

March 16, 2010

House Resources Committee

The Honorable Craig Johnson, Co-Chair
State Capitol
Juneau AK, 99801

The Honorable Mark Neuman, Co-Chair
State Capitol
Juneau AK, 99801

Dear Representatives Johnson and Neuman:

I am writing in regard to HB 295, which is scheduled to be heard before the House Resources Committee this week. That bill provides for the transfer of designated lands to the University of Alaska, as listed in the "University of Alaska Land Grant List 2005." Among the lands recommended for transfer are those contained in ST 1003, which fall within our city boundaries. The City was opposed to this proposed transfer in 2005, and still opposes it today. The Tenakee Springs City Council recently adopted Resolution 2010-16, expressing the community's desire to have ST 1003 removed from the list of lands to be granted to the University of Alaska.

This is not the first time these parcels have been the center of controversy. In 1977, when the U.S. Forest Service proposed a road, log dump and harvest of three timber units within the corporate boundaries of Tenakee Springs, the City's objections led to a Memorandum of Understanding between the City of Tenakee Springs, the State of Alaska and Alaska Pulp Corporation. That MOU, in part, provide that the Alaska Department of Natural Resources would convey to the City lands selected by the State, while some lands would be retained by the State. When the conveyances did not occur, the City sued the State. That litigation was resolved in a Judgment¹ against the State in 1981, adopting a Stipulation for Settlement entered into by the parties. That Judgment was subsequently reaffirmed and amended by the court in 1984 and 1986, again by stipulation of the parties.

The Stipulation for Settlement provides that the State "convey to the City . . . fee simple title to all selected lands within the City's boundaries conveyed to the state by the Bureau of Land Management, except for the sites and acreages set out below." The Settlement goes on to

¹ The Judgment from the Superior Court orders that "the failure or refusal of either party to comply with the terms of the Stipulation for Settlement, the other party shall be entitled to specific performance, special damages sustained by reason of the other party's non-performance, and costs and attorney's fees incurred in enforcing this judgment."

designate specific parcels that would remain with the State but with restrictions on their use or or be transferred to the City for specified uses.

Two of those lands specifically excepted from the transfer to the City were lands designated as tracts C30 and C34 in the Northern Southeast Area Plan, adopted October 15, 2002. In 2005, DNR took the position HB 130 that tract C30 was not among the parcels in the 2005 list. The City is relying on DNR's position that C30 is, similarly, not included now in HB 295. However, if for some reason C30 is considered included in the 2010 legislation, the City objects. In reference to C30, DNR has noted:

The classification of parcels within the Tenakee community is greatly affected by a court order dated March 9, 1981 that identifies state lands for conveyance to the community and assigns uses to the lands retained by the state. This parcel is affected by paragraph 1.4 of that order, which designates it as a "public facilities reserve".

With the restriction on C30 that it be used only as a "public facilities reserve," it is unlikely that the University would desire to possess it with such restrictions.

As to C34, DNR observed:

This parcel includes all of those areas within Tenakee affected by paragraph 1.2 of the court order. It consists of two parts: an interior part within sections 15 and 22 situated eastward and upslope of the community, and a part within section 23 that stretches along the coast. The classification of parcels within the Tenakee community is affected by a court order dated March 9, 1981 that identifies state lands for conveyance to the community and assigns uses to the lands retained by the state. Paragraph 1.2 designates this parcel for "commercial, industrial, road right-of-way, and borrow pits".

Lastly, there are two smaller parcels, designated as tracts C31 and C32 in the Northern Southeast Area Plan, that comprise part of the ST 1003 lands. These parcels did not transfer from BLM to the State until 1986 and 2003, respectively. These delays were because of the existence of un-adjudicated claims to the land at the time the remaining selected lands were transferred to the City in 1982. Those two parcels, selected by and transferred to the State under the Statehood Act, are subject to the same obligation to transfer them to the City under the terms of the Settlement. To that end, the City is considering a quiet title action to resolve that oversight.

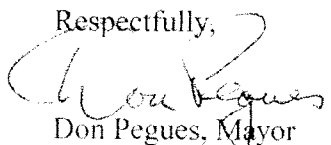
It appears that transfer of these parcels would not promote the intent of the legislation: to provide clear title to the lands and provide for management of revenue from that land as university receipts. Ownership of C31 and C32 is in dispute, and the remaining parcels are subject to the restrictions set forth in the Settlement. Consequently, the purposes of the proposed land transfer would be frustrated, if not unobtainable. Further, this community is very concerned about the potential increased burden for new services that may be placed upon us. Extending

power lines, improved access and snow removal are just a few of the possible things that would overwhelm our limited budget.

A fiscal note to the bill from the University of Alaska indicates that the 20-year out annual projected income from the total new land grant might produce 1% of the annual income required by the University. The acreage in Tenakee comprises only .11% of the total land grant in HB 295, meaning the income derived from this land would be less than .0013 percent of the University's annual requirement. When considering the restrictions the University would take this land subject to, the potential burden to the City far outweighs the gain to the University.

We ask that ST 1003 be removed from HB 295, and appreciate your attention to this matter.

Respectfully,



Don Pegues, Mayor
City of Tenakee Springs

Cc: Representative Edgmon
Representative Olson
Representative Seaton
Representative Wilson
Representative Guttenberg
Representative Kawasaki
Representative Tuck

City of Tenakee Springs

RESOLUTION 2010-16

In the Council
February 11, 2010

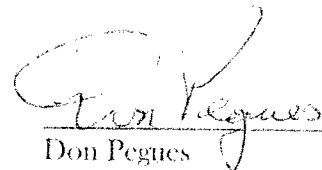
Introduced by
Council President

A RESOLUTION FOR THE CITY OF TENAKEE SPRINGS, ALASKA, SUPPORTING AN AMENDMENT TO HB 295 AND SB 225, "UNIVERSITY LAND GRANT", EXCLUDING PARCEL ST 1003 FROM CONVEYANCE TO THE UNIVERSITY OF ALASKA

- WHEREAS, the Alaska Department of Natural Resources, (DNR) adopted the Northern Southeast Area Plan (NSEAP) on October 15, 2002; and
- WHEREAS, the City of Tenakee Springs, the public, various stakeholders and other government agencies had input into the land-use designations for local state lands in the NSEAP; and
- WHEREAS, the NSEAP acknowledges that the State of Alaska shall retain certain lands in state ownership and manage them for the purposes designated in the Stipulation of Settlement pursuant to the order of the Alaska Superior issued on March 9, 1981 in case number IUJ-80-1666; and
- WHEREAS, if these lands in ST 1003 are conveyed to the University of Alaska, the University remains bound by the management uses designated for these lands in the IUJ-80-1666, March 9, 1981 court order; and
- WHEREAS, the Parcel Number ST 1003 includes parcels identified in the NSEAP as C30 which includes C31 and C32, 40 acres more or less, is designated to be managed "as a public facilities reserve" by court order; and
- WHEREAS, the NSEAP states, "Other than development that may be related to marine support at the boat harbor, further development of this parcel is not considered appropriate."; and
- WHEREAS, Parcel Number ST 1003 also includes the parcel identified in the NSEAP further as C24, 261 acres more or less, and the NSEAP and March 9, 1981 Court Order declares that "Lands within this parcel are to be retained by the state"; and
- WHEREAS, the Stipulation for Settlement, (para 1.4), Tenakee Springs vs. State of Alaska, IUJ-80-1666, March 9, 1981 stipulates these retained lands to be managed for "Commercial, industrial, right of way, and borrow pits" uses; and
- WHEREAS, DNR did not solicit public comment from residents of Tenakee Springs for the 2010 legislation (HB 295) when designating Parcel ST 1003 for conveyance to the University; and

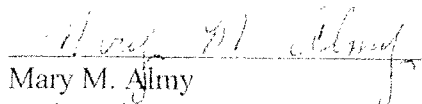
- WHEREAS, all of the parcels in ST 1003 are within the city limits of Tenakee Springs; and
- WHEREAS, fiscal Note 3 of House Bill 295 indicates, "after substantial additions to the LGTF endowment UA can see modest operating revenue i.e., in approximately 20 years UA anticipates annual investment earnings on new land sales to reach 1% of state general fund support or \$2.6M."; and
- WHEREAS, the total acreage of land recommended for conveyance from the State of Alaska to the University of Alaska in HB 295 and SB 225 is 260,000 acres; and
- WHEREAS, parcel number ST 1003 is approximately 301 acres in size, which equates to .0013 percent of the total acreage of land to be conveyed to the University; and
- WHEREAS, the City of Tenakee Springs would be unduly burdened by conveyance of these lands compared to the relatively insignificant additional revenue this parcel would contribute to the University's budget;
- THEREFORE BE IT RESOLVED by the Common Council of the City of Tenakee Springs, Alaska that we support an amendment to HB 295 and SB 225 either removing the transfer of ST 1003 to the University of Alaska or binding the University to the terms of the Stipulation for Settlement in IJU-80-1666, City of Tenakee Springs vs. State of Alaska, March 9, 1981

ADOPTED 7 Yes, 0 No THIS 11th DAY OF February 2010.



Don Pegues
City Council President
Ex officio MAYOR

ATTEST:



Mary M. Ajlmy
Acting City Clerk