

Dear Representative  
Tomkins

1 March 18

Greetings Representatives,

As I wasn't able to complete my public testimony today before the House State Affairs Committee, I'm offering it via email as suggested by Representative LeDoux who was the chair today.

As one of the most grievously injured in the RR right of way issue, I hope I can ask for your attention for a few moments. This has completely consumed the last 2 years of my life. For others, much longer. Let me briefly explain what that means. After a 40 year career of Coast Guard, Army Guard, and probably your pilot on numerous occasions over the years flying in and out of JNU, I'm now comfortably settling in and contemplating retirement at our home on Flying Crown Airstrip in Ocean View south ANC.

While researching the property in 97, we were alerted by numerous sources to "watch out for the Alaska RR" and "make sure you know what you're getting in to". Apparently the Alaska RR was not a very good neighbor. They sure seemed nice on the outside! Always loved the train and my son even had a great summer working for them as a tour guide.

Research turned up a "shared row" relationship with the RR, where as long as we promoted safety in the right-of-way and didn't interfere with RR's ability to safely take care of business, we were legally entitled to use that portion of the row which the RR didn't need. In our backyard, there is a fence about 40' from the tracks which has been there since the land was homesteaded back in the 50s. The language in our Homestead patent was described to us as being very "clean", and we would easily maintain fee simple ownership to all of our land to the track center-line in the event the RR was ever abandoned. There are no "corners" on our survey in the backyard, indicating that the right-of-way simply transits our fee simple land. There was no record anywhere, at the BLM, at the state recorders office, or through the title search company... NOTHING which provided even a hint that the RR or the government had ever owned anything other than the typical right of way interest as is clearly defined in our patent for railroad, telegraph, and telephone. Both the 1875 and 1914 Acts came up numerous times. Locals on the strip since the 70s reported the same consensus.

Fast forward to today. There are two schools of thought on why the RR attempted the RRUP program. The obvious first explanation was to expand the revenue stream from the "Utility Corridor" due to increasing budget pressures. The 2<sup>nd</sup>, more likely explanation, is that along with the per square foot extortion fees, the real crux of the issue was the requirement that the landowners give away their valuable property rights forever while legally acknowledging false claims of EU, setting a horrible precedent for their neighbor's up and down the line, and shoring up the huge problem which the RR had brought upon themselves by telling the world for decades that they had a EU easement and owned the row. In reality, they had nothing more than a long standing charade based on a single line of ARTA language written to address Native Claims issues, and taken 100% out of context. It was AND IS a real problem.

Last year the governor's office uncovered the 46 new illegal patents for the first time. Today nobody will touch these properties on Flying Crown at the value which recognizes the obvious legal right of way access. This is a direct loss in market value in our neighborhood of between \$50,000 and \$350,000 roughly, depending on the home/property. If I elect not to disclose the new EU patent to a buyer, I incur huge liability which would follow if the RR decided to fence off the property from its traditional access, or decided that some big pipeline or giant transmission project was more important than Flying Crown's 60 year precedent of legal access to the shared row.

Please don't be fooled into thinking that this is a unique problem to a few of us in South Anchorage. Yes, Rep Kopp was able to stop the RUPP nonsense before it was expanded, and yes that did allow the RR to dump this entire stinking mess directly into the laps of a just a few of us in South ANC. However, this crime is alive and well in each and every shared right-of-way property along the entire rail belt. Obviously each property is unique and would have to be individually vetted, but Homestead patents are everywhere,

and it's a safe assumption that they are every bit as "clean" as ours. If RUPP had been implemented state wide at the same time, there would have been hundreds of really angry Alaskans ready to burn the place down.

As far as the RR's testimony today is concerned, there were several laugh out loud moments. Did you know that the word "Exclusive" isn't even found (at all) anywhere in the 1914 AK RR act? The 1914 act gave the AK RR Exclusive Use and fee simple title to all of the right-of-way? The 1914 AK RR act and the 1875 act don't have any common ground? Their own council has stated the EU as defined in the illegal patents and in ARTA was "**concocted**" for the 83 ARTA transfer! Now they're saying that they already had it? There's a good reason the 1875 act is called the "**General Railroad Right of Way act....is granted to any railroad company duly organized under the laws of any State or Territory.....** It's primary purpose is to address the disposition of right's of way across Federal and Public lands. Precisely and completely tied to the 1914 RR act, and Precisely and completely tied to the federally conveyed "Supreme title to the land" which is our Homestead Patent, with ALL of it's valuable rights in tact. The VERY IDEA that the government would have conveyed to Homesteaders lands that had a carve out of fee simple row land without disclosing it in the patent is preposterous! Where's the legal precedent for that? There is none!!

The ONLY reason this issue was born in the first place is because for some reason the Alaska RR was removed from every possible method of oversight. All Federal and State Administrative procedures, as well as state Ethics laws. What could go wrong? The RR is really struggling right now because **they created** a huge problem for themselves because this stuff was never publicly vetted. Their only option is to keep spinning these ridiculous yarns about where they got EU, fee simple title, etc. OF COURSE they want this to get delegated to the courts. **That's the perfect scenario for them.** This extortion only worked when it was hidden from the public. It's over! They ended it by opening Pandora's box with the RUPP program! What did they think was going to happen? Charge people for the use of their own private property? Seriously? Don't reward bad behavior and enable them!!

Each of you knows full well that deflecting this to the courts is a death sentence to the effort to return valuable rights to the Alaskans who own them. Don't think we will take it any other way. It doesn't need to go to court. Please represent us! Please help pass this resolution, work with the governor, our congressional delegation and exhaust every possible legislative solution. There are several possibilities. Seek them out! A court battle is the worst possible scenario for your constituents. It should only follow after all legislative and congressional delegation efforts have failed!

If we've learned one thing through this whole nightmare which is sucking the life out of us, it's that literally for YEARS we have yet to encounter ONE SINGLE person, business, municipality, or **anyone** who has anything but negative things to say about their dealings with the Alaska RR. It's a war zone out there of contempt, dislike, and distrust. Aggressive behavior, always confrontational by default. Always the bully because there is no process to hold them accountable!! NO I'm not trying to be hurtful. I'm just trying to make a point and ask WHY can't we the people have the benefit of the doubt here instead of the RR? They certainly haven't earned it! Or hmm, maybe they have?

I'll leave it right there.... while my retirement nest egg is hangs in the balance.

Jack Brown