

January 26, 2015

43 USC § 934

Dear Alaska State Legislators and Governor Walker,

The Old Seward Oceanview Community Council (OSOVCC) is very concerned about Alaska Railroad Corporation (ARRC) policy and action being taken to alter the nature of the easement benefitting the railroad along the right-of-way since its authorization in 1914. The easement was established to allow construction and operation of a railroad and associated telephone and telegraph lines. When the federal government sold the railroad to the State in 1982, those same easement rights were transferred.

Now the ARRC is claiming to have "exclusive use" rights, to the exclusion of all other parties, including property owners with interest in the land underlying the easement. This action is affecting many persons and organizations, including municipalities, businesses, private property owners, and the general public. Thus, it should be of interest to you and all your constituents.

There is much history behind the Alaska Railroad, operated first by the federal government and then transferred to the State of Alaska in 1982. One of our Council members has devoted countless hours researching the history and status of the easement and the appropriateness of recent ARRC actions. The information he has gathered can be viewed at:

[www.alaskarailroadeasement.info](http://www.alaskarailroadeasement.info) It provides a basic information related issues under discussion and links to enable review of all relevant documents since 1914.

Our Community Council has passed a Resolution through the Municipality that states our concern and offers some means of resolution. We have urged other Community Councils and groups to do the same.

Our Council has been a friend of the AKRR since its inception and wishes its success in the transportation field, but an "exclusive use" rights on an easement is just too much for our members.

Our Resolution, passed in September 2014, is simple:

- 1) Support the transfer of the Alaska railroad track easement throughout its length under the 1982 Alaska Railroad Transfer Act for "railroad, telephone, and telegraph" purposes, as provided for in the Alaska Railroad Act of Mar. 12, 1914.
- 2) Prevent the Alaska railroad from taking any action to change the nature of the patent easement reservation made under the Alaska

Railroad Act of 1914, as that is reflected in various federal land patents along the length of the right-of-way.

3) Require the Alaska Railroad Corporation to cease requiring permits and charging fees for residential use of the easement by adjacent property owners if that use does not unreasonably interfere with railroad operations.

4) Recognize the 1982 view of Gov. Jay Hammond that the 1914-~~1~~imited easement is the "standardized" railroad easement in Alaska and that it should be the type of easement used for existing and future track easements.

SI Confirm that the rights and duties of all parties involved in use of the easement should be determined by the general State of Alaska common law of easements rather than any federal law.

6) The reinstatement of the so---called right of "reversion" for the Eielson Spur line passed in the 2011 Legislative session should be made effective throughout the length of the easement in areas affecting private property interests.

We hope that our actions are seen as proactive for private property owners, as this will become an issue along the entire rail belt.

Please consider this matter as a state-wide issue coming from the grassroots of those affected by this ROW and the ARRC's exclusive use claim.

As our State Representative Craig Johnson stated, "It is just not right."

Our Council awaits and invites all parties to join in demanding immediate resolution of this important issue.

Steve Beardsley  
President, Old Seward Oceanview Community Council  
13201 Reef Pl.  
Anchorage, AK 99515  
907-345-4764  
[beardsleysn@ak.net](mailto:beardsleysn@ak.net)

Hello,

I am an Anchorage resident in the South Turnagain neighborhood and am contacting you in regards to my concern and support of HB93. My neighborhood has been severely impacted by the Railroad's claim over public right-of-way land, a claim they have not right to make. Please consider the rights of Alaskans and the abuse of power by the Railroad and support this bill.

Below is a statement written by constituents that form the Fish Creek Trail to the Ocean group that has worked for the past year to organize a productive fight against this overreach of power:

Since the State acquired the railroad from the federal government in 1983, The Alaska Railroad Corporation (ARRC) has consistently implemented measures which restrict compatible uses of the right-of-way (ROW) by adjacent property owners. Advancing its agenda under the guise of safety, ARRC policies include the Residential ROW Use Policy (RRUP), which extorts adjacent landowners who, contrary to ARRC's claims, hold an ownership interest in the land beneath the tracks. ARRC is demanding payment of annual fees and filing liens against those who do not comply. Rep. Chuck Kopp has introduced House Bill 93 to protect private property rights. This legislation will guarantee that adjacent property owners have reasonable ROW access and compatible use that does not impede safe railroad operations. Please support this important legislation for the benefit of all Alaskans. Thank you.

Sincerely,  
BriAnna Bierma

**From:** [D&J Blackburn](#)  
**To:** [Erick Cordero Giorgana](#)  
**Subject:** Railroad Guidance Bill  
**Date:** Wednesday, February 15, 2017 10:59:55 PM

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Dear Alaskan Legislator:

Thank you for considering this important bill intended to give assistance to Alaskans who encountered a negative response in dealing with the railroad corporation.

Historically, the railroad was intended to be one of the conduits toward development of private lands for the new state. The federal government made homestead properties available to Alaskans toward the development of the private sector to help support the state. The railroad corporation has acted oppositely instead. Abutting properties may have a single access across the railroad tracks. The railroad impolitely labels the owners whose surveys preceed the railroad's own US Survey 9009, the Alaska Railroad Transfer Survey and a dependent survey as CRIMINAL TRESPASSERS while the homeowners are paying taxes to the municipality of Anchorage.

The railroad has gated people out of their properties, changed locks; interferred with a State of Alaska permitting application for a driveway with two agencies thus not allowing agencies to conduct their own regulated permitting systems. The properties are becoming delapidated and construction experts are having to experience the loss of quality of the property. This is a taking of property rights and is actionable at this time.

Please show Alaskans their property rights are important to the state and give this needed guidance to the railroad as contained within HB 73. The railroad does not currently have a permitting system at all for stopped at grade crossings. Their handbook 1986 is still the current one and they do not follow it. The railroad refuses to cooperate with the homeowner so as to schedule to have the homeowner's surveyor measure for sight lines that are required, exist and meet FRA guidelines for stopped at grade crossings. But to impede the homeowner the railroad does not allow the home owner's surveyor come out. A very bad business practice.

Any examples generally of attempts at permitting of stopped at grade crossings for fully qualifying applicants are rendered moot by the real estate department. Phone calls result in the homeowner's calls being forwarded to the railroad corporation police.

The homeowners are ridiculed and labeled and published as criminal trespassers as they go to their homes. There is no excuse for this. The railroad has sent formal trespass warnings to a minority/native homeowner to attempt to intimidate off of their property. The railroad causes people to want to sell their property who otherwise wanted to keep their cherished family properties. When the homeowner caves in and sells the railroad requires that the proceedings be secret. This should be public knowledge when it is a pattern to dislocate adjacent property

owners. The railroad has said its primary goal is to get rid of all private crossings. The railroad did not say their primary goal is to make money. They have a large cadre of attorneys in the corporation and the legal department runs the railroad corporation so the corporation culture is insular and is intransigent about seeing the rights of other Alaskans and their properties continuing to have their full bundles of rights. The railroad appears to be out of compliance with CFR 49 or have no knowledge of it. Federal law of takings means these things occur before taking any of the bundle of rights: appraise, negotiate, pay first before taking is the procedure not just take development rights, accesses (for all Alaskans) and plan for disposal before even noting that is what the corporation is doing. Some properties still have the mineral rights attached so this is a big damage. So willfully harmful to adjacent Alaskan homeowners.

Instead of the railroad being a conduit to development it is merely a stranglehold of any nearby properties.

It has been many years since the railroad transfer act. Direction and clarity delivered to the railroad now will help restore the equities to damaged adjacent property owners all along this offending rail line. Please do all you can as Alaskans to help other Alaskans in Alaska. This is likely the most important bill this session which you can be proud to support.

Sincerely,

Draft

Damon Blackburn

Joanne Blackburn

**From:** [Carter Garrett](#)  
**To:** [Rep. Chuck Kopp](#)  
**Subject:** Representative Chuck Kopp -House Bill 93 to protect private property rights.  
**Date:** Tuesday, February 07, 2017 6:46:59 AM

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Dear your honorable Alaska Representative Kopp,

I support and encourage your relentless fight to take back Alaska for the Alaskans from the corruption set by the Alaska RR Corporation to extract money and its citizens land use set by ownership, while working outside the rule of law as I understand it. My parent called this "strong arming and stealing"

"Since the State acquired the railroad from the federal government in 1983, The Alaska Railroad Corporation (ARRC) has consistently implemented measures which restrict compatible uses of the right-of-way (ROW) by adjacent property owners. Advancing its agenda under the guise of safety, ARRC policies include the Residential ROW Use Policy (RRUP), which extorts adjacent landowners who, contrary to ARRC's claims, hold an ownership interest in the land beneath the tracks. ARRC is demanding payment of annual fees and filing liens against those who do not comply. This legislation will guarantee that adjacent property owners have reasonable ROW access and compatible use that does not impede safe railroad operations. Please support this important legislation for the benefit of all Alaskans.

Thank you."

Mr. C.L. Garrett

Sent from my iPad

**From:** [Carlton Locke](#)  
**To:** [Rep. Chuck Kopp](#)  
**Subject:** Support for HB93  
**Date:** Sunday, February 12, 2017 11:15:50 AM

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February 12, 2017

Alaska Representative Chuck Kopp

Members of the House Resources Committee

Dear Representative Kopp and Members of the House Resources Committee;

I would like to let you and the House Resources Committee know that I support passage of HB93. I think this is a very good action and would have a positive effect on the neighbors of the Alaska Railroad, and very little, if any, negative effect on the Alaska Railroad. Please forward a copy of this email to the Members of the House Resources Committee. Thank you.

Sincerely,

Carlton J. Locke

13587 Seward Highway

PO Box 2296

Seward, AK 99664

(907) 362-3093

**From:** [Dave Hultquist](#)  
**To:** [Erick Cordero Giorgana](#)  
**Subject:** Ak Rairoad  
**Date:** Thursday, February 02, 2017 3:11:59 PM

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Representative Bill Kopp

Dear Representative Kopp:

As an Anchorage Alaska Based business with 1,000 feet of property abutting the Alaska Railroad right of way in south Anchorage.

I want to express my support for HB 93. I want to restore my property rights as a successor to the original Alaskan homestead.

Thank you for your efforts,

*Dave Hultquist*, President & Owner



Hultquist Homes Inc. of Alaska & Washington

12580 Old Seward

Anchorage, AK 99515

907-522-1503 Direct

907-830-4099 Cell & Text

907-522-3211 Fax

[www.hultquisthomes.com](http://www.hultquisthomes.com)



February 3<sup>rd</sup>, 2017



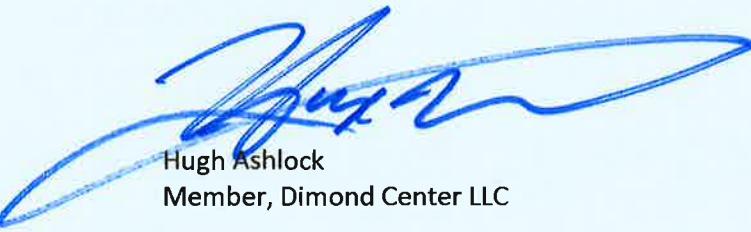
The Honorable Charles Kopp  
State Capitol Room 13  
Juneau, Alaska, 99801  
Sent Via Email

Dear Representative Kopp:

As an Anchorage, Alaska based business with property abutting the Alaska Railroad right of way in South Anchorage, I want to express my support for HB 93. I want to restore my property rights as a successor to the original Alaskan homestead. My family purchased the land from the widow of Lionel Tietze who homesteaded in 1952. A copy of the original Homestead Patent is enclosed.

I can assure you Dimond Center will do everything to continue to work with the Alaska Railroad as future safety and intermodal opportunities present themselves.

Thank you for your efforts,

A blue ink signature of the name "Hugh Ashlock".

Hugh Ashlock

Member, Dimond Center LLC

Tietze Homestead (Old survey to Arctic  
76L to 100th)

Anchorage 018264

4-1040  
(October 1948)

# The United States of America,

To all to whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Land Office at Anchorage, Alaska, is now deposited in the Bureau of Land Management, whereby it appears that, pursuant to the Act of Congress of May 20, 1862, "To Secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of Lionel N. Tietze has been established and duly consummated, in conformity to law, for the following described land:

Seward Meridian, Alaska.  
T. 12 N., R. 3 W.,  
Sec. 7, ~~NE 1/4~~, ~~SW 1/4~~,  
Sec. 18, ~~SW 1/4~~.

The area described contains 160 acres, according to the Official Plat of the Survey of the said Land, on file in the Bureau of Land Management.

NOW KNOW YE, that there is, therefore, granted by the UNITED STATES unto the said Lionel N. Tietze, the tract of Land above described; TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto the said Lionel N. Tietze and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States.

And there is also reserved to the United States a right-of-way for the construction of railroads, telegraph and telephone lines, in accordance with the Act of March 12, 1914 (38 Stat. 305).

Exempting and reserving, also, to the United States, pursuant to the provisions of the Act of August 1, 1946 (60 Stat. 755), all uranium, thorium or any other material which is or may be determined to be peculiarly essential to the production of fissionable materials, whether or not of commercial value, together with the right of the United States through its authorized agents or representatives at any time to enter upon the land and prospect for, mine, and remove the same.

And there is reserved from the lands hereby granted, a right-of-way thereon for roads, roadways, highways, tramways, trails, bridges, and appurtenant structures constructed or to be constructed by or under authority of the United States or of any State created out of the Territory of Alaska, in accordance with the Act of July 24, 1947 (61 Stat. 418).

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of

Land Management, in accordance with the provisions of the Act of June 17,

1948 (62 Stat. 476), has, in the name of the United States, caused these letters

[SEAL]

to be made Patent, and the Seal of the Bureau to be hereunto affixed.

GIVEN under my hand, in the District of Columbia, the **NINTH**

day of **MAY** in the year of our Lord one thousand nine

hundred and **FIFTY-TWO** and of the Independence of the

United States the one hundred and **SEVENTY-SIXTH**.

For the Director, Bureau of Land Management.

*Bellie B. Jeffery*

By *Bellie B. Jeffery* Chief, Patents Section.

1135002

Patent No. \_\_\_\_\_

U. S. GOVERNMENT PRINTING OFFICE 16-21670-1

*Bellie B. Jeffery*

# Flying Crown Homeowners Association

PO Box 190530  
Anchorage, AK 99519

February 7, 2017

Senator Natasha von Imhof  
State Capitol Room 514  
Juneau AK, 99801

Dear Senator Natasha von Imhof,

For years, the Flying Crown Homeowners Association has been subjected by the Alaska Railroad Corporation to ever increasing fees for transitory use of a portion of the Railroad ROW to access our established residential airport. We have always believed this requirement to be inappropriate, since we join the Railroad in a desire to maintain safe, secure operations.

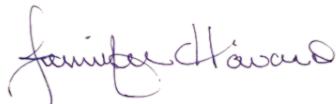
Recent implementation of the RRUP program highlights the Railroad's quest for unreasonable control of the entire ROW, even though they only need and use a portion of it. Their demand for permits and fees does nothing to ensure safety, as their mantra would suggest.

Most noteworthy is the fact that the "exclusive use" they claim was never intended by those who crafted the transfer to State ownership. In fact, much of the ROW covered by the 2006 Patent issued by the Department of the Interior had previously been patented to other parties in the 1950s, with simply a reservation for a surface easement for continued operation of a "railroad, telegraph, and telephone." Thus the later patent stripped the rightful landowners of their property, without notice or compensation.

House Bill 93 serves to prohibit the Railroad from charging property owners for use of their own land, and bars them from restricting use that does not affect safe railroad operations.

We urge you to act favorably on this legislation, as it goes a long way to properly restore private property rights so important to all Alaskans.

Sincerely,



Jennifer Howard  
President  
907.301.7771

**From:** [Carolin](#)  
**To:** [Rep. Chuck Kopp](#)  
**Subject:** HB 93  
**Date:** Thursday, February 02, 2017 4:11:48 PM

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Please act on my behalf for HB 93. Thank you for taking interest on this.  
We live on Flying Crown air strip and and the Home Owners pay \$45,000 a year to lease a small amount of land,  
which goes up every 5 years when we renew the least. This is not the RR land it really belongs to the land owner.  
Carolin Wells

Sent from my iPad

**From:** [John Mahaffey](#)  
**To:** [Rep. Chuck Kopp](#)  
**Subject:** support HB93  
**Date:** Friday, February 17, 2017 1:14:10 PM

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Please support HB93, this helps maintain access to property. There is no need for the railroad to lock up access or charge fees for access. John Mahaffey

To: Erick Cordero Giorgana <Erick.CorderoGiorgana@akleg.gov>; Rep. Chuck Kopp <Rep.Chuck.Kopp@akleg.gov>  
Subject: HJR 38

Chuck / Eric,  
Having reviewed House Joint Resolution 38, being cognizant of the issues surrounding the Rail Road Right of Way and impact on Property Owners, and their rights therein, I am in support of the resolutions sought in HJR38.

Regards,

James G. Schneider, Flying Crown Homeowners Association (FCHA); FCHA Board of Directors, Secretary  
Office (907) 249-4133| Cell (907) 227-3359

**From:** [dick welsh](#)  
**To:** [Erick Cordero Giorgana](#)  
**Subject:** HB 93  
**Date:** Tuesday, February 07, 2017 2:24:26 PM

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Erick, My name is Richard Welsh and I am the executive director of the National Association of Reversionary Property Owners (NARPO). We are writing to add support to HB93 which is before your committee. We represent property owners in all 50 states that own land adjacent to railroad rights of way. NARPO has testified to Congress and numerous state legislatures on the issue of reversionary rights to railroad rights of way and other utilities. More than 90% of railroad rights of way in the United States have been acquired by the railroads in easement form and as such are reversionary to the abutting property owners upon abandonment of railroad use.

Even before the abandonment of railroad use, the abutting property owners still have an ownership interest in the right of way/easement as long as the abutter's use does not interfere with railroad use. From NARPO's reading of the homestead patents along the Alaska Railroad, they are not different than the wording of the patents in the major U.S. Supreme Court case of *Brandt v. U.S.* from 2014, [https://www.supremecourt.gov/opinions/13pdf/12\\_1173\\_nlio.pdf](https://www.supremecourt.gov/opinions/13pdf/12_1173_nlio.pdf), where the Court found that the Brandts' owned the underlying land of the railroad right of way traversing their homestead, not the U.S. government. In the *Brandt* case, the Brandt family received a patent for homestead use in the early 1900s. Because property owners who own the easements on the Alaska Railroad have a legal interest, they should be able to use the part of the right of way that does not impede railroad use, and this includes crossings so the property owners can access all of their property which in a lot of cases involve land on both sides of the right of way.

I believe HB 93 if passed and signed by the Governor, will clarify what property rights the property owners abutting the Alaska Railroad actually have. If you have any questions concerning this, please contact me at 760-238-8420 which is on the Pacific time zone. Or my email: [dick156@earthlink.net](mailto:dick156@earthlink.net)

See NARPO's web site at: <http://home.earthlink.net/~dick156>

Thank you for considering HB 93.

Richard Welsh, executive director--NARPO

## In Support of HB93

To the committee members

Please support HB93.....

I am a retired attorney. For 20 years until 2006 I owned an interest in two title insurance agencies in Anchorage, and practiced insurance defense law.

HB93 helps to restore the rights of several thousand Alaskans along the rail belt affected by an “over conveyance” of rights during the implementation of the transfer of the federal railroad assets to the state (1982- present).

My wife Peggy and I bought In Anchorage in 1980...originally a part of land patented in 1951 by Holden. We are next to Ocean View Park.

We succeed to Holden’s interest in both the lots and the railroad easement ‘adjacent’ to them, subject to the surface easement of the railroad for rail and related operations.

The lots and easement are legally part of the conveyance. Legal rights to the area of the easement pass together with the “adjacent” parcel through the common law “centerline presumption” recognized throughout the US. Sponsor Kopp has research material for your study if requested.

The easement was a part of the 1951 patent, and is a “patent reservation” for the railroad. All patents in Alaska concerning the railroad have the same reservation.

The reservation is 200ft. wide but the railroad clears not more than about 35 feet on each side of the track. Photos of the equipment being used has been provided to Rep. Kopp. The cleared width has not changed during the time we have been here.

The cleared width seems adequate for the railroad use. Loads on the railroad are restricted, without special permission, to 10' 8". Tunnels and bridges apparently restrict load widths.

Beyond the cleared area there is a ditch about 4 feet deep and then moose bushes. We have a row of lilac bushes approximately 50 feet from the centerline of the track. Inside the lilacs we have lawn and then our house.

We have left the railroad free to do as it wishes beyond the lilac bushes. We have received no complaints of safety problems caused by Peggy’s garden, lilac bushes and grass.

In a 1982 letter to the US house committee considering the transfer Gov. Jay Hammond referred to the 1914 easement for 'railroad, telegraph and telephone" as the "standard" rail easement in Alaska. Actually it is the national standard.

The patent reservation language comes from the 1914 Alaska Railroad Act. That language was borrowed from the nearly identical 1875 General Railroad Act which creates the easement for 70% of all track mileage in the US.

The claimed exclusive use easement created by the DOI and the railroad for privately held property in Alaska is unknown anywhere else in the US.

I do not see why the Alaska Railroad needs easement rights exceeding those of these other well-run railroads.

The transfer act did not contemplate the DOI and ARRC changing property rights during transfer and for that reason no notices of the transfer or actions taken in the transfer were published or sent to property owners affected. No "taking" was announced. No provision for compensation was made for the simple reason that no property changes were contemplated in the transfer.

The "over- conveyance" of rights and the application of exclusive use seems to be based on the assumption that Congress intended to change the terms and conditions of hundreds of decades-old and vested land patents.

This view places the integrity of the 1982 congressional delegation and the Governor at that time in grave doubt, and without justification. Two of them were homesteaders themselves. Surely there was no such intention and a contrary suggestion is plain wrong.

Why are you now hearing about this matter probably for the first time?

In 2012, long after the DOI /ARRC actions were recorded, and specifically based on the new "exclusive use", the railroad notified us and others in Anchorage that they were imposing a "residential right-of-way use permit" (RRUP), requiring us and eventually all private property owners on the 500 miles of track to get a permit to use our own lawn and garden, and requiring all to pay the railroad a fee or a tax.

[https://www.alaskarailroad.com/sites/default/files/Real\\_Estate/Application\\_RRUP\\_%20das%202016-10-05.pdf](https://www.alaskarailroad.com/sites/default/files/Real_Estate/Application_RRUP_%20das%202016-10-05.pdf).

There is no way for the property owner to have become aware of the many conveyances that the DOI issued for exclusive use since 1982. No actual or constructive notice to the property owner exist because of the way the land title "index" works and the fact that no actual notices were required in the transfer act.

We do recognize the railroads interest in safety. An exclusive rights easement on

private lands is not the solution, with or without the tax.

It is true that people are injured / killed because they walked down the tracks. I know no incident in which any such person accessed the tracks over private property. In South Anchorage the problem is caused in three areas: (1) road crossings such as Ocean View Drive, (2) proximity to parks such as Ocean View Park and Ocean View Bluff Park, (3) anywhere that the track is close to a roadway. This latter situation includes essentially everything from the bottom of Potter Hill to Portage. People stop by the roadside, get out of the car and walk across and down the tracks.

The problem should be solved where the problem exists, and not elsewhere. The railroad already has trespass statutes and a police force to handle this problem.

Another stated concern has been derailment. Charging homeowners for their lawns and gardens is not a solution. If the train comes off the track it is going to be very difficult to coax her back on the track by waving a permit or a canceled check.

The Old Seward Ocean View Community Council formed a committee to review this matter, resulting in a resolution opposing RRUP and asking for elected officials to help. Rep. Kopp has a copy. Rep. Kopp has heeded our call, and we hope that you will join in the effort to restore appropriate and balanced rights.

While HB93 does not directly return the “over-conveyance” to the 1200 or more property owners, it does set common sense operational standards for the railroad to follow and alerts the property owner to their rights relative to the easement.

Please support HB 93.

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Peggy and John Pletcher  
13608 Jarvi Dr. Anchorage, Ak. 99515  
907 345-3981/229-4698

**From:** [Ray Wells](#)  
**To:** [Rep. Chuck Kopp](#)  
**Subject:** h.b.93  
**Date:** Thursday, February 02, 2017 3:30:05 PM

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"Since the State acquired the railroad from the federal government in 1983, The Alaska Railroad Corporation (ARRC) has consistently implemented measures which restrict compatible uses of the right-of-way (ROW) by adjacent property owners. Advancing its agenda under the guise of safety, ARRC policies include the Residential ROW Use Policy (RRUP), which extorts adjacent landowners who, contrary to ARRC's claims, hold an ownership interest in the land beneath the tracks. ARRC is demanding payment of annual fees and filing liens against those who do not comply. Rep. Chuck Kopp has introduced **House Bill 93** to protect private property rights. This legislation will guarantee that adjacent property owners have reasonable ROW access and compatible use that does not impede safe railroad operations. Please support this important legislation for the benefit of all Alaskans. Thank you."



February 25, 2018

The Honorable Charles Kopp  
State Capitol Room 13  
Juneau, Alaska 99801

Sent by email: [Erick.CorderoGiorgana@akleg.gov](mailto:Erick.CorderoGiorgana@akleg.gov)

Dear Representative Kopp,

I own an Alaska based business, Dimond Capital Company, LLC which owns property abutting the Alaska Railroad right of way in South Anchorage. In addition, I own the Red Robin business that operates on that property.

I want to express my support for HJR 38. It is important to me as a property owner to restore my property rights as a successor to the original Alaska homestead. I purchased this property in 1993. It is subject to the original homestead of Lionel Tietse from 1952.

Following development of this property with the Dimond Red Robin restaurant, the Alaska Railroad charged me to store snow during the winter months on a part of their easement that did not interfere with the safe operation of the railroad. As such, I was paying the Alaska Railroad to store snow on property that was actually owned by me.

I want to assure you and the Alaska Railroad that we will continue to work with the Alaska Railroad in a positive way to insure the safety and transportation opportunities as they occur. However, I believe that the Alaska Railroad has abridged my private property rights and that those rights should be restored.

Thank you very much for your sponsorship of this resolution.

Respectfully,

Fred Rosenberg  
President, Red Robin Alaska, Inc.  
President, Dimond Capital Company, LLC



Red Robin Alaska, Inc. • Gourmet Ventures, Inc. • Wasilla Robin Alaska, Inc.  
4450 Cordova Street, Suite 200 • Anchorage, AK 99503 • 907.561.5555

Dear Rep Kopp,

I thank you for introducing HB93 to the Alaska legislature. I am your constituent of AK - District 24, residing at 13650 Jarvi Drive. I do not understand what gives the Alaska Railroad the right or the power to obstruct my use of my land unless I pay a rather steep annual fee. Seems like extortion to me.

Please continue your supportive activities regarding HB93 and urge other members of the Legislature to support you as well. It is a good bill as it provides a fair solution to both the Railroad's claims of public safety and the adjacent landowners' claims for unobstructed use of their (our) private property. This legislation guarantees that adjacent property owners have reasonable ROW access and compatible use that does not impede safe railroad operations.

Let's enact this bill immediately!

Very respectfully,

Barbara Rosenthal



Talkeetna Historical Society PO Box 76 Talkeetna, AK 99676  
907-733-2487 [www.talkeetnahistoricalsociety.org](http://www.talkeetnahistoricalsociety.org)

Representative Kopp,

This letter is in support of HB 93, the bill addressing landowner property rights and the Alaska Railroad. There are many landowners along the rail belt that deal with, and have dealt with, issues concerning the Alaska Railroad and the rail itself for decades.

In Talkeetna, we get thousands and thousands of visitors each summer. The museum staff talks to between 150 and 200 of those visitors every day. We convey our history and its link to the railroad. One of the main reasons Talkeetna exists is the Alaska Railroad. We are in support of ARR running a safe and secure system for visitors, for local residents and for freight hauled from the north. However, many residents have also been strapped with undue or onerous regulation to access their property. Talkeetna and Chase are places where the railroad and private property owners get entangled. Homeowners have lands that abut the rail, some even ride the rail to access their homes. Talkeetna itself has quite a bit of land that is owned by the railroad that is not actually in the rail ROW.

As we wade back through history and our past, we believe that HB 93 will help restore landowners rights of access and ownership and at the same time keep the ARR safety regulations in place.

Thanks for your consideration.

On behalf of the Board of Directors of THS,

Sue Deyoe  
Executive Director, THS & Museum  
Talkeetna AK  
907-733-2487  
[manager@talkeetnahistoricalsociety.org](mailto:manager@talkeetnahistoricalsociety.org)

# *Tantikil Unlimited*

*The Land • The Sea • The People*

February 8, 2017

*Larry S. Lau*

Rep. Chuck Kopp

Alaska State Capital

Room 13

Juneau, Alaska 99801

Re: HB 93

Rep. Kopp,

My name is Larry S. Lau. I have been working with Alaska Native land title issues since 1972. The Alaska Native Claims Settlement Act (ANCSA) was passed in 1971. My experience includes that as a Native corporation Regional Planner, Resource Manager for a regional corporation, and village corporation Land Manager. I have taught classes at Alaska Pacific University and given ANCSA and Section 14(C) classes in Anchorage, Fairbanks, and villages since 1992. I've worked as a consultant to ANCSA corporations, tribes, and municipal governments over the last 25 years.

I'm familiar with some of the Alaska Railroad R-O-W issues directly---as a person who deals with the property rights of ANCSA corporations and those who have valid rights protected by village corporation title; and one with family members owning property within the R-O-W.

I support passage of HB 93 as it seems to adequately address the concerns of many title holders along the R-O-W. I've included a requested memo by the Oceanview Community Council (Anchorage) clarifying "ANCSA title property rights" within the R-O-W. You may find this useful.

Please contact me with any questions using the information below.

Thank you very much for what you do!

Respectfully,

  
Larry S. Lau

*Tantikil Unlimited*  
*The Land • The Sea • The People*  
*Larry S. Lau*

**TO:** John Pletcher, Railroad Committee, Oceanview Community Council

**FROM:** Larry S. Lau *L*

**DATE:** February 8, 2017

**RE:** Alaska Railroad R-O-W Issue, Alaska Railroad Transfer Act (1982)

John,

We have been communicating about this issue for more than a year. You are aware that I have been working with land title issues in Alaska since 1972, when I began working directly with the Alaska Native Claims Settlement Act of 1971. Because of this background, you have asked me to comment on Section 1205. As you know, I am not an attorney.

In particular, you have asked me to comment on this portion: "B) Where lands within the right-of-way, or any interest in such lands, have been conveyed from Federal ownership prior to January 14, 1983, or is subject to a claim of valid existing rights by a party other than a Village Corporation . . ."

Summary:

I have been informed that personnel in the U.S. Department of the Interior and Alaska Railroad believe that this phrase refers to homestead lands under the federal Homestead Act (1862).

1. It doesn't.

2. This phrase refers to interim conveyances (ICs) and patents of village corporations established by the Alaska Native Claims Settlement Act (1971), Section 14(C); and to pending Native allotments under the Native Allotment Act (1906). Village corporation ICs and patents carry with them various types of claims that were not adjudicated as of 1982 (and still aren't); and many of which were within the railroad easement. These ICs and patents constitute a "top filing." And, they "run with the land," meaning that subsequent landowners to village corporations incur their liability if unadjudicated by the village corporation.

John Pletcher

February 8, 2017

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3. Specific types of claimants who qualify for land under Section 14(C) include:

- a. Individuals who used the land on or before December 18, 1971, for a: Primary Place of Residence; Primary Place of Business; Subsistence Camp Site; Headquarters Site for Reindeer Husbandry.
- b. Non-profit organizations who used the land on or before December 18, 1971.
- c. Local governments for present and future land use.
- d. Federal, State, tribal, municipal governments for airports.

4. Unadjudicated Native allotments would also apply.

Federal law has attached several types of valid claims to village corporation title, including several established prior to 1971. I have not even touched on many other types of "valid existing rights" that were also attached to village corporation title.

Please contact me with questions.

The Bradley  
Your Building Solution Company Ltd, LLC  
Anchorage, Alaska

February 10, 2017

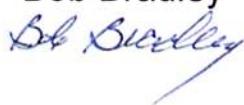
To Alaska State Representatives,

My name is Bob Bradley and I am the President/CEO of The Bradley Company LTD, LLC and O'Malley Square LLC. I would like to let you know why I am in support of HB 93.

In 2005 The Bradley Co was developing 6 acres of prime Real Estate in South Anchorage. During construction, in the permit review stage, the Municipality of Anchorage had us do a site review for Storm Water Management. During this review we found it necessary to move this storm water from the end of South Gamble Rd to O'Malley Road where there is a major collector. In this process the only access to O'Malley is to use the Right of Way behind the South Anchorage Lowe's store to O'Malley Rd. We set up a meeting with the Railroad Board of directors and the Railroad Real Estate division. Our reason for this meeting was to find out what was in the easement and how do we work together to make this happen. After all the talk about what was in the easement the Railroad informed us that they owned the easement and they are not willing to let us into the easement because they have future plans for that area.

In our Recorded Plat it shows an easement for the Railroad of 200' wide plus another 17' of easement onto our property. Though we own the property we cannot use it to move over 1.5 million gallons of storm water per every 2" of rainfall. When we went back to the MOA regarding these findings they thought they could talk with the Railroad and make this happen. The MOA came back with the same response we received. The MOA approved our limited drainage plan for 3 acres of land where our 100,000 sf class A office building sits. We have been unable to develop any more property until all the storm water issues are resolved. If we were to have access to this easement the storm water could flow to O'Malley Rd and we would be able to develop more office/retail and put an extra \$1.5M back into this economy annually.

Thank you  
Bob Bradley



Patricia (Tricia) Mulligan  
PO Box 2019  
Palmer, AK 99645

2/5/17

Senator Hughes,

My family has owned property along the Alaska Railroad Right of Way Easement in the Bootleggers Cove area of Anchorage since the 1950's, and it is now occupied by my son and his wife. When my parents first bought the property and later built their home in 1958, they were aware of the easement, and considered it not to be an issue based on their understanding of its purpose. The area in the Right of Way is a landscaped yard with a hedge, and a portion of it contains a small overlap of a nice looking storage shed. The next door neighbor also shares a retaining wall with the property that has some footage extending into the Right of Way.

I object strongly to the AK Railroad's new "Exclusive Use" interpretation of the easement along with the current \$775 "Residential Right-of-Way" permit fee. The railroad is charging almost \$65/month to keep the Right of Way in better shape than it would do otherwise; and has changed the original easement drastically, taking away rights from property owners and transferring them to the railroad. If the annual fee is not paid, then the railroad has even threatened to place liens on all affected property. This situation affects **all of the property owners along the railroad easement state wide**, not just property in Anchorage.

Proposed HB 93, introduced by Rep. Chuck Kopp, prohibits the railroad from claiming the new "exclusive use" and trying to collect fees from private property owners. It also affirms that the railroad continue to retain the previous standard right of way, which would still prohibit private property owners from using the easement property in a manner that would interfere with railroad safety.

Please support this legislation and contact Representative Chuck Kopp's office and consult with him if you have any questions, as he is leading the initiative to solve this inequity.

Thank you,

Tricia Mulligan

**From:** [Adventure Sixty North](#)  
**To:** [Rep. Chuck Kopp](#)  
**Subject:** Re: Alaska Railroad restrictions blocking public access to public and private lands.  
**Date:** Wednesday, February 15, 2017 10:30:20 AM

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Hello Mr. Kopp

Sorry of the Typo on the first email!!!,

As a longtime resident and business owner in the outdoor industry here in Seward, I have become aware of the Alaska Railroad cutting off access to many of the locally traveled trails from Seward to almost Anchorage in our part of Alaska. I feel that it was not the state's intent to restrict, deny or otherwise inhibit activities, hiking, berry picking, hunting by cutting off access to public and private lands that have been traditionally used by many Alaskan residents for years. Right now we have lost our public access at lower Trail Lake because of the Railroad locking a gate and displaying trespassing signs. This is just one small example of what this action by the Alaskan Railroad has done by overreaching its mandate. I do hope that you will look at this issue and we will be following this to see where we go with correcting this unfortunate action by the Alaskan Railroad....I have always believed that the state's intention with this is to provide access to Alaska residents and businesses but not restrict access for our traditional ways. Please consider what this recent successful attempt to exclude the public from many of the state's trails, lakes and private lands means to us that get out and enjoy our state and promote our state tourism. We and many others believe that is so misguided and unfair to Alaskan residents not to mention our tourists.

Thanks for your time,

Sincerely,

Richard L Brown Co-Owner Adventure Sixty North Outdoor Adventure Center  
Seward, Alaska

The Staff at Adventure 60 North  
907-224-2600

<http://www.adventure60.com>

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On Wed, Feb 15, 2017 at 10:26 AM, Adventure Sixty North <[adventure60north@gmail.com](mailto:adventure60north@gmail.com)> wrote:

Hell Mr. Kopp,

As a longtime resident and business owner in the outdoor industry here in Seward, I have become aware of the Alaska Railroad cutting off access to many of the locally traveled trails from Seward to almost Anchorage in our part of Alaska. I feel that it was not the state's intent to restrict, deny or otherwise inhibit activities, hiking, berry picking, hunting by cutting off access to public and private lands that have been traditionally used by many Alaskan residents for years. Right now we have lost our public access at lower Trail Lake because of the Railroad

locking a gate and displaying trespassing signs. This is just one small example of what this action by the Alaskan Railroad has done by overreaching its mandate. I do hope that you will look at this issue and we will be following this to see where we go with correcting this unfortunate action by the Alaskan Railroad....I have always believed that the states intention with this is to provide access to Alaska residents and businesses but not restrict access for our traditional ways. Please consider what this recent successful attempt to exclude the public from many of the states trails, lakes and private lands means to us that get out and enjoy our state and promote our state tourism. We and many others believe that is so misguided and unfair to Alaskan residents not to mention our tourists.

Thanks for your time,

Sincerely,

Richard L Brown Co-Owner Adventure Sixty North Outdoor Adventure Center Seward, Alaska

The Staff at Adventure 60 North

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**From:** mikestolle  
**To:** [Rep. Chuck Kopp](#)  
**Subject:** RE: HJB 38  
**Date:** Monday, February 26, 2018 3:15:03 PM

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Rep. Kopp,

The following email was sent by me from my husband's email as he requested on behalf of both of us. The reference is to HJR 38, instead of HJB. Thanks again for your help from both of us.

Mike and Joan Stolle

Sent via the Samsung GALAXY S® 5, an AT&T 4G LTE smartphonejo7

----- Original message -----

From: mikestolle <mikestolle@gci.net>  
Date: 2/26/2018 2:59 PM (GMT-09:00)  
To: Representative.Chuck.Kopp@akleg.gov  
Subject: HJB 38

Rep. Kopp,

Thank you for your assistance in trying to set right a terrible wrong committed by the AKRR in their efforts to take away our property and claiming it as theirs instead of the right-of-way Easement it was meant to be. It is criminal for the AKRR to threaten us and pursue this action.

As 34 year residents of our home on Jarvi Dr. in Anchorage, we support your efforts on HJB38. I wish I could write more but I am limited in time. I have spent day and night in hospital facilities by my husband's side for the last 5 months. I am told he is dying. He is a veteran whose illness and disabilities are directly related to his service of our country. His and my goal is to get him home...to be at peace. We don't need the AKRR robbing us of the peace of mind that we still live in a country where our property rights and homes are secure and protected by his military sacrifice and those of others.

Thank you for your help.

Joan Stolle  
907 441-2254

Sent via the Samsung GALAXY S® 5, an AT&T 4G LTE smartphonejo7