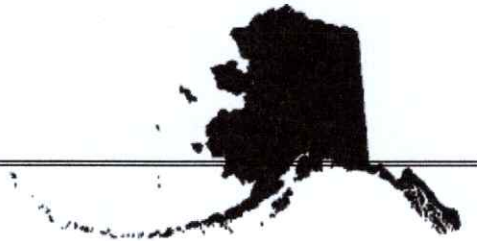


# TIGER TRUST

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March 19, 2025

Representative Chuck Kopp  
120 4<sup>th</sup> Street  
Alaska State Capitol, Room 204  
Juneau, AK. 99801

Subject: HB 136, Use of Railroad Easements

We are property owners affected by the Alaska Railroad easement.

Since the 9<sup>th</sup> Circuit decision in the Flying Crown Case (and even earlier), the Alaska Railroad has treated their easement as property that they own. They “believe” they can do anything on the easement as long as it does not interfere with their operations. On October 26, 2023, I was told by Alaska Railroad General Counsel Andrew Behrends, they could even put a daycare in my backyard on their easement literally 20 feet from my living room and bedroom windows, and I could not stop them.

In the original patent language, there was reserved a right of way (an easement) for “railroad, telegraph and telephone”. The right of way (easement) passes over property that I own and is a simple easement. If the Alaska Railroad is not using it for railroad purposes, under Alaska law I can use it.

HB 136 harmonizes landowners adjacent to the Alaska Railroad easement with Alaska Supreme Court case#S-17884/17904 (Opinion#7617), Reeves v Godspeed of September 2022. In that opinion, citation 26 on page 13 is critically important, and states the “holder of the servient (underlying) estate is entitled to make any use of the servient estate that does not unreasonably interfere with the enjoyment of the servitude.”

The Alaska Railroad is not granted fee simple title to the property, they are granted a non-possessory right to use the real property of another, without possessing it, for the specific use stated in the easement. As such, your bill harmonizes the Alaska Railroad easement, with defined and litigated recent Alaska law, which clearly states underlying land owners can use their land underlying the easement, as long as it does not interfere with railroad operations.

Very truly yours

John E. Haxby  
Trustee

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