

State of Alaska FY2002 Governor's Operating Budget

Department of Natural Resources
Title Acquisition & Defense
Component

Component: Title Acquisition & Defense

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Component Mission

To facilitate the acquisition, acceptance, conveyance, and defense of land or an interest in land on behalf of the State of Alaska.

The work accomplished by the Title component is intended to accomplish five major outcomes:

1. Acquire ownership (statehood entitlement and more)
2. Secure clear title
3. Issue clear title documents under various disposal authorities to the private sector, Municipalities and other governmental entities.
4. Defend State title
5. Maintain administrative records of State ownership

The outcomes of this component are basic mandates of any state in the Union. The Constitution of Alaska in Article VIII sets forth the policy concerning natural resources. Sec. 6 states as follows: "State Public Domain...The legislature shall provide for the selection of lands granted to the State by the United States, and for the administration of the state public domain." These outcomes therefore are expectations of the public to acquire and defend the State's valuable assets of land and the associated resources as any prudent person would manage his own personal assets.

Component Services Provided

The tasks associated with this component are fundamental tasks of doing business as a State. However, the ownership of land and its related resources such as timber, minerals and oil and gas form the economic base for the State of Alaska. As Alaska attained statehood the U.S Congress had little money to give to the new State, but recognized the value of land and resources and thus allocated up to 106.2 million acres of land under a variety of federal land entitlement authorities related to statehood. Additionally, as an incident of statehood under the equal footing doctrine we received title to approximately 65 million acres of shorelands, tidelands, and submerged land, which make up our inland waterbodies and marginal seas. Finally, we are acquiring title by direct purchase, donation, escheat, condemnation and grants under special congressional legislation. Also Congress extended the offer of a grant of easement for public access across vacant unappropriated public lands under RS 2477.

The Acquire Land or an Interest in Land Project deals with the following:

1. Statehood land entitlement - this category of acquisition deals with acquiring land from the federal BLM. This requires the review and negotiation of title documents as necessary prior to acceptance of title; appeals as necessary; recordation and security of original title documents; acreage accountability; maintenance of computer and hard copy records; and develop and maintain the Conveyance Priority List based on designated priorities and needs of State agencies.
2. Other Lands and Limited Holdings. Most other agencies do not have the authority to hold land title. Thus, when they purchase or are given land, the Division must review and complete the required title documents to ensure that clear title is acquired and maintained. For example, the Department of Fish and Game acquires weir or boat launch sites using federal funds; many rural communities acquire armory sites; etc. This category includes two different subcategories:
 - a. Other State Lands (OSL) - This category of acquisitions constitutes a variety of land authorities such as direct purchase, donations, condemnations and grants under special congressional legislation. This also includes Exxon Valdez Oil Spill acquisitions. These require the review of pertinent title documents, title insurance documents, ownership records, court documents, etc., the acceptance of title on behalf of the State of Alaska, recordation and security of original title documents, management rights and maintenance of computer and hard copy records.
 - b. Limited State Holdings (LSH) - This category of acquisitions constitutes less than fee title interest representing a variety of interests such as easements, airspace easements, clear zone easements, leases, fish wier

permits, conservation easements, equitable servitude, etc. These title documents require the same review, acceptance, recordation, managements rights and maintenance as OSLs.

The Provide Title Reports Project deals with:

1. Oil and Gas area wide lease sales
2. Disposal of fee title
3. Complex title issues not discernable from the computer records

Title reports are completed to ensure that the State still owns the land or resource and that no cloud has encumbered the title. Often the complex title reports require in depth research to determine the exact interest retained by the State if any (example old Valdez townsite). Title reports are always completed as part of Oil and Gas Lease Sales. They are also sometimes required before Timber Sales (depending on complexity of title/land status issues).

The Issue Conveyance Documents Project deals with: The issuance of Patents and Quit Claim Deeds - These documents are a result of completion of all requirements of a disposal authority to pass title to private individuals, corporations and any other entity in the private sector; Municipalities and/or Boroughs and any governmental entity. This project provides consistency in reservations, wording format, authorities and a final title check to ensure clear title is passed.

Title Defense Project

Defending state title against challenges is a fundamental responsibility of the state. The state reviews all title decisions - conveyance to the state, ANSCA corporations, etc. - to ensure that state interest is protected. That is, BLM decisions are reviewed to ensure that access to state land or state title is not compromised by the decision. Over the past years, the state has negotiated changes to 14.5% of BLM decisions to protect state interest. Specifically, this project accomplishes the following:

1. Respond to litigation - This category requires working with the Attorney General assigned to the case and providing technical research data to the AG which includes title documents, case files, summary of actions, maps and anything necessary to support the AG.
2. Completion of Mental Health Trust Lands Settlement - This category requires correction of title documents, formal determination of replacement lands and any action needed to fulfill the Mental Health Trust Lands Settlement.
3. Respond to School Trust Lands Litigation - This category requires working with the Attorney General assigned to work the case and the Depts. Of Revenue and Education as well as the beneficiaries. (This work is funded through a separate appropriation. Funding for this work is not included in this component.)
4. Review Native Allotments - This category requires the review of numerous BLM documents issued concerning Native Allotment claims, which may Affect State land title and public access. Respond to the Aguilar court case stipulations as to hearings. Provide technical research and documents to the Attorney General assigned the case. Provide comment to AG on settlement negotiations.
5. Reconvey land wrongfully conveyed to the State - This category primarily affect Native Allotment claims where BLM has conveyed the land title to the State. After initial review the State in most cases agrees to voluntarily reconvey the land following the State's decision and public notice process. BLM has assigned two staff members to work on these cases with guidance and final approval provided by State staff.
6. Review ANCSA decisions - This category requires the review of ANCSA decisions to determine if BLM's decision affects State title. If problems exist we negotiate with the corporations and BLM. If resolutions can not be reached we appeal. During appeal process provide technical research and documents to Attorney General assigned to case and comment on any proposed settlement.
7. Review Sec. 17(b) of ANCSA easements - This category requires the review and coordination of State comments affecting public access across Native Corporation lands to public lands. If problems exist we negotiate with the corporations and BLM. If resolution can not be reached we appeal. During appeal process provide technical research and documents to Attorney General assigned to case and comment on any proposed settlement.
8. Navigability - This category requires research prior to BLM making an administrative decision on which water bodies are navigable. This requires coordination with BLM's work schedule in order to influence their decision. If the decision disagrees with the State's research take appropriate action. The State owns the beds of all navigable water bodies. (This work is funded through a separate component.)
9. RS2477 assertions - This category requires the assertion of ownership or a granted easement to trails and roads which provide public access between communities, along and to waterways and to various geographic areas of Alaska. In Revised Statute 2477 Congress offered a grant of easement across vacant, unreserved public lands until the authority was terminated by FLMPA in 1976. The federal government is attempting to changed the rules

of the grant offered by Congress requiring constructed modern roads similar to those found in the "lower 48". The State continues to assert a claim to the easements. (See RS2477/Navigability component)

10. Any challenge to the State's Title.

The Maintain Records of State Ownership project deals with the issues below.

1. Maintain case files (hard paper copies of all documents related to the acquisition and/or the disposal of a parcel of land documenting reservations and covenants attached thereto). Maintain documents in an orderly and logical manner in order to retrieve the information in an efficient manner.
2. Maintain and enter into the State of Alaska's computer system LAS data reflecting ownership of land and an interest in land. A special title sub-system has been developed for the statehood entitlement, which must be maintained.
3. Ensure that title acquisitions and disposals are forward for notation to the graphic record and review final product for quality control.

Component Goals and Strategies

Encourage resource development that creates Alaska jobs and ensures economic growth in all regions of the state.

- To acquire land and resources for development, land disposals and for public use
- Secure clear Title
- Issue marketable title through conveyance documents to the private sector and other government entities.
- Review and respond to all Native Allotment and ANCSA conveyance decisions by the federal government in order to defend the States land title and to reserve access to public land and waters.
- Support Navigability assertions/litigation

Additional output and measurement information is available upon request from DNR Admin Services Manager (Nico Bus 465-2406).

Key Component Issues for FY2001 – 2002

1. The School Trust Lands valuation and litigation is part of the Title Defense Project. The charge of a Breach of Trust issue is part of a larger litigation issue concerning funding of rural schools filed as Kasayulie v. State of Alaska Case No. 3AN-97-3782 CIV. However, Judge Reese has ruled on the plaintiffs' Motion for Partial Summary Judgement on Breach of the School Lands Trust, Judge Reese found two breaches of trust (1) the redesignation of school lands in 1978, and (2) the failure to value school lands in 1978. This case is currently in litigation status.
2. The review of Sec. 17(b) of ANCSA involves the identification and reservation in conveyance documents to Native corporations for easements to the United States for access across ANCSA private land to public lands and public waters. There are two potential issues:

(A) Management of 17(b) Easements. These easements are reserved to the United States in conveyance documents issued to ANCSA Native corporations. The federal Interior Department is attempting to pressure the State of Alaska to assume management of reserved easement providing access to State lands and State public waters. Management means identifying the location of the easement on the ground, signing the easement to identify it to the public explaining the allow uses to the public, clean up trash, maintain the easement as to brushing, fixing mud spots, maintaining bridges, etc., and resolving trespass. The State of Alaska's position is that the easements are reserved to the United States and it is their responsibility to manage these easements.

(B) Termination of 17(b) Easements - These easements are reserved to the United States in conveyance documents issued to ANCSA Native corporations. In Departmental regulations 43 CFR 2650.4-7(a)(13) if an

easement has not been used for the purpose for which it has been reserved, the BLM Director shall terminate the easement effective December 18, 2001, unless it provides access to isolated tracts of public lands. The implementation of this regulation has no statutory basis. We believe this implementation will have a serious affect on public access in Alaska. This component several years ago initiated action to affect the implementation; however, the outcome is still to be determined.

3. Automated Title Report - This component provides the use of new technology to provide title report information for large geographic areas to State agencies and multiple interest groups. The concept is to develop a web site for a project indexed by township and range, and layer in various title information, scanned legal documents, status plats, navigability reports, etc. This concept facilitates the title information necessary to determine the renewal of TAPS and to facilitate a permitting process for a gas pipeline process. This ties into the FY01 Gasline Development supplemental appropriation request, and the FY02 CIP for Gasline Development.
4. Avulsion - An Emergency Title Defense CIP is included in the FY02 budget for the purpose of identifying the boundaries of uplifted tidelands associated with the 1964 earthquake in Prince William Sound. Although the avulsion act occurred over 36 years ago, there is an immediate need to delineate the boundary of State land that resulted. BLM has indicated that they must complete the survey of federal conveyances in Prince William Sound without recognizing many thousands of acres of state-owned tidelands that were pushed up during the 1964 earthquake. The purpose of the CIP is to complete technical review of aerial photography to determine the extent of the uplift and determine the boundaries claimed by the State before they are lost and conveyed out of public ownership to private corporations.

Major Component Accomplishments for FY2000

ACQUIRE AND DEFEND

Secure clear title as a prerequisite to the accomplishment of the division's mission.

SECURE CLEAR TITLE

- Land acquired - 54,513 acres
- Submit Conveyance Priority List (CPL), amendments and relinquishments to BLM
To control what land State receives - 111 actions
- Review BLM decisions, negotiate and accept title for Statehood grant land entitlement - 164 actions, which affects 1127 parcels
- Review and accept title for Other State Land (i.e. exchanges, purchases, EVOS) and Limited State holdings - 50 actions

AGGRESSIVELY ASSERT AND DEFEND STATE INTERESTS-

PROTECT STATE INTERESTS

- Review Native Allotment actions taken by BLM affecting State land and public access - 917 actions
- Review BLM ANCSA decisions and 17(b) easement reservations to protect public access - 71 actions
- Complete title reports to insure ownership and determine third party rights - 589 actions
- Issue conveyances - 562 actions
- Special projects and response to litigation - 31 action

MAINTAIN CONCISE, ACCURATE, AND READILY AVAILABLE LAND RECORDS

- Create and maintain land Title Records files and tracking for control of title conveyances. - 198,905 records

Statutory and Regulatory Authority

The Title Component operates under the following statutory authority:

Statutory

AS38.04.055

AS38.05.020(b)(8)

AS38.05.030(c) and (d)

AS38.05.035(a)(12)

AS38.05.035(b)(9)
 AS38.05.035(e)(6)
 AS38.05.127(a)(12)
 AS38.50.090
 AS38.50.150
 AS38.95.210

Key Performance Measures for FY2002

Measure: Acquire Land (Statehood Entitlement)
(Not yet addressed by Legislature.)

Benchmark:

DNR expects to receive approximately 50,000 acres toward its statehood entitlement from BLM. For FY02, DNR expects to receive approximately 150,000 acres. This is a one time deal placed on the Conveyance Priority List for conveyances. "The Denali Block" is a highly mineralized area requested by industry for State ownership for development of the state's natural resources.

Background and Strategies:

Receipt of this land will require review of approximately 320 BLM decisions to ensure that clear title is established with appropriate access, to protect public access. Many, approximately 10-20% of the BLM decisions will be challenged or changed through negotiations to ensure that the state receives clear title and appropriate access.

Measure: Provide Title Reports
(Not yet addressed by Legislature.)

Benchmark:

Prepare four title reports for area wide oil and gas lease sales and complete approximately 830 title reports to pass patent to private land to citizens of Alaska and other 3rd parties.

Background and Strategies:

Title reports are required to ensure that third parties - such private citizens who purchase state land - receive clear title to their land.

Measure: Maintain Records of State Ownership
(Not yet addressed by Legislature.)

Benchmark:

Maintain the approximately 200,000 case files that record ownership of land or interest in land, and provide new technologies for fast retrieval of information.

Measure: Issue Conveyance Documents
(Not yet addressed by Legislature.)

Benchmark:

Issue approximately 820 conveyance documents.

Status of FY2001 Performance Measures

	<i>Achieved</i>	<i>On track</i>	<i>Too soon to tell</i>	<i>Not likely to achieve</i>	<i>Needs modification</i>
• Acquire Land (Statehood Entitlement)		X			
• Provide Title Reports		X			
• Maintain Records of State Ownership		X			

Component — Title Acquisition & Defense

	<i>Achieved</i>	<i>On track</i>	<i>Too soon to tell</i>	<i>Not likely to achieve</i>	<i>Needs modification</i>
• Issue Conveyance Documents		X			

Title Acquisition & Defense
Component Financial Summary

All dollars in thousands

	FY2000 Actuals	FY2001 Authorized	FY2002 Governor
Non-Formula Program:			
Component Expenditures:			
71000 Personal Services	0.0	935.8	904.6
72000 Travel	0.0	19.2	19.2
73000 Contractual	0.0	134.2	138.4
74000 Supplies	0.0	20.1	20.1
75000 Equipment	0.0	0.0	0.0
76000 Land/Buildings	0.0	0.0	0.0
77000 Grants, Claims	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
Expenditure Totals	0.0	1,109.3	1,082.3
Funding Sources:			
1004 General Fund Receipts	0.0	972.5	982.8
1007 Inter-Agency Receipts	0.0	129.3	89.4
1053 Investment Loss Trust Fund	0.0	5.4	0.0
1108 Statutory Designated Program Receipts	0.0	2.1	10.1
Funding Totals	0.0	1,109.3	1,082.3

Estimated Revenue Collections

Description	Master Revenue Account	FY2000 Actuals	FY2001 Authorized	FY2001 Cash Estimate	FY2002 Governor	FY2003 Forecast
Unrestricted Revenues						
None.		0.0	0.0	0.0	0.0	0.0
Unrestricted Total		0.0	0.0	0.0	0.0	0.0
Restricted Revenues						
Interagency Receipts	51015	0.0	129.3	129.3	89.4	89.4
Statutory Designated Program Receipts	51063	0.0	2.1	2.1	10.1	10.0
Investment Loss Trust Fund	51393	0.0	5.4	5.4	0.0	0.0
Restricted Total		0.0	136.8	136.8	99.5	99.4
Total Estimated Revenues		0.0	136.8	136.8	99.5	99.4

Title Acquisition & Defense

Proposed Changes in Levels of Service for FY2002

This component has a decrement in IA receipts due to an estimate of fewer planned RSA's. Title also has requested an increment in SDPR funds to cover the Shallow Gas agreement set up with the Division of Oil and Gas for Title work. No changes in services are anticipated for this component.

Summary of Component Budget Changes

From FY2001 Authorized to FY2002 Governor

All dollars in thousands

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2001 Authorized	977.9	0.0	131.4	1,109.3
Adjustments which will continue current level of service:				
-Convert Special FY2001 Labor Cost Fund Sources to GF	2.1	0.0	-2.1	0.0
-Year 2 Labor Costs - Net Change from FY2001	2.8	0.0	0.2	3.0
Proposed budget decreases:				
-Decrease Interagency Receipts Authority to Level Anticipated for FY2002	0.0	0.0	-40.0	-40.0
Proposed budget increases:				
-Statutory Designated Program Receipt Authority for Title Work on Shallow Natural Gas Leases	0.0	0.0	10.0	10.0
FY2002 Governor	982.8	0.0	99.5	1,082.3

Title Acquisition & Defense

Personal Services Information

Authorized Positions			Personal Services Costs	
	FY2001 Authorized	FY2002 Governor		
Full-time	15	14	Annual Salaries	679,864
Part-time	0	0	COLA	9,847
Nonpermanent	0	0	Premium Pay	0
			Annual Benefits	247,537
			<i>Less 3.48% Vacancy Factor</i>	(32,648)
			Lump Sum Premium Pay	0
Totals	15	14	Total Personal Services	904,600

Position Classification Summary

Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Administrative Clerk II	1	0	0	0	1
Natural Resource Mgr I	2	0	0	0	2
Natural Resource Mgr III	1	0	0	0	1
Natural Resource Off I	3	0	0	0	3
Natural Resource Off II	5	1	0	0	6
Natural Resource Tech II	1	0	0	0	1
Totals	13	1	0	0	14