

05/10/2023

Response to Senate Transportation Committee Questions

- 1. It is our understanding that the railroad dropped the North Pole/Badger rail realignment after Rep Tammie Wilson passed HB 146 which required that the railroad give up the land that the current track is on after the new track was laid. Could you provide some more detail on this point?**

ARRC supports realigning its main track around Alaska communities that have developed closely along the rail line to enhance both safety and efficiency. The proposed North Pole Railroad Realignment would eliminate numerous dangerous at-grade crossings and reduce the running time of our trains. The environmental document and preliminary engineering was completed in 2013 (see project fact sheet attached).

Since the project estimate of \$60-80 million was developed in 2013, no source of funding has been found to move the project forward. We will continue our work to integrate with community planning efforts and the Alaska Department of Transportation and Public Facilities (ADOT/PF) and be prepared with plans when federal funding becomes available. The project team was unaware of HB 146, and the passage of its resulting legislation was, and is, unrelated and continues to have no impact on the project progress. Others at ARRC were aware at the time of HB 146, and ARRC neither supported nor opposed that legislation.

- 2. The Railroad has easements on several homestead properties that have patents for surface and subsurface rights (because they preexisted statehood). What documentation does ARRC have that shows that these sorts of preexisting patents have been addressed on a case-by-case basis with property owners?**

ARRC acquired its right-of-way (ROW) from the United States government pursuant to the Alaska Railroad Transfer Act, 45 U.S.C. Section 1200 et seq. ("ARTA"). ARTA required the federal government's entire interest in all real property of the federally-owned Alaska Railroad to be transferred to the State-owned railroad entity, which was established to be the Alaska Railroad Corporation under AS 42.40.

In January 1985, all the property of the federal Alaska Railroad, including all property interests in the ROW, was transferred to ARRC. As specified in ARTA, ROW that had already been surveyed was transferred via patents, while ROW remaining to be surveyed was transferred via interim conveyance or exclusive license.

Later, as the unsurveyed portions of the ROW were surveyed, patents were issued to ARRC for those portions. The patents issued to ARRC conveyed the entire federal interest in the ROW. ARTA specifically defines the minimum property interest ARRC has in the ROW, which is set forth at 45 U.S.C. Section 1202(6).

The rights conveyed to ARRC in the ROW include the exclusive use of the surface for rail, other transportation, communication and transmission uses, as well as the right to use as much of the

subsurface as is necessary for those listed uses. This scope of ARRC's property rights in its ROW was recently confirmed by the U.S. District Court. Homestead patents issued at any time after 1914 include a reservation for railroad ROWs consistent with those described above. In fact, the recent federal court case involved a homestead patent with just such a reservation.

Given that the homestead patents clearly reserve a ROW for railroads and utility lines, and that the patents issued to ARRC pursuant to ARTA provide ARRC with the rights in the ROW noted above, ARRC does not believe there is a need to address such rights on a case-by-case basis. The effect of the parties' respective patents are clear, and their property rights are well-defined.

It's worth noting that some of the homestead patents located along the Eielson Branch in North Pole were issued after the 1914 Alaska Railroad Act (and therefore contain the ROW reservation noted above), but before the Eielson Branch itself was constructed. Although that did not affect the Alaska Railroad's ROW during the operation of a railroad and other allowed uses on the Eielson Branch, it did raise a question of who owned reversionary rights should all those uses be abandoned. In 2012, legislation was passed that provided that those homestead patent holders would hold reversionary rights should all the statutory uses of the ROW be abandoned by both ARRC and the State.

**3. Sen. Myers: How does the Ship Creek development help with the railroad's core mission of moving people and freight? Or is it primarily for profit-making opportunity? Are the developments on land that has been sold or leased?**

Ship Creek acts as the main hub of operations associated with both railroad passengers departing and arriving from our Historic Depot and ARRC's industrial and commercial customers. For rail passengers, the Ship Creek area provides amenities such as pedestrian trails, gift shops, a hotel, restaurants and a tackle shop for salmon fishing in the Creek. Fur Rendezvous winter activities including snow sculptures and annual fireworks events for Fur Roundy and New Year's Eve celebrations are attended by both tourists and residents. These amenities support multiple objectives of the Municipality of Anchorage and ARRC related to transportation, tourism and entertainment, which in turn benefits the State as a whole.

In addition to passengers, ARRC's Anchorage Railyard provides seamless cargo operations between Anchorage, including the Port of Alaska, and shipping points across the State. For these operations, Ship Creek area offers centralized distribution between various destinations and modes of transportation.

Real estate opportunities in this area help fulfill our statutory mandate to help develop business and remain self-sufficient. Like all revenues generated by ARRC, revenues from the leasing and permitting of our land are required by both federal and State law to be retained and managed for railroad purposes.

The Ship Creek area has potential for developers seeking advantages of a lower downtown location. The Ship Creek basin, zoned Industrial, is not only available for land leases and permits, but also for leasing space in buildings. Office space is leased in the Depot, a prime location just steps away from the downtown core district, Port of Anchorage, Joint Base Elmendorf-Richardson and some of the best urban salmon fishing in the world. A block east of

the depot, ARRC renovated an historic freight shed also on 1<sup>st</sup> Ave. Developed to offer a unique ‘green’ office space alternative the freight shed is Alaska’s first historic building renovation to meet standard established under the U.S. Green Building Council’s Leadership Energy and Environmental Design (LEED) program. A large portion of the building is leased by the federal Government Services Administration to house U.S. Forest Service offices. ARRC also leases space on 1<sup>st</sup> Avenue to the State of Alaska in support of various storage needs. Other commercial developments on leased land, such as the 49th State Brewery, The Board Room, Linford of Alaska, the Comfort Inn hotel, and more support a broad range of Alaska businesses while generating revenue that is reinvested in railroad infrastructure and operations.

One of the newest (and ongoing) developments in Ship Creek is the Downtown Edge at the Rail condominium development project. Anchorage is in desperate need of residential development in the downtown district, which helped spur the opportunity for economic development embodied by the Downtown Edge project. The project is proceeding in up to five optional phases, all but one of which has already been exercised and several of which have been constructed. As each phase is completed, the lease for that phase is assigned to the condominium association. This type of development provides a unique opportunity to supply needed residential capacity while providing a market rate return (as required by State law) that provides additional revenue for railroad operations.

**4. Sen Myers: Out of railroad’s roughly 36,000 acres of land, how much of it is used to fulfill the core mission of railroad operations? How much is for real estate holdings and income?**

Using updated information since our presentation, we can better clarify that approximately 50% of ARRC’s land is used for ROW and other railroad operations purposes. The remaining 50% is available for other purposes, including leases, permits, public entity use roads, parks, trails and other non-railroad uses. ARRC also holds significant tidelands and submerged lands, which provide navigational waterways for Seward and Anchorage waterfront property, in addition to supporting ARRC’s Ports at Whittier and Seward.

Some of ARRC’s lands include significant gravel and other material reserves for ARRC railroad operations and projects. Where such materials are not needed for railroad projects, such reserves provide other gravel and material producers with excavation opportunities in return for royalty payment. Such projects help support projects throughout the Railbelt, such as the ongoing expansion and improvement of the Seward Highway by the Alaska Department of Transportation.

ARRC also has developed a wetland mitigation bank parcel in Portage consisting of 240 acres. Mitigation wetlands credits are available for ARRC projects in the area or for sale to third parties to fulfill project requirements determined by the U.S Army Corps of Engineers. Such mitigation banks not only help preserve wetlands that are not necessary for railroad operations, but support necessary infrastructure projects. Like all revenues of ARRC, all proceeds from the sale of wetlands mitigation credits are retained and used for railroad purposes.

Approximately 220 long-term ground leases encompassing approximately 2,000 acres of ARRC land are currently held by customers who construct and operate improvements and otherwise conduct businesses on the leased parcels. ARRC’s lessees, and the citizens of the State

generally, benefit from the availability of such industrial and commercial land, and the resulting rent revenue contributes to the health of the Alaska Railroad. Our logistics, cement, petroleum and oilfield services lessees benefit from having rail-served lease parcels in close proximity to ARRC's yard operations, enhancing efficiency in meeting their transportation needs. Just a few examples of the foregoing include significant petroleum tank farm investments in Fairbanks, Seward and Anchorage.

In addition to the availability of long-term ground leases, customers also have the ability to enter land use permit agreements for shorter term periods. These are commonly used for project-specific activities similar to a road project where the contractor may require laydown / staging for the duration of the project. ARRC has approximately 850 customers with permits of varied duration and a variety of uses.

As Mr. O'Leary outlined to the Committee during his recent testimony, ARRC's real estate revenues provide a critical steady revenue source that can dampen fluctuations in freight and passenger revenues resulting from market forces. Fluctuations in real estate revenue tend to be less volatile than those experienced in the transportation sector.

**5. Sen. Myers: Conversations in last year's Transportation Committee lead him to believe that the railroad had sold off all or most of the Chena Landing area. (1) What has been sold and when, (2) what has been kept with the intent to sell in the future, and (3) what does the railroad plan to keep?**

ARRC land in the Chena Landings Subdivision encompasses a total area of approximately 77.13 acres. This land is used for a variety of ARRC operations and uses by various customers. Following legislative approval for such land sales, ARRC moved forward with the sale process for the land that included initiating the Survey, Platting and rezoning to multi-family residential/professional office (MFO) for the sale of approximately 12 acres of the Chena River waterfront property. This district is intended for a combination of high-density residential, quasi-residential, and nonresidential development that maintains both the residential and nonresidential nature of this district. With phased plans to develop these lots, this project provided Fairbanks with rare and much needed riverfront housing and areas for commercial uses abutting existing industrial property.

The development planned for land sales at Chena Landing includes both a First Addition and a Second Addition. The First Addition includes 3 phases. Phases 1 & 2, providing for a total of 19 residential home site lots, was completed and made available for sale. Fourteen of those 19 lots have been sold and 5 lots remain available for sale. Phase 3 includes 4 additional lots for sale.

The Second Addition of the development, known as Tract A, consists of 5 acres and is currently listed for sale. Tract A is available to a developer to meet their needs or ARRC will proceed to subdivide lots with parcels as market demand dictates. This area therefore provides a flexible development opportunity for either a larger development of multi-family housing or single family residential lots.

Market demand is guiding the current and future use of ARRC's land in the Chena Landings Subdivision. For example, the demand for industrial property near the ARRC rail yard in support of various projects is high, and supports ARRC retaining lands not already slated for residential development for rail customer material storage. Accordingly, ARRC has been working with multiple customers for use of such industrial portions of Chena Landings to accommodate the significant volume of pipe and other freight moving by rail. ARRC continuously evaluates long-term opportunities for development of the Chena Landings property for either leasing or sale for industrial, commercial and residential use. Based on current analyses, the near term uses of land not already designated for residential or mixed residential-commercial uses supports of current industrial uses.