

Griffen Sukkaew

From: The Goose Hangar [REDACTED]
Sent: Monday, May 5, 2025 7:12 PM
To: House Transportation
Cc: Rep. Chuck Kopp
Subject: HB 136

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Members

The railroad's easement crosses private property owned by hundreds of Alaskans.

There are two issues here: (1) the property owner's right to use the easement crossing the owner's property in common with the railroad and (2) other possible easement uses. HB 136 has to do only with the first of these. In fact, the bill does not mention other uses. It mentions only that the state policy is that an owner use is allowed so long as it doesn't interfere with the railroad's use.

This is simply how easements work. A good analogy here would be a utility easement across your property. Many of you have grass growing in the utility or some other non-interfering use, such as a driveway or garden. This bill simply sets that as a policy.

Whether or not another type of use is permissible in the easement is a completely separate issue from HB136.

John Pletcher
South Anchorage

Griffen Sukkaew

From: [REDACTED]
Sent: Tuesday, May 6, 2025 5:57 AM
To: House Transportation
Subject: Support for HB 136 and opposition to Fish Creek Trail connector project

Dear Committee,

I would like to express my support for HB 136. As a home owner in Anchorage for the past decade and frequent user of the trail systems, it seems that solving more pressing problems around the city, such as the homeless crisis, should be prioritized over investing in new trails for recreational use. With the continually increasing tax burden falling on the homeowners in the city, it seems reasonable to permit weighted input over control of Alaska railroad right of ways to those homeowners. I fear the planned Fish Creek Trail connector will become another prime area for homeless camps, as seen on the Chester Creek, Coastal, Ship Creek, and other trails in the city. This will specifically compromise the safety of users of the section of the Coastal Trail between Westchester and Kincaid that sees considerably less homeless traffic than the more accessible parts of the trail. Additionally, with the burden of the cost of mitigation and crime fighting falling on the shoulders of those paying property taxes, failing to pass HB 136 will result in continued increases to our property taxes. I urge you to pass HB 136.

Thank you for your consideration,
Anne Gray
[REDACTED]
Anchorage, AK 99501
[REDACTED]

Thank you, Representative Kopp and the co-sponsors of HB 136, for introducing this bill and the House Transportation Committee for hearing it. This bill represents a good start moving forward with the protection of private property rights in our State. It is somewhat ironic, that in a State that has had to be so diligent in its own pursuit of property right battles with the Federal government, that we citizens must be equally diligent in having the State acknowledge our rights.

My family are owners of the remaining portion of a US patented homestead located in North Pole, Alaska. The Finnel Homestead entry was on June 20, 1946. In 1947 the Alaska Railroad extended a spur line to Satellite Field (now known as Eielson Air Force Base), this spur line essentially bisected Finell's homestead on the diagonal. The Finnel Patent included the following language:

Excepting also, from the conveyance those certain pipeline and telephone lines, and all appurtenances thereto, **constructed by the United States through, over, or upon the land herein described, and the right of the United States, its officers, agents, or employees to maintain, operate, repair, or improve the same so long as needed or used for or by the United States.**¹

Although under the 1914 law the Alaska Railroad had the ability to receive full title to the property through condemnation, the federal government chose to instead to traverse via an easement.

to exercise the power of eminent domain in acquiring property for such use, which use is hereby declared to be a public use by condemnation in the courts of Alaska in accordance with the laws now or hereafter in force; to acquire rights of way, terminal grounds, and all other rights, to purchase or otherwise acquire all necessary equipment²

The Federal government did not exercise the power of eminent domain and **Finnel received the full 160 acres in his final Patent in 1949**. My family purchased the remainder of the Finnel homestead including the section the AK Railroad traversed in 1969. We have always maintained that as a US Patented homestead subsurface rights were included with the patent.

In the early 1980's the federal government seeking to divest itself of the Alaska Railroad negotiated with the State to complete the transfer to State ownership. "Land Issues" were one key area of concern for the transition".³

"Based on testimony from other individuals, it is readily apparent that questions pertaining to railroad lands and potential claims against these holdings represent one of the most controversial aspects of the entire legislation."⁴ It was noted that "a process should be undertaken which involves all affected parties, including the State of Alaska"⁵ "Right-of-way lands appear to be the primary areas where this type of problem is likely to exist. **Indications suggest that in magnitude there is probably not that many problems of this nature. It should also be pointed out that our research suggests there is little to be gained by attempting to address this question in federal transfer legislation versus dealing with it later on a case by-case basis.**⁶

¹ Finnel Patent

² Act of March 12, 1947

³ Staff Report Chronology of Events page 3, 5

⁴ Staff Report Chronology of Events page 2

⁵ Staff Report Chronology of Events page 7-10

⁶ Staff Report Chronology of Events page 8-9

During the transition “Lands among the rail properties were to be divided into two categories: “All lands which are **not** subject to a claim by a third party” and ...Lands which **are** subject to of-recorded claims by third parties must also be separately identified in the closing report...**private claims based on perfected entries (such as patented homesteads).**”⁷

While some people will say that section 1203(b)(1)(B) & (C) of ARTA only addresses Native village or corporation claims it in fact also addresses Third Party Claims. “**Within three years from the date of enactment, the Secretary of the Interior must complete final administrative adjudication of all unresolved claims of valid existing rights against railroad property. (section 606(b)(2))**”⁸

ARTA the Alaska Railroad Transfer Act specifically speaks to unresolved claims of valid existing rights in 1203(b)(1)(B) and (C).⁹

Although HB 136 does work to establish recognition of private property rights, please note, we have never received an adjudication of our family’s property rights which should have happened as noted in multiple transition memos and staff reports, and as noted in section 1203 of ARTA. Governor Dunleavy offered the possibility of mediation between Flying Crown Subdivision and the Alaska Railroad.¹⁰ However, the Alaska Railroad continued with the judicial process.

Now we have the Ninth Circuit court opinion which issued the opinion that the Alaska Railroad has an exclusive use easement. However, the Court did not address the issue of unresolved third-party claims, the existence of preexisting patents, and prior subsurface ownership. Nor did the Court address that the Alaska Railroad has now received a Patent on properties that had already been Patented.¹¹

I believe that HB 136 is a good start. While we have never objected to the Alaska Railroad having an “exclusive” right to operate as the only railroad using the easement. (NOTE: There have been over 20+ different Railways that have operated in Alaska).¹² We **do not** believe that the United States government had the right or interest to transfer an “exclusive easement” which would diminish our property rights by issuing a Patent over our already Patented land.

HR 38 is a good start at recognizing this difficult issue and the preexisting valid claims to property that now falls within the Alaska Railroad easement. I urge the Alaska Legislature to continue to look into this issue and assist all Alaskans in finally receiving the proper adjudication of our claims.

Thank you
Bonne’ Woldstad
COGS Citizen of Our Great State

⁷ Memo from John Bates to Commissioner Daniel Casey January 14, 1983

⁸ Memo from Mark Hickey to Daniel Casey, Commissioner January 26, 1983

⁹ ARTA Alaska Railroad Transfer Act

¹⁰ Letter from Governor Dunleavy to Judy Petry, Vice Chair AK RR August 2, 2021

¹¹ Alaska Railroad vs Flying Crown Subdivision Addition No 1 and Addition No 2 Property Owners Association

¹² Wikipedia List of Defunct Alaska Railroads

Griffen Sukkaew

From: Francesca A [REDACTED]
Sent: Monday, May 5, 2025 4:25 PM
To: House Transportation
Subject: I support HB136

I support HB 136. Please protect the property owners that are leasing/permit from the railroad easements.

Francesca Allegrezza.