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## Alaska Railroad is a bad neighbor on right of way

By Jack Brown

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What's happening? The Alaska Railroad Corp. has an agenda that is raising eyebrows from Anchorage to Alaska's congressional delegation in Washington.

First is the very controversial RRUP (Residential Right of Way Use Permit) program that was implemented last fall. Second is conversion of historical Railroad Right Of Way (ROW) easement into railroad Exclusive Use patented land. Or, "this land is your land, this land is my land, this right of way was made for you and me" -- wait, what's that you say? This land is now Alaska Railroad's land and they can fence it off or charge us to use it?

What happened? How does a public corporation legally change the patent title of my property? How can the railroad be setting policy that has a direct negative effect on my property value with zero oversight from anyone? Here's how: Even though the railroad board is appointed by the governor, the railroad sets new policy with no requirement for public input. This is not in the best public interest, and is detrimental to the rights of all Alaskans and private property owners.

When the federal transfer of the Alaska Railroad to the state in 1982 began (still ongoing 33 years later), it was made loud and clear that there would be no legal change to Alaskans' rights in the shared ROW. The railroad has managed to completely ignore the clear intent of the transfer act and has been working for

years, again without external oversight, implementing policy that tramples all over the legal rights of those same Alaskans.

But this doesn't affect me if I am not a property owner along the ROW, right? Wrong. It affects all Alaskans who enjoy the right to cross tracks to access a home or cabin, hike, rock or ice climb, windsurf, fish, hunt or pick berries. Just look at the permitting requirements in the Real Estate section of the railroad's website. How can the railroad justify requiring permits and charging windsurfers fees to access Turnagain Arm?

The railroad says increased safety is the justification for their misguided policy. Safety has nothing to do with it and never did. No other railroad in the nation has Exclusive Use patent of the ROW lands. The railroad has always had the unquestionable legal right to enforce ROW infringement and other safety issues within the ROW. The railroad is doing nothing but unnecessarily scaring Alaskans with unhealthy fear and paranoia about possible train derailments that could kill their family, or backyard lawns that could cause erosion and cause a hillside to erode and fall on the train. There's never been a derailment in Alaska associated with a fatality, and we all know that grass is an excellent soil stabilizer.

There's now enough documentation on the table to strongly suggest that current railroad RRUP and Exclusive Use patent work is legally flawed and may have been implemented in error, with more relevant documents surfacing all the time. With zero oversight, who's going to hold the railroad accountable? There are now numerous official documents, court decisions and legal opinions directly challenging the very aggressive land grab by the railroad. Community councils throughout the area are questioning these issues and the railroad's legal right to implement them. At least one council has passed a resolution asking the Legislature to intervene and stop the railroad from proceeding.

I challenge all Alaskans to stand up to the giant elephant in the room and help stop the erosion of our legal unencumbered right to share the ROW. Just because this train has been on the wrong track for years doesn't make it right to continue; it just makes it much harder to stop because this truly is a David-and-Goliath issue. This misguided train has even more steam because the railroad knows just how extremely difficult and technical this issue is, and how hard it is for the average Alaskan to grasp the magnitude of the situation.

Well, here's a fact that's easy for all Alaskans to understand: Anchorage property owners and long-time railroad ROW neighbors and stewards are now being shaken down by the railroad for cold, hard cash, with Alaskans all the way to Fairbanks likely next in line. At 25 cents per square foot along with \$250/\$200 application/renewal fees, residents are now looking at fees easily into thousands of dollars annually for the same backyard shared ROW use that they've rightfully enjoyed unencumbered for decades. Bottom line? This policy does nothing to enhance the safety of the Alaska Railroad operation.

I think the Alaska Railroad could be a much better neighbor to those Alaskans who have shared the right of way for many decades. Please visit <http://www.alaskarailroadeasement.info/> educate yourself and join the fight -- stand up for your right to use the railroad ROW as it was intended before it's gone forever.

***Jack Brown** is a professional airline pilot who has lived in Alaska for 37 years. He and his wife live along the Alaska Railroad in South Anchorage.*

*The views expressed here are the writer's own and are not necessarily endorsed by Alaska Dispatch News, which welcomes a broad range of viewpoints. To submit a piece for consideration, email [commentary\(at\)alaskadispatch.com](mailto:commentary(at)alaskadispatch.com).*

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