remembered territorial governance, conferred autonomy, and provided  
for maximum self-government in the creation of municipalities with broad  
powers in Article X of the Alaska State Constitution, and

WHEREAS, by offering incentives to encourage municipal incorporations, the  
State of Alaska advances and promotes the goal of maximum local self-  
government contained in Article X, and

WHEREAS, since Alaska's first municipal land entitlement was created in  
1962, one of the incentives has been the ability to select and receive  
state general grant lands within the boundaries of the local government to  
assist in providing... a means of creating or expanding a tax base, a  
means to generate revenues through land sales or leases, a land base  
for community expansions, and a land base for other public purposes, and

WHEREAS, the 1963 Mandatory Borough Act provided a formula for the amount  
of state land grant entitlements: (that) "an organized borough may select  
10 percent of the vacant, unappropriated and unreserved state lands  
located within its boundaries within five years after the date of  
availability of state lands in the borough", and

WHEREAS, the Mandatory Borough Act required the municipalities to play a role in determining municipal land selections. However, over the years, all of the requirements have been taken out of statutes and all of the responsibilities have been given to the Department of Natural Resources with little or no oversight, and

WHEREAS, this has resulted in disputes and numerous legislative solutions for many municipal entitlement claims, not once for some municipalities, but several times, and

WHEREAS, in the advent of amending the municipal entitlement statutes, AS 29.65.030, in 1987 (Chapter 34 SLA 1987), a 20 acre per capita restriction altered the original municipal entitlement formula, and

WHEREAS, the purpose of HB 143 is to amend Alaska Statutes relating to general grant land section to: restore equity in the municipal entitlement process; to return the emphasis of the program to its original intent of developing independent and strong local governments; and to temper the Department of Natural Resource's broad discretion in determining the processes and procedures for awarding general grant land to municipalities.

NOW THEREFORE BE IT RESOLVED BY THE NORTH AND NORTHWEST ALASKA MAYORS' CONFERENCE THAT: that the North & Northwest Alaska Mayors Conference urges the Alaska State Legislature to pass House Bill 143, in its entirety, as introduced into the first session of the seventeenth legislature, 1991.

PASSED AND APPROVED BY THE SECOND SESSION OF THE ELEVENTH ANNUAL NORTH AND NORTHWEST ALASKA MAYORS' CONFERENCE this 20th day of March, 1991.

Robert Botsford

PRESIDENT

Willie Hootman - VP

SECRETARY

INTRODUCED: Kotzebue

VOTE: YES: Unanimous

SECONDED BY: Shishmaref

NO: \_\_\_\_\_

PLEASE SPECIFY TO WHOM DIRECTED TO (EVEN LISTS) AND ADDRESSES:

Governor Walter J. Hickel

The Honorable Ben Grussendorf  
Speaker of the House of Repre-  
sentatives

AK State Legislature

The Honorable Dick Eliason  
President of the Senate

Edgar Blatchford, Commissioner  
Dept. of Community & Regional  
Affairs

Harold Heinze, Commissioner  
Dept. of Natural Resources

DENALI BOROUGH, ALASKA

RESOLUTION NO. 91-06

A RESOLUTION REGARDING THE BOROUGH'S  
SUPPORT OF HOUSE BILL 143.

WHEREAS, the Denali Borough was incorporated on December 7, 1990 as a Home Rule Borough, with mandatory land use planning powers and responsibilities; and

WHEREAS, the Department of Natural Resources' (DNR) 1985 Tanana Basin Area Plan, which imposes classifications on all state land within its scope, predates the organization of the last four boroughs including the Denali Borough, and represents a departmental, regulatory impediment to local land selections and ownership; and

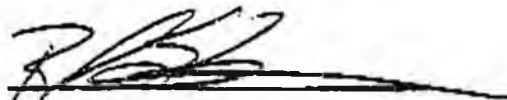
WHEREAS, the Denali Borough Assembly has certain expectations of the state with respect to their timely and ultimate performance of land entitlement conveyances; and

WHEREAS, the Denali Borough Assembly believes that existing State law effectively discriminates against boroughs organized from the unorganized borough after 1985, particularly regarding transfer of state land to newly organized boroughs.

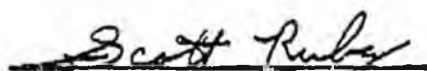
NOW THEREFORE BE IT RESOLVED by the Denali Borough Assembly that the assembly supports House Bill 143 in its entirety, and emphasizes more particularly Sections 10 and 11 concerning retroactivity to 1986, Section 1 concerning removal of the 20 acre cap and Section 9(c) concerning inclusion of wildlife habitat under VUU lands; and

BE IT FURTHER RESOLVED that the Denali Borough Assembly urges the legislature to completely and adequately fund DNR's municipal land entitlement program and staff, to enable DNR to fulfill its obligations in this respect.

PASSED and APPROVED by the DENALI BOROUGH ASSEMBLY this 24th day of March, 1991.

  
Mayor

ATTEST:

  
acting Borough Clerk

APR 08 1991

April 3, 1991

Representative Maclean;

I am following HB 143 with a reaffirmed belief that legislators in this state are working for the people. I wholeheartedly support the bill.

Much of rural Alaska offers little in the way of year-round employment, causing many rural residents to reluctantly relocate in or closer to urban centers. This reluctance fuels a desire to develop local resources that provide opportunities for local residents.

As a former elected official and current member of the Denali Borough Land and Planning Committee, I can attest to the frustration of the residents of the Denali Borough. The newly formed Denali Borough will soon be selecting land from municipal entitlement lands. It is the responsibility of the Denali Borough to acquire the maximum amount of land for self-determination in the public interest.

The classification of state land within Denali Borough boundaries severely inhibit the selection of appropriate development land. The Department of Natural Resources has historically classified land with a "broad brush" approach to management. This type of *non-management* reflects a "lock-up" mentality.

"...Classifications are based on the best information available at the scale appropriate to the planning effort, generally 1:250,000. *These classifications are broad and have not considered if the lands should be available for transfer to municipalities in the future...*"(Tanana Basin Area Plan, Nov.1990, p.4-20).  
[emphasis added.]

The Tanana Basin Area Plan is developed by the Department of Natural Resources in cooperation with other state and municipal agencies. It designates the uses that will occur on state lands within the Tanana Basin. If there is a question about how land should be classified, DNR has historically placed it in a category that makes it inaccessible until such time as a need to reconsider is *proven* to DNR's satisfaction. The expense incurred in developing a justification for DNR is cost inhibitive to most rural communities.

I have read with great concern and deep regret the Hickle Administration Position on HB 143. The Hickle/Coghill platform presented the appearance of supporting economic growth and development in the great State of Alaska. Yet, it is apparent that the Department of Natural Resources is writing the Hickle Administration Position.

As stated by David Case in his testimony to the House Resources Committee on HB 143, "I think HB 143 is a much-needed remedy to a long, festering municipal land allocation problem in rural Alaska." I agree with Mr. Case. The problems vary from region to region and are complex and unique to rural Alaska.

Control of the land and resources is one of the reasons that communities organize. Rural communities are at the mercy of state agencies. They continually turn to legislators to correct problems created by discriminatory legislation and powerful departments of state. The passage of this bill would be a step in the right direction.

*J.W. Mueller*  
Respectfully,  
G.W. (Jerry) Mueller  
P.O. Box 40046  
Clear, Alaska 99704

TESTIMONY OF RICK WEIBEL BEFORE THE HOUSE RESOURCES COMMITTEE  
MARCH 28, 1991

Greeting Madame Chair, and members of the Resources Committee.  
Thank you for this opportunity to speak.

My name is Rick Weibel and I serve the Denali Borough as an Assembly member and as chairman of the Land Use Planning Committee. Upon the Committee's recommendation, the assembly has recently passed Resolution 91-06 supporting HB 143, and calling on the legislature to support the municipal entitlement process. This resolution was passed unanimously last Sunday, and copies should be arriving in Juneau soon.

Generally, the assembly finds that all provisions contained in HB 143 appear to be in the best interests of the Denali Borough. For a rural borough to survive on its own, a broad resource base is required. Local ownership of land is an absolute necessity for any municipality to remain viable in the future, and when the State says "less is better" about its budget, the newly formed Boroughs say "more is better" about municipal entitlements. If we are to assume local responsibility as the State demands, we must be given adequate authority and basic resources.

Therefore the Denali Borough supports the equal treatment of the four most recently formed boroughs as would be afforded by HB 143. We support the concept of an entitlement formula for its fairness and as an incentive for further local government organization. We are in favor of Section 10, regarding recertification of entitlements.

In lieu of any oversight on the Department of Natural Resources, we support the concept of a consultative review process for land selections involving the Dept. of Community and Regional Affairs. The DNR's institutional resistance to land transfers is no secret; however, transfer of State land is an "established goal," and interagency coordination will further serve the public interest through the representative process. We reject the notion that additional land selections must be justified exclusively to the DNR, and we strongly favor the implementation of Sections 4 and 5.

The Denali Borough Assembly further supports the inclusion of lands classified as wildlife habitat in the VUU land pool. The Assembly recognizes the DNR's need to give some classification to all State land in its Arsa Plans, but we feel that this change will not prevent DNR from performing its basic obligations regarding critical wildlife habitat. This provision will have a massive, positive impact on the Denali Borough.

Finally, let me say again that HB 143 serves the best interest of the Denali Borough as well as those of the other three most recently formed Boroughs, and this in turn serves the

# MEMORANDUM

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Date: March 28, 1991

TO: Marty Rutherford

FROM: Gordon Lewis

RE: HB 143

General philosophy as to state ownership and management of land within municipalities is the real issue. State ownership makes sense only where there is a mandate to retain ownership for a statewide public purpose. State ownership should be the rule rather than the exception inside municipalities. Every municipality should have the opportunity to own and manage as much land within its boundaries as it can handle. The state should identify areas such as historic sites, wildlife refuges, parks and natural resource. The state still retains the mineral and oil and gas rights to all the land it transfers. Revenues from these rights are where the state makes its money. Revenue from surface leases, permits and even material sales do not provide a significant cash flow. The state constitution establishes a strong role for local governments. The freedom to act without interference from the next higher level of government is an idea born out of the Alaska struggle to attain statehood and control over its resources. The issue is the same for the relationship between the state and the municipalities. The key question is whether a decision on land use in a municipality should be made in Juneau, Fairbanks or Anchorage, or at the local level. The more land the municipalities have the better they will be able to guide and pay for their own future.

The 4:1 ratio is a poor decision. It scatters parcels of state land and separates ownership of blocks of land. The state would be better off identifying specific site it really needs to retain, rather than relying on some haphazard pattern based on a geometry driven by another entities desires. Remember that for every linear mile two 66 foot wide section line easements are out there for access to state lands across other ownerships. Where the easement is not useable the state has the ability to buy, lease, trade or condemn land to get access. This nasty little checkerboard pattern of land ownership that results from the 4:1 ratio requirement exists in the western states. The states of Arizona, Utah and Washington are peppered with the checkerboard pattern as a result of land grants to the railroads. They spend lots of public money trying to consolidate these holdings to achieve effective management. Please don't let future Alaskans become victims of a poor decision made today.

In summary I support HB 143. I also encourage you to consider delete the 10% VUU limit and delete sub (c) of 29.55.030 (a) the definition of VUU.

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In summary I support HB 143. I also encourage you to consider delete the 10% WUU limit and delete sub (c) of 29.55.030 (a) the definition of WUU.

**THE FOLLOWING DOCUMENT  
HAS NOT BEEN FILMED  
BUT IS AVAILABLE IN THE  
ORIGINAL FILE**

# Lake and Peninsula Borough

Land Status Map

March 1991



*Lake and Peninsula Borough*

*P. O. Box 495*

*King Salmon, Alaska 99618*

*(907) 246-8421*

*Fax: (907) 246-6602*

May 3, 1991

The Honorable Lloyd Jones, Chair  
Resources Committee  
Alaska State Senate  
P.O. Box V  
Juneau, Alaska 99811

Re: General Grant Land Selections, HB 143

Dear Senator Jones:

Early in the session, Representative MacLean introduced HB 143 which added wildlife habitat to vacant, unappropriated, unreserved (VUU) lands. New municipalities are entitled to ten percent of VUU lands within their boundaries. Also, the twenty acre per capita restriction was removed in the original version of HB 143. However, in CS for HB 143, habitat lands were removed from VUU. Enclosed is a land status map of the Lake and Peninsula Borough. Please note that the amount of acreage to which we will be entitled (in very dark blue) under current law is so small it is hardly worth the time, money and effort to pursue selection and conveyance.

The removal of the 20 acre per capita cap will benefit new municipalities with small populations such as ours (1,844) if wildlife habitat is included in VUU lands. With the bill as it stands right now, Lake and Peninsula Borough will be entitled to receive approximately 15,000 acres. Some of those acres are undesirable, e.g., mountain tops and swamp lands. Consequently, we would select considerably less than the acres to which we are entitled. Removing the 20 acre cap and adding wildlife habitat lands to the VUU category would entitle this borough to approximately 115,000 acres, much more appropriate for a borough which covers some 25,000 square miles.

Senator Jones  
May 3, 1991  
Page two

Added in the committee substitute for HB 143 was a provision to extend the time during which eligible land may be certified by DNR and selected by municipalities. This is helpful since the land grant program has not been funded in DNR's budget for several years so little or no agency technical assistance will be available to us. The extension of time to select may also allow for additional lands to be included which have not yet been conveyed by the federal government to the state.

The Hickel administration supports municipalities selecting some non-VUU lands if it can be demonstrated that such conveyances would be in the public interest. A process would be developed to address this and, as it would no doubt be complicated and cumbersome, would place an unrealistic and unreasonable burden on municipalities since those lands would not be certified by DNR as eligible--we would have to justify being given ineligible (non-VUU) lands. Further, the administration states the Governor will present a policy on municipal land selection to the first session of each Legislature. Such a policy invites inconsistency and might discourage unorganized areas from incorporating.

The Lake and Peninsula Borough would appreciate your support in adding wildlife habitat areas to VUU lands, extending the time in which municipalities may make land selections, and keeping the twenty acre per capita cap out of the formula.

If you should have questions or if there is additional information I can provide, please do not hesitate to contact me. Thank you very much for your time and consideration.

Sincerely,



Chow Taylor  
Borough Manager

Enclosure as stated

HB

176

STATE COMMITTEE REPO. I

DATE: 4/8/92

FURTHER: Finance

DATE TURNED INTO OFFICE: \_\_\_\_\_

Resources Committee considered CS HB 176 (RESOURCES) am

Special appropriation to the Department of Natural Resources for refunds to certain veterans who purchased state land and for reimbursement to the University of Alaska for the veterans' land discount applied to land transferred to the University of Alaska; efd.

*may do*

and recommends:

replace with \_\_\_\_\_ CS \_\_\_\_\_ ( )

or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( )

attaches amendment(s)

same title  
 new title  
 technical title change (HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

*APP NO FA*

**NEW FISCAL NOTES:** Dept/Date

zero fiscal notes \_\_\_\_\_

\_\_\_\_\_

fiscal notes \_\_\_\_\_

\_\_\_\_\_

appropriation--no fiscal note

**PREVIOUS FISCAL NOTES:** Dept/Date

zero fiscal notes \_\_\_\_\_

\_\_\_\_\_

fiscal notes \_\_\_\_\_

\_\_\_\_\_

**DO PASS:**

*Rich Haggard*  
*[Signature]*  
*[Signature]*  
*[Signature]*  
*[Signature]*

**OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Chair: Signature and Recommendation

*[Signature]*

# Alaska State Legislature

## House of Representatives

Rep. Ivan, Chair  
Rep. Davidson  
Rep. Foster  
Rep. Gonzales  
Rep. Gruenberg  
Rep. M.W. Miller  
Rep. Parnell



State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4527

### Special Committee on Military & Veterans Affairs

#### SUMMARY - CSHB 176 (RES)

House Bill 176 is the companion appropriation bill to legislation passed last session (House Bill 134) which allowed veterans, who purchased state land between March 31, 1983, and July 6, 1984, to claim a land discount. The bill was signed by the Governor and enacted as Chapter 82, SLA 91. (Accompanying this summary is an analysis of House Bill 134.)

The Department of Natural Resources has provided an up to date accounting of discounts applied for and approved. Some of the approved discounts were for more than the amount owed, thus the reason and the need for this appropriation bill.

**DIVISION OF LEGAL SERVICES**

**LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

240 Main Street, Suite 500  
Juneau, Alaska 99801-2101

MEMORANDUM

April 3, 1992

**SUBJECT:** Reimbursement for veterans' land discount applied to land transferred to the University of Alaska (CSHB 176 (Resources))

**TO:** Representative Ivan Ivan  
ATTN: Tom Wright

**FROM:** George Utermohle *GU*  
Legislative Counsel

You have asked whether the state is obligated to reimburse the University of Alaska for the value of veterans' land discounts applied to land transferred to the university.

The answer is yes.

Under sec. 3(d), ch. 82, SLA 1991, the University of Alaska is required to grant a veterans' land discount credit to qualified veterans for the purchase of land transferred to the university. The commissioner of natural resources is then obligated under this same provision to reimburse the university for all credits granted by the university. Thus the state is obligated under ch. 82, SLA 1991 to reimburse the University of Alaska for the value of veterans' land discount credits applied to land transferred to the university.

The obligation to reimburse the University of Alaska under the terms of ch. 82, SLA 1991 is in addition to any obligation to reimburse the university for the losses incurred as the result of the veterans' land discount program that may arise under the terms of the agreement that transferred the land from the Department of Natural Resources to the University of Alaska.

If I may be of further assistance, please advise.

GU:pl  
92-241.plm

# Alaska State Legislature

## House of Representatives



Rep. Ivan, Chair  
Rep. Davidson  
Rep. Foster  
Rep. Gonzales  
Rep. Gruenberg  
Rep. M.W. Miller  
Rep. Parnell

State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4527

### Special Committee on Military & Veterans Affairs

#### M E M O R A N D U M

TO: Senator Lloyd Jones, Chair  
Senate Resources Committee

FROM: Representative Ivan M. Ivan, Chair *IM*  
House Special Committee on Military and  
Veterans Affairs

DATE: April 9, 1992

RE: House Bill 176

Please consider this request to hear CSHB 176 (Res) AM at your earliest convenience. House Bill 176 is the companion appropriation bill for legislation enacted last session (HB 134, Chapter 82, SLA 91).

Attached to this memorandum is a letter from Harold Heinz, commissioner of the Department of Natural Resources, which provides further information on House Bill 176 and why the appropriation for the veterans land discount is required.

If you have any questions or need further information on this legislation, please do not hesitate to contact me or Tom Wright of my staff.

IMI:tw

# STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

## DEPARTMENT OF NATURAL RESOURCES

400 WILLOUGHBY AVENUE  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 465-2400  
FACSIMILE: (907) 586-2754

April 2, 1992

OFFICE OF THE COMMISSIONER

The Honorable Ivan Ivan, Chair  
House Military and Veterans Affairs Committee  
State Capitol  
Juneau, AK 99811-1182

Dear Representative Ivan:

As you know, HB 134, enacted in 1991 (Chapter 82, SLA 1991) allowed eligible veterans who were not permitted to claim a veteran's land discount between April 1, 1983 and July 6, 1984 to retroactively claim that discount. Veterans purchasing state land had been denied the discount during the period between the court's invalidation of the old discount law and the enactment of a new discount law.

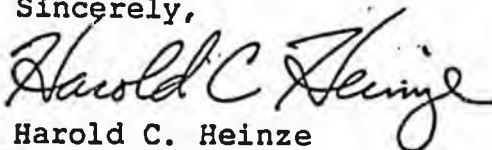
Since the enactment of HB 134, the department has followed the provisions of the new law and credited veteran's discounts against the remaining amounts owed on state land contracts. However, in cases where the land contract is paid off we are required to issue a refund to the veteran for the discount amount. We are also required to reimburse the University of Alaska for discounts credited to land contracts that were transferred to the University as part of a settlement agreement. Reimbursing the University for land discounts given to veterans ensures that it receives the full payoff value of contracts it received from the state.

HB 176 is the appropriation bill that would reimburse the University of Alaska for veteran's discounts and would allow refund checks to be issued to veterans who have paid off their state land contracts. The enclosed chart lists all those who applied for a discount under the new law, whether they met the requirements of the law and were approved for a discount, the amount of the approved discount, and the amount of any refund they are entitled to receive. It also shows which discounts were applied to University owned land contracts for which the University must be reimbursed.

As of March 3, 1992, a total of \$73,204.82 is needed for refunds to veterans and reimbursement to the University of Alaska. Of this amount, \$23,279.82 is owed to veterans (7 are due refunds); and \$49,925.00 is owed to the University.

I hope this information is helpful.

Sincerely,



Harold C. Heinze  
Commissioner

cc: Paul Fuhs, Legislative Liaison, Office of the Governor

MEMORANDUM

State of Alaska

DNR - Division of Land

TO: Ron Swanson  
Director

DATE: April 1, 1992

FILE NO:

THRU:

TELEPHONE NO: 262-2244 (overcharge)

SUBJECT: Status Report  
Retroactive Veteran's  
Discount Pursuant to  
Chapter 82, SLA 1991

FROM: Robert A. Baker <sup>RA3</sup>  
Natural Resource Manager

The following is a status report on the retroactive veteran's land discounts received to date and how monies have been applied to those accounts approved.

Approved	31
Denied	6
Pending	1
Total Apln. Received	38

Financial Status:

Total amount approved (non-University)	\$ 71,217.51
Total amount approved (University)	\$ 49,925.00
Total amount approved	\$121,142.51
Total excess credit (refund due)	\$ 23,279.82
Total University reimbursement	\$ 49,925.00
Total funds needed as of 3/3/92	\$ 73,204.82

If additional data is required to support legislative appropriation to fund University reimbursement and excess credit to title holders, please let us know.

A spreadsheet is attached which details how monies were applied to individual accounts.

cc: Sharon Barton, DNR, Division of Management  
Marty Epstein, University of AK, Office of Statewide Land Mgmt

CHAPTER 32 SLA 1991

ACCT #	NAME	DATE RECD	STATUS	APPROVAL DATE	CREDIT APPLIED TO ACCT	EXCESS CREDIT (REFUND)	TOTAL DISCOUNT AMOUNT	UNIV
215600	Stafford, Bruce	11-Jul-91	Approved	30-Sep-91			8000.00	U * -8000.00
215631	Jaranson, Bernard	18-Jul-91	Approved	24-Jul-91	0.00	5050.00	5050.00	
215514	Vail, Mark A.	29-Jul-91	Approved	25-Aug-91			2575.00	
215538	Allison, Danny R.	02-Aug-91	Approved	22-Aug-91	730.00	0.00	730.00	
215536	Brown, Delon A.	07-Aug-91	Approved	22-Aug-91	0.00	803.00	803.00	
215739	Musgrove, John W.	07-Aug-91	Approved	22-Aug-91	0.00	3160.99	3160.99	
215533	Malene, David J.	20-Aug-91	Approved	30-Sep-91	0.00	6125.00	6125.00	U
103734	Gross, Harvey B.	21-Aug-91	Approved	22-Aug-91	4141.40	0.00	4141.40	
216556	Sisson, Glen S.	28-Aug-91	Approved	30-Sep-91			6625.00	U * -6625.00
410017	Wlcox, Theodore C.	04-Sep-91	Approved	16-Sep-91	1711.23	0.00	1711.23	
103670	Lewis, James F.	15-Oct-91	Approved	13-Nov-91	3276.79	0.00	3276.79	
204463	Richardson, William	01-Oct-91	Approved	8-Nov-91	840.72	0.00	840.72	
410330	Waver, Clay J.	06-Sep-91	Denied	26-Sep-91				
410332	Keltner, Tom R.	06-Sep-91	Denied	26-Sep-91				
216574	Unsderfer, Hayden A.	09-Sep-91	Approved	16-Sep-91	1702.50	0.00	1702.50	
100569	Carpenter, George R.	11-Sep-91	Approved	20-Sep-91	7034.05	0.00	7034.05	
216625	Umlauf, Paul	12-Sep-91	Approved	30-Sep-91			5750.00	U * 5750.00
100582	Nordmark, William D.	23-Sep-91	Approved	25-Sep-91	7227.61	0.00	7227.61	
100894	Lockhart, Greg	27-Sep-91	Denied	3-Oct-91				
100891	Bellentine, George	30-Sep-91	Approved	25-Nov-91	2336.24	0.00	2336.24	
206761	Christie, Chris	09-Oct-91	Approved	11-Oct-91	2025.00	0.00	2025.00	
216589	Hartley, Robert G.	08-Oct-91	Approved	8-Nov-91			6750.00	U * 6750.00
410333	Cool, Jack G.	10-Oct-91	Denied	15-Oct-91				
100543	Novy, Michael E.	10-Oct-91	Approved	24-Oct-91	1354.88	0.00	1354.88	
100565	W:Farland, James	21-Oct-91	Approved	13-Nov-91	0.00	6534.57	6534.57	
408086	Ambuehl, Fred	24-Oct-91	Approved	3-Dec-91	523.46	0.00	523.46	
216630	W:Judy, Wayne	01-Nov-91	Approved	22-Nov-91			5750.00	U * 5750.00
220912	Javis, Gordon	04-Nov-91	Denied	2-Nov-91				
100584	Cotman, Brian G.	21-Nov-91	Approved	22-Nov-91	7045.91	0.00	7045.91	
216642	Okuley, Marcus	12-Dec-91	Approved	19-Dec-91			10050.00	U * 10050.00
409826	Robinson, Benjamin P.	02-Jan-92	Approved	11-Mar-92		545.88	545.88	U
406419	Holland, Bernard G.	09-Jan-92	Approved	23-Jan-92	948.75	0.00	948.75	
216501	Schwochert, John E.	17-Jan-92	Approved	6-Mar-92			7000.00	U * 7000.00
103710	Schweizer, Jeffrey L.	22-Jan-92	Approved	29-Jan-92	744.86	0.00	744.86	
103874	Franks, Dennis W.	05-Feb-92	Denied	25-Feb-92				
213726	Soderstrom, Gary	13-Feb-92	Approved	2-Mar-92	0.00	1060.38	1060.38	
103706	Stokes, Richard L.	07-Feb-92	Approved	25-Feb-92	3719.29	0.00	3719.29	
103547	Hillis, Donald G.	31-Mar-92	Pending					
					45362.69	* (23279.82)	121142.51	* 49925.00
						TOTAL		TOTAL
						REFUNDS TO VETS		REFUNDMENT TO THE UNIVERSITY

JUN 1991 OFFICE OF THE COMPTROLLER GENERAL OF THE UNIVERSITY OF MICHIGAN

# Alaska State Legislature

## House of Representatives

Rep. Ivan, Chair  
Rep. Davidson  
Rep. Foster  
Rep. Gruenberg  
Rep. M.W. Miller



P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4527

### Special Committee on Military & Veterans Affairs

#### CS for HB 134 (Res) MAIN POINTS

- \* Allows veterans who have purchased state land between March 31, 1983, and July 6, 1984, to claim a veteran's land discount.
- \* A discount may only be used once, so if a veteran purchased land between those dates and purchased land at a later time and used the veteran's discount on the later purchased, the discount for the first purchase may not be used.
- \* Veteran's discounts were discontinued on April 1, 1983, due to a directive by the Commissioner of Natural Resources (based on a Supreme Court decision which struck down discounts based on residency). The Legislature established a new veteran's land discount on July 6, 1984. Veterans who purchased land before or after those dates were entitled to a discount while those who purchased land between those dates were not.
- \* Approximately 850 parcels were sold during the window period between April 1, 1983, and July 6, 1984. It is estimated that 35% of those parcels were sold to veterans.
- \* For those eligible for a discount, credits equal to the amount of the discount will be applied to each account. For those veterans who have a zero balance or if the balance would be less than zero after applying the discount, a cash payment would be made. This cash payment would equal the amount of the discount or the amount owed the veteran on the existing account after the balance is zeroed out.
- \* The discount under this bill is applicable for one year after enactment of this bill. Veterans must contact DNR to determine eligibility. DNR will publish in their own newsletters and in veterans publications, the availability of the discount.

HB

200

DATE: 4/26/91

FURTHER: Finance

DATE TURNED INTO OFFICE: 518-91

Resources Committee considered HOUSE BILL NO. 200

"An Act relating to the addition of land to the Anchorage Coastal Wildlife Refuge."

and recommended:

and a majority of the committee recommends do pass

[ ] replace with \_\_\_\_\_ CS \_\_\_\_\_  
[ ] or adopt \_\_\_\_\_ CS \_\_\_\_\_

[ ] same title  
[ ] new title  
[ ] technical title change (HB only)

[ ] attached amendment(s)  
[x] House letter of intent adopted

[x] do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] further referral to \_\_\_\_\_

*advis House letter*  
*FER*

ATTACHES NEW FISCAL NOTE(S):

APPROVES PREVIOUS:

[ ] fiscal note(s) Dept/Date: \_\_\_\_\_  
\_\_\_\_\_

[ ] fiscal note(s) Dept/Date: \_\_\_\_\_  
\_\_\_\_\_

[ ] zero fiscal note(s) \_\_\_\_\_  
\_\_\_\_\_

[ ] zero fiscal note(s) *Frg 3.3 4/17/91*

[ ] appropriation-no fiscal note

[ ] Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

*Jan Goto*  
*[Signature]*  
*[Signature]*  
*[Signature]*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*[Signature]*  
Chair: Signature and Recommendation

Post-It<sup>®</sup> brand fax transmittal memo 7671 # of pages **7**

To <b>Hel</b>	From <b>Judi</b>
Co. <b>Rep. Bains</b>	Co. <b>Paula Eagle</b>
Dept.	Phone #
Fax # <b>465-2278</b>	Fax # <b>272-1991</b>

**Southcentral Alaska Refuge Acreages**  
 Legislatively Designated  
 Excludes parks, forests,

	acres		
<b>Refuges:</b>			
Palmer Hay Flats---	26048	24746	95%
Potter Point (Anchorage Coastal Refuge)---	32476	29595	91%
Susitna Flats---	300800	255680	85%
Trading Bay---	160960	128768	80%
Kalgin Island---	3520	2464	70%
Fox River Flats---	7104	6394	
Kachemak Bay---	222080	20000	
Goose Bay---	10880	8100	
subtotal	763868	475,747	62%
<b>Critical Habitat Areas:</b>			
Willow Mountain---	22720	2272	
Clam Gulch---	2360	500	
Redoubt Bay---	183640	159136	
subtotal	208920	161,768	77%
total	972788	637,515	65%

\* Approximate total acreage in Southcentral Alaska is 19 million acres.

\* this represents approximately 3% of the State.

\* approximately 50% of population resides in this area (280000)

FISCAL NOTE

No. 2  
 Bill Version: HB 200  
 (H) Publish Date: 4/17/91

STATE OF ALASKA  
 1991 LEGISLATIVE SESSION

Revision Date: 4-15-91 Department Affected: Fish & Game  
 Title: Anchorage Coastal Wildlife BRU: Habitat  
Refuge Component: Habitat  
 Sponsor: Gruenberg  
 Requestor: HOUSE FINANCE COMMITTEE COMPONENT SERIAL NO. 

--	--	--	--

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL						
CONTRACTUAL	2.7	19.	1.7	1.7	1.7	1.7
SUPPLIES	.6	.	.6	.6	.6	.6
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>3.3</b>	<b>20.</b>	<b>2.3</b>	<b>2.3</b>	<b>2.3</b>	<b>2.3</b>

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	3.3	20.5	2.3	2.3	2.3	2.3
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>3.3</b>	<b>20.5</b>	<b>2.3</b>	<b>2.3</b>	<b>2.3</b>	<b>2.3</b>

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Representative Mike Navarre, Co-Chair Representative Eileen MacLean, Co-Chair Phone: 465-3706  
465-3722  
 Division: HOUSE FINANCE COMMITTEE Date: 4-15-91

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
 Agency: \_\_\_\_\_

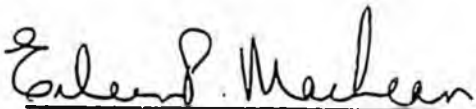
Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

# HOUSE Finance

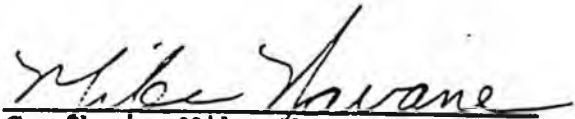
LETTER OF INTENT

HOUSE BILL 200

It is not the intent of the Legislature that passage of HB 200 creates an implied commitment of State funds for acquisition of remaining privately owned parcels in the Business Park Wetlands.



Co-Chair Eileen MacLean  
House Finance Committee



Co-Chair Mike Navarre  
House Finance Committee

Adopted by the House 4/24/91

FISCAL NOTE CONTINUATION  
 HB 200  
 PAGE 2 OF 2

	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
100	0	0	0	0	0	0
200	0	0	0	0	0	0
300						
ENV AUDIT (SOIL & WATER SAMPLING)	1.0	16.2	0	0	0	0
SURVEY	0	2.0	0	0	0	0
VEHICLE MAINTENANCE	1.2	1.2	1.2	1.2	1.2	1.2
TRASH COLLECTION	.5	.5	.5	.5	.5	.5
TOTAL	2.7	19.9	1.7	1.7	1.7	1.7
400						
FENCE MAINTENANCE	.6	.6	.6	.6	.6	.6
	<u>3.3</u>	<u>20.5</u>	<u>2.3</u>	<u>2.3</u>	<u>2.3</u>	<u>2.3</u>

COMMITTEE COPY

# Municipality of Anchorage

Post-It™ brand fax transmittal memo 7871 # of pages 3

To: <i>Hel</i>	From: <i>Judy</i>
Co: <i>Rep Barnes</i>	Co: <i>Paula Escley</i>
Dept:	Phone #
Fax # <i>465-2278</i>	Fax # <i>272-1991</i>

OFFICE OF THE MAYOR

April 2, 1991

The Honorable Ramona Barnes  
Alaska State Legislature  
Box V  
Juneau AK 99811

Dear Ramona:

The enclosed letter from Mayor Fink to Rep. Jim Zawacki expresses his concern with House Bill 200 which would add the "Business Park" wetlands recently acquired by the Municipality to the Anchorage Coastal Wildlife Refuge.

Three other parcels are mentioned in the bill with the intent that they be added to the refuge as acquisition funds became available. Total land involved is approximately 35 acres, 30 of which are privately owned.

Fish and Game's budget projections for FY92-96 total about \$900,000 for managing just the five acres recently acquired and placed into preservation status. This figure excludes acquisition costs of the remaining parcels, pond construction, revegetation and parking.

These parcels have declined in assessed value as indicated on municipal records, but are still quite valuable parcels in midtown Anchorage that should appreciate in future years:

Parcel	Owner	\$ 1989	\$ 1990	Acres
A	G. Moore	333,200	303,200	8.65
B	H. Brechet	396,200	373,300	18.40
C	Bus.Pk.Fund	490,700	468,800	2.42
D	Mun.of Anch.	201,200	188,800	5.34

To remove these parcels from the local tax base at 1990 assessed values would not significantly impact our budget (\$22,678 the first year). However, the Municipality must consider the lost "opportunity costs" from not allowing these parcels to be developed and taxed at much higher rates.

The legislature has already designated significant acreage in Southcentral Alaska to wildlife habitat (972,788 acres, of which 637,655 acres--or 65%--are wetlands). Therefore it is questionable if the use of state revenues for acquisition of this additional wetland acreage can be justified.

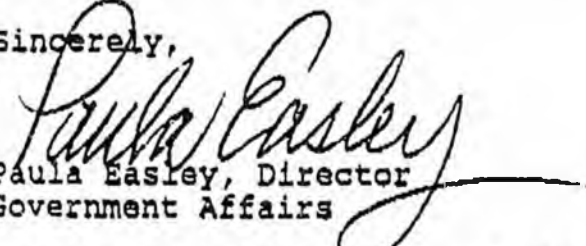
Designation of the above parcels as R-3 and I-1 was carefully addressed in the city's long-range comprehensive plan. In full recognition of the value of those particular wetlands, it was determined that the highest and best use for land in that area was for in-fill development.

As long as these properties remain on the market, the Municipality has no objection to their being privately purchased for wildlife habitat. There is, however, sound reason to oppose the area's inclusion into the Anchorage Coastal Wildlife Refuge.

For one, the area is far from the existing refuge. And second, giving the area a protected status (preservation) makes it extremely difficult to obtain adjacent-area development approvals for fear of adversely impacting the special area.

This proposal should also be subject to a thorough economic impact analysis and looked at in relation to the Anchorage Wetlands Management Plan, the Comprehensive Plan and other municipal planning guidelines.

Sincerely,



Paula Easley, Director  
Government Affairs

Enclosure - Southcentral Alaska Refuge Acreages  
Mayor Fink's March 29 letter to Rep. Zawacki

cc: Anchorage Delegation

# Municipality of Anchorage



OFFICE OF THE MAYOR

P.O. BOX 196650  
ANCHORAGE, ALASKA 99519-6650  
(907) 343-4431

TOM FINK,  
MAYOR

March 29, 1991

Representative Jim Zawacki  
P.O. Box V  
Juneau, Alaska 99811

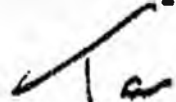
Dear Representative ~~Zawacki~~: 

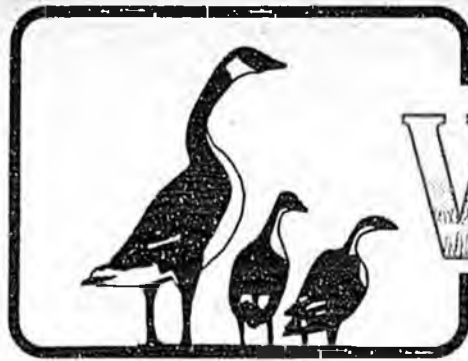
You have inquired as to my opinion and position on House Bill 200, a bill placing the "Business Park Wetland" into the Anchorage Coastal Wildlife Refuge. In short, I oppose passage of the bill.

The area proposed for inclusion in the Anchorage Coastal Wildlife Refuge is primarily private property. I am concerned that passage of HB 200 could be considered a "taking" of the private property. There is no indication in the bill that the Legislature intends to acquire the property.

If it is the intent of the Legislature to acquire this property, then the acquisition should occur prior to inclusion of the property in the Anchorage Coastal Wildlife Refuge. Personally, I do not favor the acquisition of this property. The remaining private property in the Business Park Wetlands should be allowed to develop as envisioned by its owners. In addition, the Municipality has many more critical needs for which the money could be used. Further, the inclusion of the Business Park Wetlands in the Anchorage Coastal Wildlife Refuge seems incongruent, since there is no evidence the Business Park Wetlands has a tangible relationship to the Coastal Wildlife Refuge. The site is obviously quite remote from the Coastal Wildlife Refuge.

Sincerely,

  
Tom Fink  
Mayor



# Business Park Wetlands Coalition

The Business Park Wetlands is a 28-acre open space area in Anchorage's highly-developed south midtown. Though located in close proximity to several major thoroughfares, it provides a quiet and surprisingly remote oasis for eating lunch, viewing the abundant waterbird population, or just watching the change of seasons. On many a nice day, area residents or workers can be found walking, jogging, or sitting along the wetlands' perimeter. Greater Anchorage area residents also use the area, especially for viewing wildlife.

## THE BUSINESS PARK WETLANDS: AN IMPORTANT NEIGHBORHOOD RESOURCE

### What is unusual about the Business Park Wetlands?

It is extremely high in wildlife activity for its relatively small size. In late spring 1989, upwards of 20 pairs of Canada Geese nested in the Business Park Wetlands. The large number of nests is three to four times higher per unit area than other comparable Anchorage Wetlands. In early spring, it is common to see more than 100 ducks and geese at a time on the meltwater ponds. The area is also home to one of four significant Mew Gull colonies remaining in the Anchorage Bowl, as well as many Mallards, Northern Shovelers, American Wigeons, Plovers, Dowitchers, and other birds. Over thirty avian species have been observed in the wetlands during the summer months. Although it is not a developed or even designated park area, the Business Park Wetlands provides an important and well-used open space for neighborhood residents and those working in the adjacent business and industrial areas. Greater Anchorage area residents bring their families to observe the geese and young goslings. On every summer day, many people walk or drive to the west end of West 48th Avenue to eat lunch. Others jog or fitness walk past the wetlands, using the convenient one-mile loop of adjacent public roads. This makes for an interesting outing, as it may involve dodging the harassment of concerned mother gulls and other protective birds.



Photo: Elise Huggins

## Anchorage Residents and Area Workers Protect the Business Park Wetlands



Photo: Marideth Sandler

The Business Park Wetlands is owned by four separate private owners. It is largely zoned for high-density residential use and, because the Municipality of Anchorage classified it as developable wetlands in 1982, it can be filled and destroyed with no public input and little regulatory agency review. Despite the threat to its continued existence, the Business Park Wetlands has been adopted by the public. For years, adjacent residents and businesses have kept

intrusive uses and users out of the wetlands.

Nearly fifty stray cats and dogs were live-trapped over a three-year period and sent to the shelter where they could find caring owners. "Stray" humans whose actions seem out of character with the more recreational and educational atmosphere that surrounds the wetlands are quickly asked to go elsewhere by the nearby business workers and residents. Because of this overwhelming and active concern for the Business Park Wetlands, a petition drive was mounted six years ago to purchase the area for a park.

Although the drive stopped short of success at that time, the effort has been revived. In 1988, businesses, area residents, environmental and neighborhood groups, and governmental agencies joined together as the BUSINESS PARK WETLANDS COALITION. The Coalition is supported by nearly 1000 Anchorage residents, as evidenced by the success of a recent petition drive. When, in early spring 1989, one of the property owners began filling a portion of the wetlands, the immediate vocal support for this publicly cherished resource resulted in a short-term halt of fill activity.

The goal of the Business Park Wetlands Coalition is to purchase this important area of shrinking open space so that it is retained, enhanced, and managed for recreational, educational, and environmental purposes. The value of this effort is two-fold: the Business Park Wetlands already serves as an important open space and recreational neighborhood improvement for residents and workers alike. Creative design could easily multiply its present benefits. Because of its currently high productivity as a wetlands habitat, the Business Park Wetlands also holds exciting potential for increased wildlife use, if enhanced and managed properly.



Photo: Cami Dalton

The Coalition has made strong progress toward meeting

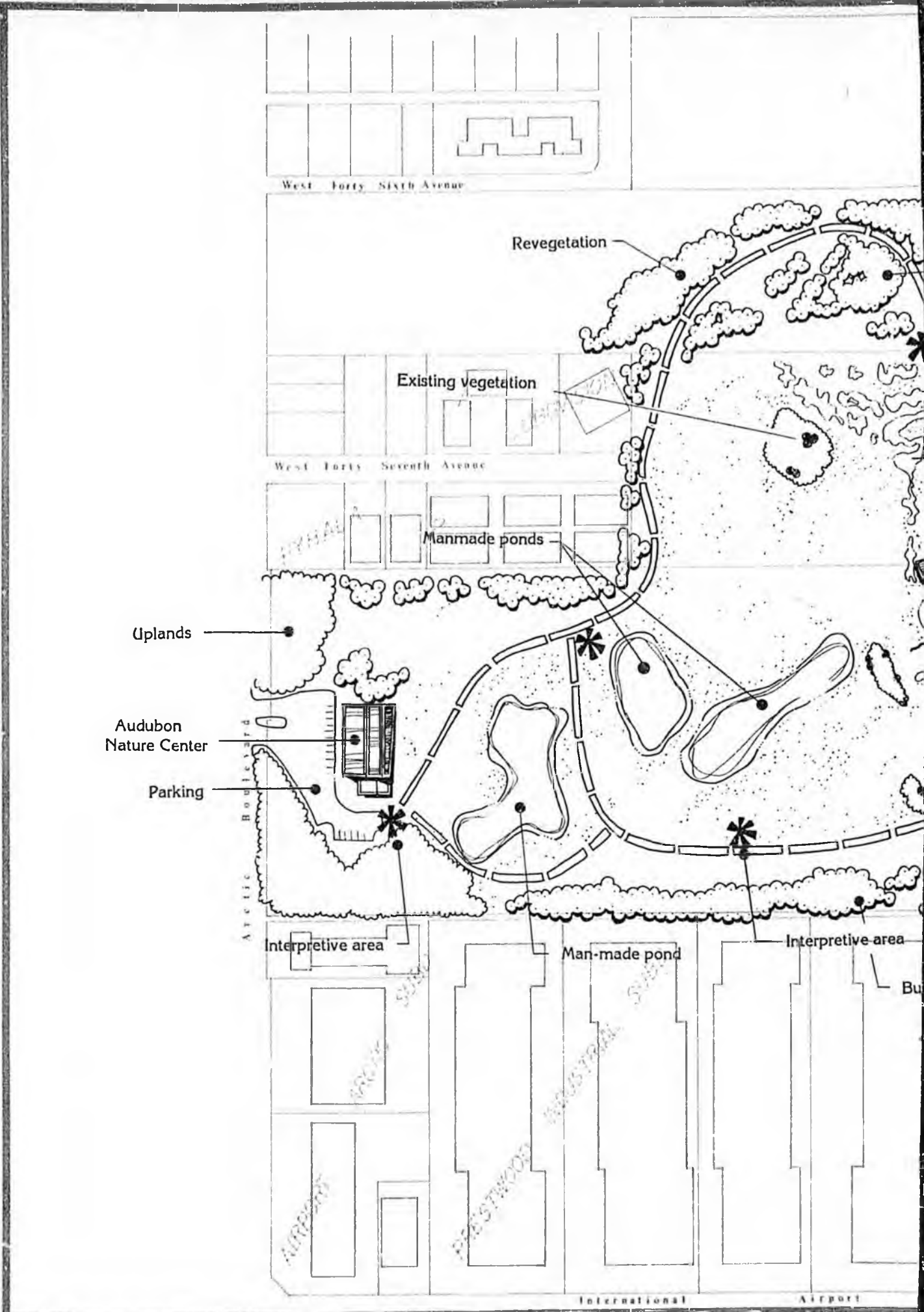
its goal. The wildlife and other resources of the area have been, and are continuing to be, documented and photographed. The actions of neighboring residents and businesses to manage these resources, both in the past and at present, are also being recorded. Discussions with area property owners have been underway for several months to ascertain purchase and trade options. Two of these options are in active negotiation with the respective parties. One involves a land trade for a significant portion of the wetlands and the second would result in acquisition of an immediately adjacent area. Together, these transactions will result in preservation of nearly half of the Business Park Wetlands. Fundraising for the project has begun, with a substantial amount already raised from private contributions. The Coalition has an overall fundraising strategy and has developed a concept plan for the area. This includes enhancement of the area to create more open ponds for waterbird rearing and to filter the drainage water entering the wet-

## The Future Looks Bright for the Business Park Wetlands

lands from adjacent uses. Other improvements

would facilitate use of the Business Park Wetlands for continued wildlife viewing, as well as jogging and fitness walking.

New and exciting activities could also find a home in the Business Park Wetlands. The uplands portion of the open space area lends itself well as the site for an Audubon-sponsored Urban Nature Center, that would house displays on wetlands habitat and wildlife. Because of the unique oasis feeling of this easily accessible setting, the nature center could be widely used by school and college classes (in addition to other youth and adult groups) to learn about natural wetlands habitat still remaining within Anchorage's urban scene. The planned trail and boardwalk loops are designed with areas for wildlife viewing, fitness stations, outdoor educational displays, and benches. Location of a Nature Center on-site would provide a rare opportunity to combine and bring into focus the Business Park Wetlands' environmental, recreational, educational, and open space potentials.



West Forty Sixth Avenue

Revegetation

Existing vegetation

West Forty Seventh Avenue

Manmade ponds

Uplands

Audubon Nature Center

Parking

Arctic Boulevard

Interpretive area

Man-made pond

Interpretive area

Bus

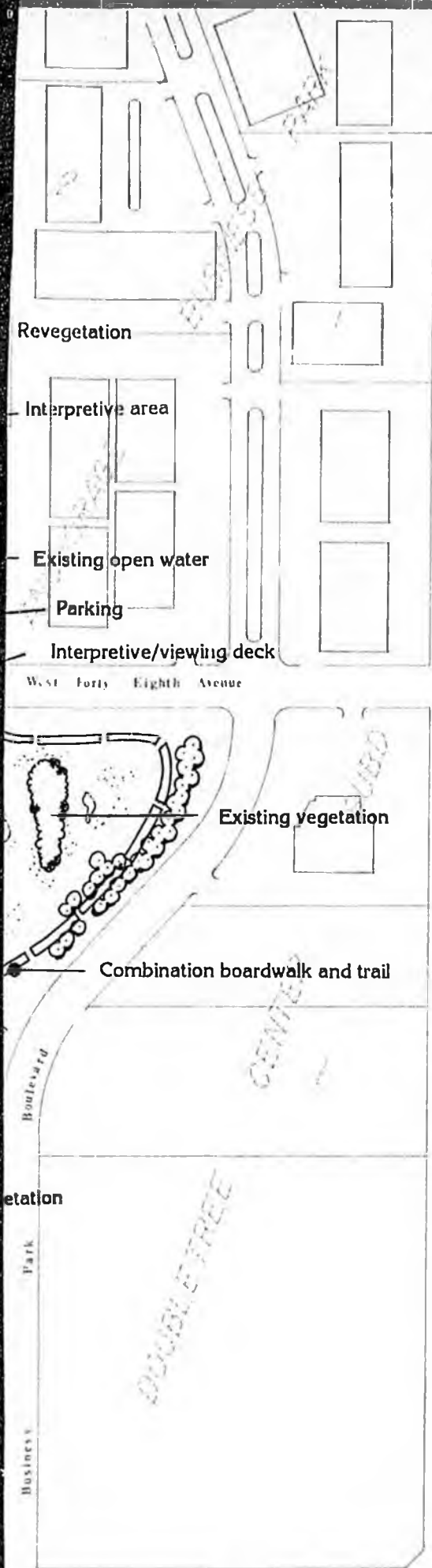
International Airport

Airport



Business Park  
**Wetlands**  
Coalition

# Conceptual Plan



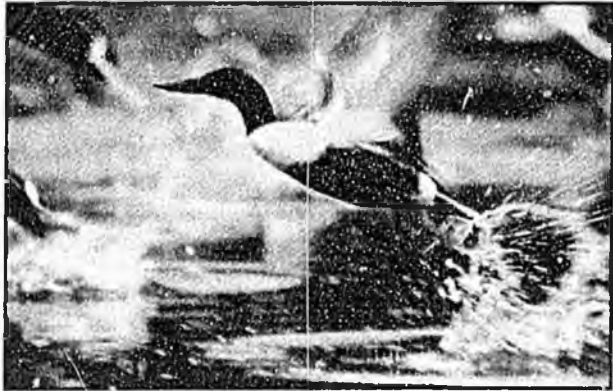
## potential activities

- *Jogging, Running, Walking*  
1/4 mile & 3/4 mile loop trail
- *Interpretive Areas (\* )*
- *Audubon Nature Center*
- *Wildlife Viewing*
- *Relaxing/Lunch Stop*
- *Habitat Enhancement*



## Business Park Wetlands A Threatened Natural Area

area contained numerous large ponds and a highly diverse and productive mix of habitats. This area was arguably the most extensive and complex patterned ground bog in the Anchorage Bowl.



This isolated, partially disturbed bog is a remnant piece of what was, until the late-1970s, a vast section of interwoven ponds and wetlands habitats known as patterned ground that stretched from near Potter Drive north to the old Fish Creek basin near West 36th Avenue. The original wetlands

The area supports three wetlands plant communities and numerous ponds that contain open water all summer. A small section of mixed birch and cottonwood forest

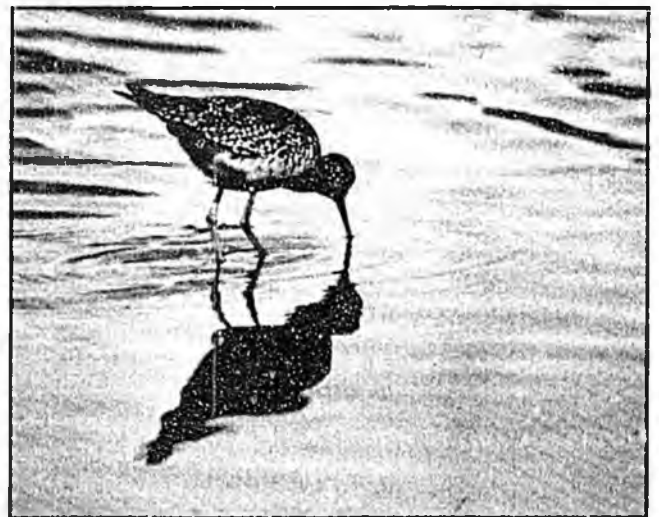


stands at the area's southwest corner. Most of the wetlands plant communities contain ericaceous species like sweetgale, dwarf birch, leatherleaf, and Labrador tea. Sedges, grasses, rushes, and various mosses are common understory species here. Several wetlands dependent plants survive in the Business Park Wetlands, many of which have become rare or threatened in the Anchorage area from continued wetlands filling.



Of major concern and influence to this site is the local hydrology, which has been altered by adjacent development. Groundwater input to this system is necessary to maintain the wetlands' habitats and open water in critical dry periods.

Any additional change or loss of the area's groundwater will further degrade the wetlands' functions and viability.



Photos provided by John Hyde and Dan Rosenberg, ADF&C

**SUPPORTERS OF  
THE BUSINESS PARK WETLANDS  
include:**

**Anchorage Audubon Society  
Alaska Center for the Environment  
Spenard Community Council  
Anchorage Waterways Council  
Nature Conservancy  
American Society of Landscape Architects - Anchorage Chapter  
Alaska Department of Fish and Game  
Municipality Of Anchorage  
- Urban Design Commission  
- Parks and Recreation Commission  
- Department of Economic Development and Planning  
TRF Management  
Ott Engineering, Inc.  
The Virginia Computer Company  
Jim Thiele, Certified Financial Planner  
Ashburn and Mason  
Earthscape  
TimeFrame  
AT Publishing  
Moore Business Forms**

**Project Aerial Photos contributed by Aero Map, U.S.**

Nearly one thousand people agree with the many actively-involved businesses, organizations, agencies, and neighborhood residents that the Business Park Wetlands must be preserved now. Join us in our efforts! Use the enclosed envelope to help us acquire as many square feet of wetlands as you wish. Or, you're invited to "purchase" a goose nest to insure that this year's newborn Canada Geese will have a home to which they can return next spring. All contributions are tax deductible to the fullest extent of the law because of the Coalition's affiliation with the Anchorage Audubon Society, a local non-profit organization. If you'd also like to become more involved, there's space for you to let us know that too. Thank you for your support!

For more information, contact:

**Marideth Sandler (562-2514-days or 346-2535-evenings)  
or Robert Senner (258-4054-days or 345-5891-evenings.)**

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## BIRDS YOU ARE LIKELY TO SEE IN THE BUSINESS PARK WETLANDS

Canada Goose\*  
Mallard\*  
Green-winged Teal  
American Wigeon\*  
Northern Pintail  
Northern Shoveler\*  
Greater Scaup  
Semipalmated Plover  
Killdeer  
Lesser Golden-Plover  
Greater Yellowlegs  
Lesser Yellowlegs\*  
Spotted Sandpiper  
Short-billed Dowitcher\*  
Common Snipe  
Least Sandpiper\*

Ring-billed Gull  
Mew Gull\*  
Herring Gull\*  
Glaucous-winged Gull  
Bald Eagle  
Tree Swallow  
Violet-green Swallow  
Common Raven  
Ruby-crowned Kinglet  
American Robin\*  
Yellow-rumped Warbler  
Savannah Sparrow\*  
White-crowned Sparrow\*  
Lincoln's Sparrow  
Pine Siskin  
Common Redpoll

\* Known or probable breeder.

List provided by the Anchorage Audubon Society



**Business Park**  
**Wetlands**  
**Coalition**

4446 Business Park Boulevard Anchorage, Alaska 99503

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