

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION STANDING COMMITTEE

March 4, 2003

1:36 p.m.

MEMBERS PRESENT

Senator John Cowdery, Chair
Senator Thomas Wagoner, Vice Chair
Senator Gene Therriault
Senator Georgianna Lincoln
Senator Donny Olson

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 83

"An Act naming the Sven Haakanson, Sr. Airport at Old Harbor."

MOVED SB 83 OUT OF COMMITTEE

SENATE BILL NO. 23

"An Act relating to public rights-of-way and easements for surface transportation affecting the Anchorage Coastal Wildlife Refuge."

HEARD AND HELD

PREVIOUS ACTION

SB 83 - No previous action to record.

SB 23 - No previous action to record.

WITNESS REGISTER

Senator Gary Stevens
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor SB 83

Senator Ben Stevens
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor SB 23

Ms. Deanna Essert

Roads and Trails Committee
Sand Lake Community Council
Anchorage, AK

POSITION STATEMENT: Supports SB 23

Mr. Dennis Poshard
Legislative Liaison/Special Assistant
Department of Transportation and Public Facilities (DOTPF)
P.O. Box 196900
Anchorage, AK 99519-6900

POSITION STATEMENT: Testified on SB 23

Mr. Michael Downing
Director/Chief Engineer
Department of Transportation and Public Facilities (DOTPF)
3132 Channel Dr.
Juneau, AK 99801-7898

POSITION STATEMENT: Testified on SB 23

Mr. David Carter
1920 Shore Drive
Anchorage, AK 99515

POSITION STATEMENT: Supports SB 23

Ms. Mary Whitmore
940 Botanical Hts Circle
Anchorage, AK 99515

POSITION STATEMENT: Supports SB 23

Mr. Lorvel "Smiley" Shields
2140 Shore Drive
Anchorage, AK 99515

POSITION STATEMENT: Supports SB 23

Mr. Ted Volin
1610 Shore Drive
Anchorage, AK 99515

POSITION STATEMENT: Supports SB 23

Mr. John Pletcher
13608 Jarvi Drive
Anchorage, AK 99515

POSITION STATEMENT: Supports SB 23

Mr. Wil Blin
1200 Shore Dr.
Anchorage, AK 99515

POSITION STATEMENT: Supports SB 23

Mr. Michael Stolle
14020 Jarvi Drive
Anchorage, AK 99515

POSITION STATEMENT: Supports SB 23

Ms. Joan Stolle
14020 Jarvi Drive
Anchorage, AK 99515

POSITION STATEMENT: Supports SB 23

Mr. Eric McCallun
14100 Jarvi Dr.
Anchorage, AK 99515

POSITION STATEMENT: Opposes SB 23

Mr. Boyd Morgenthaler
1180 Shore Drive
Anchorage, AK 99515

POSITION STATEMENT: Supports SB 23

Mr. Matt Bobich
1840 Shore Drive
Anchorage, AK 99515

POSITION STATEMENT: Supports SB 23

ACTION NARRATIVE

TAPE 03-06, SIDE A

CHAIR JOHN COWDERY called the Senate Transportation Committee meeting to order at 1:36 p.m. Present were Senators Olson, Therriault and Chair Cowdery. Senator Lincoln arrived shortly and Senator Wagoner arrived at 2:00 p.m.

SB 83-SVEN HAAKANSON AIRPORT AT OLD HARBOR

CHAIR JOHN COWDERY announced SB 83 to be up for consideration.

SENATOR GARY STEVENS introduced SB 83 as a short and simple bill. He knew Sven Haakanson, Sr. for 32 years and he was one of first people Senator Stevens met in Alaska. SB 83 would name the airport in the City of Old Harbor on Kodiak Island for Sven Haakanson Sr. who passed away on November 23, 2002.

SENATOR STEVENS said Mr. Haakanson was a very influential and important person in Old Harbor and was its mayor for 27 years, one of the longest tenures in Alaska. He played an important role in all aspects of the community. He was a key player in developing the Kodiak Area Native Association (KANA), and was on the board of directors and president of that board for many years. He was a founder of Koniag Inc. and played an important role in the passage of the Alaska Native Claims Settlement Act (ANCSA). Koniag Native Corporation named him Elder of the Year in 2002. The community of Old Harbor supports this legislation.

SENATOR OLSON asked if anyone opposes naming the airport after Mr. Haakanson.

SENATOR STEVENS said he had inquired and had heard no opposition. The Old Harbor City Council and the mayor are behind this legislation. Mr. Haakanson's family was active in Kodiak for years.

SENATOR OLSON asked if there were any letters in favor of the legislation.

SENATOR STEVENS said the community was asked to send a letter of support, but the letter has not arrived. Senator Stevens said the city council and mayor assured him they are absolutely behind this.

SENATOR THERRIAULT said in the past, proposals to name something after the former mayor of Fairbanks and the former president of the university became tremendously controversial. He advised Senator Stevens to lock down the support in writing to answer people's questions.

CHAIR COWDERY said the chair of the next committee of referral would have that letter.

SENATOR STEVENS said he would definitely get a letter of support from the community.

SENATOR THERRIAULT moved SB 83 from committee with individual recommendations and the attached zero fiscal note. With no objection, the motion carried.

The committee took an at-ease from 1:42 to 1:43 pm.

SB 23-ANCHORAGE COASTAL WILDLIFE REFUGE

CHAIR COWDERY told members he intended to hold SB 23 in committee and have a hearing in Anchorage at a later date.

SENATOR BEN STEVENS, bill sponsor, explained SB 23 is an act relating to public rights-of-way and easements for surface transportation affecting the Anchorage Coastal Wildlife Refuge. In 1971, the Alaska State Legislature created the Potter Point State Game Refuge and later expanded it into the Anchorage Coastal Wildlife Refuge (ACWR) in 1988. The refuge runs approximately 16 miles along Anchorage's coastline from Point Woronzof to Potter Marsh. It is one of the few coastal salt marshes in Cook Inlet as it is geographically protected by Fire Island. It offers a unique and popular multi-use area for Anchorage residents and other Alaska residents providing opportunity for duck hunting, bird and wildlife viewing, and other outdoor recreational activities. It borders the Anchorage Rabbit Creek Rifle Range.

Senate Bill 23 would require approval by the Legislature for a state agency to acquire or create a right-of-way or easement for surface transportation within the wildlife refuge. This legislation is a simple rewrite of the legislation sponsored by former Representative Joe Green during the 21st and 22nd Legislatures. Both of Representative Green's bills passed the Legislature and were subsequently vetoed by the previous administration. Senate Bill 23 affirms the support of the Legislature and many Anchorage residents for legislative oversight in regard to the management of the refuge for right-of-way easements.

The proposed coastal trail extension in South Anchorage has been a controversial issue among Anchorage residents for the past several years. The process for the route selection appears to have been biased and has lost the credibility of many Anchorage residents, including those who live away from the refuge. The legislature is the elected body that authorizes the expenditure of federal funds for projects such as this one, which would take place within the refuge, and therefore should have authorization over a project it funds. Senate Bill 23 enables the Legislature to fulfill its constitutional duty by ensuring that state and federal funds are spent appropriately and the legitimacy of the public process is protected before those funds are expended.

SENATOR STEVENS pointed out Section 1(c) addresses the granting of a public right-of-way and utility corridor in the refuge as well as corridors for potential realignment of the new Seward Highway and the Alaska Railroad. The new Seward Highway and the

Alaska Railroad are exempt from this bill because those agencies have existing rights-of-way. The thrust of the bill is that an agency cannot create or grant a right-of-way without prior legislative approval.

SENATOR OLSON said the Legislature does have oversight of both federal and state funds, but this is a local issue and the local people have strong and even passionate feelings on both sides. Shaktoolik residents don't necessarily care about what goes on in Anchorage and vice versa. He said he was not sure the people in Savoonga want somebody from Fairbanks to decide whether they are going to have a bike trail or some kind of coastal trail. He stated, "I don't understand why we're involving the whole State of Alaska essentially, or at least representatives from different parts of the State of Alaska, on a - what I consider to be a local difficulty."

SENATOR STEVENS answered,

That's essentially the crux of this debate, why we're here talking about the coastal trail in the Legislature. And I take the position, Senator Olson, that it's a local issue for the decision on how it's made to get there.... We're not getting into the selection process, but we are getting into the fact that I don't believe that it is a local issue. If it was a local issue, it would be funded locally, but it's not funded locally. It's going to be funded by state revenues and if we're going to have a price tag that's handed on top of us for the latest estimate, I've seen that it could exceed \$65 million. That's one of the questions why I say we need to know what the price tag is going to be before we're essentially forced to fund it. That's the mechanism that this does, it says for us to say, if we're going to fund a project of that expense we should know what it is. It's not a project that's on the STIP [Statewide Transportation Improvement Program].

SENATOR OLSON referred to the upcoming mayoral race in Anchorage and asked Senator Stevens if he anticipates that the local atmosphere will change if there is a change of administration.

SENATOR STEVENS said he thought this issue has probably transcended three or four mayoral elections and terms of office and could not speak to that. He noted it has been part of the long-range transportation plan in the Anchorage Metropolitan

Area Transportation Study (AMATS) for a number of years. They need to look seriously at whether this is the time to fund what might be a \$65 million trail project. The issue has been around a long time and he suspected it would continue to be around for a long time.

SENATOR OLSON said \$65 million is a fair number to be looking at in these times.

CHAIR COWDERY said the Department of Transportation and Public Facilities (DOTPF) officials were present to testify. He believes this is a state issue since those kinds of funds are involved.

SENATOR THERRIAULT said there is ongoing work with regards to the Seward Highway and the railroad and the legislation allows for those rights-of-way in the refuge. This legislation specifically picks the coastal trail out for further legislative action.

SENATOR STEVENS pointed out the right-of-way corridor for the utilities, the highway, and the railroad already exist. This would address the creation of a new right-of-way within the refuge.

SENATOR THERRIAULT stated he shared some of Senator Olson's concerns about whether the Legislature wants to get involved in this issue. The previous administration was hell bent on a particular route that was controversial and was forcing it upon the local community. He asked how the current administration views the different proposals.

SENATOR STEVENS said it was a good question and he did not know the answer. The process in which the routes were selected for the draft environmental impact statement (DEIS) have lost credibility and that is why the current governor extended the public comment period until March 7th, 2003. He said he did not know the current administration's position on the route selection. The Anchorage public, in his district, does not have faith in the way the process worked.

SENATOR THERRIAULT asked if that is the concern in the comment, "It amends a broken process."

SENATOR STEVENS said that is correct.

SENATOR THERRIAULT asked if Senator Stevens felt the decision-making process was flawed.

SENATOR STEVENS said he does. The Legislature would not be involved in the route selection process, it would only be involved in the final approval of the route and cost of the project.

SENATOR THERRIAULT said, "That's what brings me around because I'd love to help you save \$65 million. So, if you interject me into the process, I'll give you a hand to save that money."

SENATOR STEVENS said he is trying to reprioritize and realign the use of \$65 million at a time like this. The existing portion of the coastal trail is 10.7 miles and was constructed in 1986 through 1988. The 10.7-mile construction was fully funded with general fund (GF) dollars for a total of \$10 million. That would amount to \$15.8 million in today's dollars. The extension proposal is approximately 11 miles. The costs of the proposals are uncertain at this time. Last year, in the Senate Resources Committee, a member of DOTPF said the extension would cost over \$40 million. Senator Stevens recently received correspondence between the Corps of Engineers and other interested parties indicating it could cost upwards of \$65 million and, if it is a phased project, it could go as high as \$100 million. He pointed out that during the 1980s when the existing trail was approved, it was a different landscape in terms of the availability of funds for projects because free cash was flowing.

CHAIR COWDERY said the Corps of Engineers informed him it was not going to spend a lot of time on the permit until a final selection is made. At the very earliest, that would be late this fall if everything went well.

SENATOR LINCOLN asked if Senator Stevens would be present for other questions.

SENATOR STEVENS said he could stay for another half hour.

CHAIR COWDERY asked Deanna Essert, from the Sand Lake Community Council, to testify.

MS. DEANNA ESSERT, Roads and Trails Committee, Sand Lake Community Council, informed committee members she has followed this project since 1997. She has the utmost respect for Senator Stevens' bill, which is the only resolution at this point. This

trail has been hijacked by DOTPF and has been shoved down Sand Lake's throat. DOTPF has not communicated with people in the last couple of years outside of an open house or hearing. The Trails and Recreation Access for Alaska (TRAAK) program was the vehicle that forced this trail down Anchorage's throat and would make the property owners pay for the maintenance of the project.

She told members the TRAAK Advisory Board passed a resolution in November of 2002 that sounded like it was written with tourism in mind, not for a local regional trail to connect existing trails. It said the preferred alternative was to provide vistas and views and other good stuff but it said nothing about transportation and transportation is what this money is supposed to be about, not recreation.

MS. ESSERT said Anchorage's existing trails couldn't be connected without bonding. Residents are consistently asked to bond for the connection of trails in the Sand Lake area. This trail extension is going to take all of the available money for the next six years. The project will end up as some kind of tourist attraction that will be closed half of the year due to winds, terrain, ice and all the other issues people are addressing in their comments. DOTPF actually purports to put this trail through as an area-wide users benefit. She is opposed to the project because it does not serve the needs of residents.

MS. ESSERT asked what happened to SB 71.

SENATOR STEVENS answered SB 71 is awaiting a hearing in the Senate Finance Committee.

1:59 p.m.

MR. DENNIS POSHARD, Special Assistant to the Commissioner, Department of Transportation and Public Facilities (DOTPF), introduced Mr. Mike Downing, Chief Engineer for DOTPF. He explained he did not come with prepared testimony, but did want to address a couple of items brought up earlier. He said:

With apologies to the sponsor of this legislation if I conflict in any way with anything that you said, I just haven't had a chance to come by and talk to you ahead of time about this legislation. But, addressing specifically the comments that Senator Therriault made earlier about saving the state \$65 million, I don't know that this bill will have any affect on saving the state any amount of money. Currently Anchorage is an

MPO [Metropolitan Planning Organization], a federally recognized MPO, as is Fairbanks, and they receive their funding based on a formula which is laid out in regulation in the department and that formula grants them so much money from the TRAAK Program and a certain amount of money from the CTP Program [Community Transportation Program] and the state really cannot, by federal law, tell them how to spend those funds.

SENATOR STEVENS asked if he was saying the funding mechanism lies with the Anchorage Metropolitan Area Transportation Study (AMATS) alone.

MR. POSHARD said AMATS would have to fund this project in the TIP (Transportation Improvement Program) and then that would get rolled into the STIP, which can be approved in the capital budget each year. The budget contains a line item allocation for the Municipality of Anchorage.

SENATOR STEVENS asked how long it would take AMATS to fund this project if it was fully funded for the TE (Transportation Enhancements) portion of AMATS.

MR. POSHARD said Anchorage gets around \$8 million a year in TRAAK funding from the state under the current AMATS allocation. Depending on the route chosen and the cost of that route, it would take several years, unless the municipality wanted to put forth municipal funds or was able to convince Congress to earmark funds. If Anchorage were to fund it out of its AMATS allocation, it would take several years to fund that project.

SENATOR STEVENS said Anchorage could also theoretically come back to the state and ask the state to fund it as well.

MR. POSHARD said it could, in which case this committee and the Legislature would have the ability to appropriate or not appropriate those funds as it saw fit if state general funds were requested.

SENATOR STEVENS asked how many years it would trump all other projects if the \$45 million project went forward.

MR. POSHARD said he didn't know if there is an exact way to answer the question. It depends on whether the project is phased, which route is chosen, and the cost of the route. He

said he could see several iterations. It would take multiple years under the current AMATS funding level.

MR. POSHARD said the other thing he wanted to address was pointed out in the fiscal note. The project is under the Section 4(f) designation, which is a federal designation. There would have to be conclusive evidence in the environmental document that there was no feasible and prudent alternative to the use of the refuge land if the route that is chosen is to go into the Alaska Coastal Wildlife Refuge (ACWR). That is a pretty heavy burden to meet. He said to his knowledge all of the routes that are in the DEIS actually avoid going into the refuge for that reason alone. This bill would have no effect on that, assuming this continues to be a true statement.

Conversely, the result of not going into the refuge means the cost of construction of the trail will be substantially higher because it will require the taking of more private land. He thought the number of parcels, a portion of which will have to be taken in order to complete the trail, has been an issue and a point of contention.

He believes, as Senator Olson pointed out, this is a local issue. The NEPA (National Environmental Policy Act of 1969) process - the federally required process, is being followed. Although many people are unhappy and don't like it, it does provide for orderly comment from the public and an orderly process for the public to participate in the decision. The outcome of that process is yet to be determined. The new administration is weighing the different options carefully and has not made any decision yet about how to proceed beyond the public comment period ending this week.

MR. MICHAEL DOWNING, Director/Chief Engineer, Department of Transportation and Public Facilities, added that when Representative Green introduced a similar bill, the status of the land and where the boundary of the refuge actually existed was in question and a lot of debate ensued. The Department of Natural Resources (DNR) had an opinion, DOTPF had an opinion, and the Department of Fish and Game (ADF&G) had an opinion. DOTPF and DNR agreed while ADF&G tended to take a different view. The three departments requested an opinion from the attorney general with regard to the boundary location. There were a series of seven questions and a written opinion was received from the Department of Law (DOL). He apologized to the sponsor for not having provided the information sooner. He thought it might help clarify some of the issues.

MR. DOWNING supplied committee members with a copy of the opinion from the Department of Law dated September 23, 2002. He explained the opinion clarifies the alternatives do not go through the refuge. There are a couple of small areas where DOTPF feels it would be effective to clip a corner of the refuge with a tunnel and avoid the acquisition of private properties. That is probably an alternative or an option worth reserving.

CHAIR COWDERY asked if he was saying the route is in concrete and is not going to be changed.

MR. DOWNING said no. The route is out for public comment until March 7th. About 100 comments are being received per day and over 1000 comments have been received. DOTPF will make the final decision on the preferred alternative based on those comments. The alternative the department prefers is the modified orange route, which is a coastal route. It avoids the 4(f) provision of the Federal Highway Administration. The 4(f) provision is an extremely stringent law regarding going into these kinds of properties and makes the project nearly impossible. That drove DOTPF to find the boundary and stay outside of the refuge. At this point, in a lot of ways, this is a fairly benign bill because the trail is not going to be in the refuge.

SENATOR THERRIAULT asked how much state and federal money has been spent on this effort so far.

MR. DOWNING answered in the neighborhood of \$5.5 million.

SENATOR THERRIAULT said he knew different alternatives existed. He asked for a range of what the right-of-way acquisition might cost.

MR. DOWNING answered the total cost of the preferred alternative is \$37 million. That is in addition to what has been spent to date. He guessed the right-of-way will cost in the neighborhood of \$5 or \$6 million and is not the dominant portion of the cost.

SENATOR THERRIAULT referred to the coastal trail tunnels that go under roadways using big culverts and asked what tunnels Mr. Downing envisioned.

MR. DOWNING said a couple of places on the modified orange route have not been nailed down. They are getting a favorable readout from federal highways, the question being would the 4(f) provision be triggered if tunnels were tucked underneath the

surface on those corners to avoid having to acquire private property. The preliminary read has been that the Federal Highway Administration would accept that as an alternative. Tunnels would be beneficial in that they would keep DOTPF from having to acquire private properties, which it tries not to do. He had not asked the Office of the Attorney General to interpret a tunnel as a right-of-way through the refuge. If a tunnel were a right-of-way through the refuge, this bill would preclude that option. He added that is a minor detail.

SENATOR THERRIAULT said the refuge is down on the flats. He asked if DOTPF plans to tunnel under the flats or tunnel through the bluff and what the length of the tunnels might be.

MR. DOWNING said the tunnel lengths would be very short and placed in a couple of areas where the platting of the refuge takes corners up into elevated areas. DOTPF thought that was an alternative to going onto private property. In the scope and scheme of the overall project, it is minor, but it is not minor to the people that have the property.

SENATOR THERRIAULT said he understood passage of this bill does not save the state \$65 million or even \$37 million. These funds are being controlled by the local organization and may be spent on other trails. He said it is tough for him, when there are segments of road that are like driving on the surface of the moon, to support anything that has this kind of cost. If passage of this legislation wedges the Legislature into the decision process that could eventually lead to whether or not those funds are expended, he would set aside his concern that it is taking on a local decision and would take the opportunity to wedge the Legislature in there.

CHAIR COWDERY asked if the tunnel would be going under private property or public property.

MR. DOWNING said the tunnel would be under the refuge, under state land. The only reason to use a tunnel is to avoid a 4(f) determination for that property.

SENATOR STEVENS referred to the comment that \$5.5 million had been spent on the project already and asked the origin of those funds.

MR. DOWNING said they are all funds that come to the state from the Federal Highway Administration's Grant and Federal Aid Program.

SENATOR STEVENS asked if AMATS funds or state federal highway funds have been spent.

MR. DOWNING said AMATS is using federal highway funds as well.

SENATOR STEVENS said he understood that. He asked who authorized the expenditure of the \$5.5 million, AMATS or DOTPF.

MR. DOWNING said, to his knowledge, it has not caused a reduction in the AMATS allocation.

SENATOR STEVENS said he was asking whether AMATS said spend \$5.5 million on the project or whether DOTPF said spend \$5.5 million on the project.

MR. DOWNING answered the municipality sponsored it, requested it, started it, oversaw and administered the work and got to a point where it asked DOTPF to take it over and DOTPF did.

SENATOR STEVENS said he still did not understand who authorized the expenditure of the funds. He asked if the state is spending the money on behalf of AMATS and whether it counts against the AMATS TE project. He asked if it counts against the TRAAK project or planning and zoning. He asked what category does it fall in under the CTP or the STP (Surface Transportation Program).

MR. DOWNING explained it is a state appropriation for the use of federal aid matched with state GF. It is part of a pot of money DOTPF uses for project development that is appropriated every year. It came out of that source of funds.

SENATOR STEVENS surmised that the state has expended \$500 thousand on this project already if the state match is ten percent.

MR. DOWNING answered yes.

2:15 p.m.

SENATOR LINCOLN said this issue has been around for so long and it goes through different stages. She asked, as written, what SB 23 is saying to Mr. Downing and Mr. Poshard. She asked what would the department do differently with passage of SB 23.

MR. DOWNING said since none of the alternatives are actually in the refuge, the only difference would be that no easement or

right-of-way would be acquired through the refuge. He interpreted this legislation to exclude the ability to tuck underneath the refuge with tunnels in the couple of areas where DOTPF thinks it will be convenient and beneficial to the adjacent landowner. He thought other than that it would not have much affect on this project. The process will continue as it has. None of the alternatives are in the refuge for other reasons. The 4(f) provision of the Federal Highway Aid Program makes it so difficult to be in the refuge that the project is not.

SENATOR LINCOLN said she wanted to go back to the \$65 million since what the state is going to be paying seems to be what the committee is hung up on. She understood they have no jurisdiction at all. She asked if it is correct that whether this piece of legislation goes through or not it still is a local decision on how the TRAAK appropriation is expended.

MR. POSHARD said that is correct. He then provided background information. Probably 15 or 20 years ago, when the federal Metropolitan Planning Organizations (MPO) was established in the reauthorization of the Surface Transportation funding bill, there was a big national debate. All the large cities, New York, Los Angeles, Chicago and others, wanted to get their share of the federal highway pie appropriated directly to them under their control. The FHA strongly opposed that because it did not want to have to deal with a thousand entities across the country when it had 50 states to deal with. By means of compromise, Congress decided the appropriate thing to do was set up what is called a Metropolitan Planning Organization (MPO). An MPO is an urbanized area with a population of more than 50,000 people.

The State of Alaska has two MPOs, Anchorage and Fairbanks. By federal law, the state can allocate a portion of the federal highway pot to the MPOs but cannot tell them how to spend those funds. The MPOs have full authority to make those decisions through their Transportation Improvement Program (TIP). That process has been in place since Governor Hammond and one that DOTPF doesn't really have any control over. Last year, after the new census, Fairbanks was designated an MPO. Fairbanks is now completing the establishment of its MPO Board and implementing the Fairbanks TIP.

SENATOR LINCOLN asked if this would be fairly similar to the Creamer's Field Migratory Waterfowl Refuge, where the City of Fairbanks and the State of Alaska coexist. She thought that area allows hunting and is a wildlife refuge.

MR. POSCHARD said the state has several wildlife refuges under the ADF&G. He added he was not sure if that was going to change. Creamer's Field is in Fairbanks and Juneau has a coastal wildlife refuge out by the airport (Mendenhall Wetlands State Game Refuge). There are trails in both of those wildlife refuges. He said to his knowledge hunting is allowed in the Juneau refuge, but he was not sure about Creamer's Field. He thought those types of recreational activities seem to coexist. Occasionally conflicts occur, but they are usually handled through management decisions by ADF&G.

MR. DAVID CARTER, Anchorage resident, spoke in support of SB 23. He said it is a rewrite of legislation that was previously approved and vetoed by Governor Knowles. This legislation would give the Legislature oversight of any new right-of-way. He thought it was a fairly innocuous piece of legislation. The fact the former governor vetoed it twice is indicative of the bias in this whole process from the beginning. He said, "We are dealing with a project which is supposed to receive fair, impartial consideration throughout a large project area and it's always been forced down below the bluff." They are missing a wonderful opportunity to link other trails in South Anchorage to schools and recreational fields.

MR. CARTER said it is a local issue but it is also a state issue and a federal issue as far as some of the funding. In the December 22nd Anchorage Daily News, a headline read, "The State takes trail, Knowles wants project finished." That is part of the problem, it was a local process, people in Anchorage debated it and the administration did not like the way things were going and took the project over so it became a state project. This legislation should be passed to get the state monitoring what was a very biased project.

TAPE 03-06, SIDE B
2:25 p.m.

MR. CARTER said there would be a change in the process with a new administration. He said he hoped DOTPF was not going to engage in attempts to play games with land boundaries by trying to do land trades to avoid the refuge. It doesn't change the habitat status of land to draw the boundary farther out into the marsh. The animals would still use that area. It is a wildlife refuge that is a valuable resource to the Anchorage community and should be left as stated in the bill.

MS. MARY WHITMORE, Anchorage resident, spoke in support of SB 23 because the refuge needs legislative protection and oversight. This bill would protect the refuge that was established by the Legislature years ago. This trail has never been a local issue; it was the former Governor's trail. He wanted the trail and took over the process. She said she was surprised to hear the state official say the city asked DOTPF to take over the process. The city was actually booted out of the process. It has never been a local issue.

The DEIS is an extremely flawed document because from the very beginning the Governor told TRAAK, his Administration, and the consultant (HDR Alaska Inc.) where the route was going to go. The Governor had a photo opportunity in the refuge where he said this is the only place the trail can go.

MS. WHITMORE asked how many moose, coyotes or wolves know what a boundary is. The trail goes along the migration corridor, which is the worse possible route in the world. She asked the committee to pass SB 23 because the process has been flawed and because the animals do not know boundaries. She said the Mayor of Anchorage has written a letter to the Governor requesting the state to help fund the trail. She concluded the Legislature is involved and will always be involved in the project. She asked members to pass this bill and be protectors of the refuge.

MR. LORVEL "SMILEY" SHIELDS, Anchorage resident, explained that people who live in the west and northwestern part of Alaska understand this is not a local issue. At times there are as many as 15,000 ducks and geese stacked up on the Anchorage Coastal Wildlife Refuge. They spend as much as three to four weeks in the refuge, particularly during bad years like 2002 when there was so much snow on the ground. There were swans in a little puddle exactly where the trail is slated to go at the bottom of his property.

MR. SHIELDS explained the meadow vole is critical to the health of the salt marsh. Meadow voles winter in the blue joint grass, that grows in the narrow strip of land following the bluff on private property. In the spring when the young plants with high protein content start growing in the salt marsh, the meadow voles migrate out. Their population explodes because their reproductive rate is astronomical. Every predator, from bear to weasels, eats voles. Voles are the heart of the marsh and contribute serious nutrients to the marsh that migrating birds require. The DEIS is absolutely flawed. The mammal section did not include a single mention of voles in terms of the ecology of

the marsh. Excellent theses are available that demonstrate the harm to a salt marsh when voles are not allowed in.

MR. TED VOLIN, Anchorage resident, spoke in support of SB 23. He said it would protect the Anchorage Coastal Wildlife Refuge and save money. The DEIS is a bad piece of work. The refuge is in grave danger from this project. ADF&G, adjacent landowners, various environmental and sports groups, and most other people in Anchorage know this danger. Special interest groups acting as cheerleaders for the former Governor do not care two cents about the Anchorage Coastal Wildlife Refuge. The orange modified alternative route, and suggested variations thereof, would do major damage to the refuge. It would destroy the natural setting of 177 bluff properties and change the character of several thousand acres of suburban neighborhood. [Parts of Mr. Volin's testimony were indiscernible due to poor transmission.]

He concluded by saying passage of SB 23 would send a clear message that the Legislature cares about the Anchorage Coastal Wildlife Refuge. It would help to bring the extension of the trail project to a halt until a route can be found that does not destroy the refuge in the South Anchorage neighborhood.

MR. JOHN PLETCHER, Anchorage resident, stated he read the DEIS, the 1990 area-wide trail plan and the 1999 AMATS evaluation of this project, which ranked it number three in 91 projects. He was in support of SB 23 to protect the refuge. Depending on the day of the week, the route changes: in the refuge, the west side of the railroad, the east side of the railroad, his front yard, in none of those places, all of them, above them, below them or beside them. There is no way to pin the planners down to the location. He said he could guarantee there is a movement afoot to place the trail back in the refuge if SB 23 is not passed. He cautioned members to not be misled by current attempts by individuals who tell the committee the trail no longer affects the refuge. It affects the refuge very significantly.

He asked the committee to rethink the words "surface transportation" in the legislation. There is a raging controversy over whether this path constitutes transportation, it may be a recreational trail and probably is. He felt they need broad language.

MR. PLETCHER said DOTPF hijacked the project. In the 1997 Trail Plan, in the statement of principles on page ten, number one, the first sentence states, "The lead agency for planning for trails for the MOA (Municipality of Anchorage) is the Department

of Planning for the MOA." The last sentence states, "The lead agency for implementation, which means construction, for trails in the MOA shall be the DOTPF but only in areas where the DOTPF has a state right-of-way interest." There is no reason DOTPF should be involved in planning this project. DOTPF failed to come by the neighborhood and talk to the people.

DOTPF did not survey large mammals. Moose use the area along Jeremy Drive as a corridor into and out of the refuge all the time. DOTPF did a very poor job in the DEIS. The highlight of science in the DEIS is the historical site survey where somebody walked over the bluff and found a Superior brand motor oil can, a 55 gallon drum, a toy tow truck and a beer can and designated that as a possible or suspected historical site.

MR. PLETCHER said he attended several AMATS Technical Committee meetings and discovered AMATS had increased the percent it spent for enhancements from 10 to 15 percent. SB 71 addresses that percentage. He supports limiting spending to ten percent. AMATS spent ahead several years. A couple of years earlier AMATS spent 22 percent and this year or last year it spent 19 percent. Their target is 15 percent per year over a six-year period. He asked the maximum amount AMATS could spend on enhancements including trails, and the answer was 100 percent. Spending needs to be reined in. AMATS is receiving \$55 to \$60 million per year and if it is spent at a rate of 10 percent that is \$5 or \$6 million dollars a year. This \$37 million project would burn six years of the money. At 15 percent, spending would reach the \$8 million figure.

He said the number of takings and affected properties would be 200, not 177, because under the Railroad Transfer Act of 1983, all the properties along Jarvi Drive had reversionary rights to the easement along the railroad track. Those easements would have to be condemned and would affect 27 houses. He added something should be done about the use of the railroad easement for non-railroad, non-telegraph and non-telephone purposes. The railroad has been under a good deal of pressure to allow this facility to be put in the easement and that should be given some consideration.

SENATOR OLSON asked who is going to oppose SB 23 and on what basis.

MR. PLETCHER said Senator Olson might recall Mr. Magneson from McGrath had asked how over \$3 million of state money could be spent as the 9 percent kick-in to federal dollars to build this

project when he has mud to drive on in McGrath. He thought the people in the rural areas ought to have something to say about the amount of state money being spent frivolously to study this project endlessly and to no avail. He suggested some of this money ought to go to rural areas.

SENATOR LINCOLN said thank you.

MR. WIL BLINE, Anchorage resident, spoke in support of SB 23 and SB 71. He said the DEIS repeatedly states that South Anchorage is underserved. People in South Anchorage said they chose to be underserved and didn't support the coastal trail extension, but no one listened. He wanted this residential area that was built with private funds to be left alone.

MR. MICHAEL STOLLE, Anchorage resident, referred to a 1979 geological hazard assessment for the Department of Natural Resources (DNR) and the geology and geophysical survey plot file map number 32. The survey shows very high ground failure susceptibility in the location of the proposed trail. He said he is an employee of the Army Corps of Engineers and suggested the Egyptians did not build the pyramids on sand. Four doors south of his home four lots disappeared because of sloughing and the survey was conducted because of sloughing of that ground. He said anyone who would foolishly put 37 thousand lineal feet of 5 and 6 foot high concrete wall, place the foundation on sand, compact the ground, put a trail on it and add a six foot fence is not an engineer. The fence would definitely stop moose and other mammals and small animals from moving back and forth through the backyards.

He said security is a serious consideration. The proposed project includes three tunnels, one of which is almost 300 feet long. He did not feel it would be safe to let women and children walk through the tunnels because the Anchorage police have no plans for additional security on the trail. There are also no plans for sanitation.

He said Ocean View Park would be impacted by the planned addition of 55 parking spaces. The park is a little over three acres and is used by teens playing basketball and people picnicking. The plan includes the removal of two tennis courts and a small sledding hill that are used on a regular basis. This is a residential pocket park.

2:43 p.m.

MS. JOAN STOLLE, Anchorage resident, told committee members she owns two lots along the proposed trail expansion. She submitted pictures for the record showing what her home would look like with a 14-foot trail on the bluff. She said her security would be endangered. She also had pictures of the animals that use the bluff and her backyard to rest, eat and escape the train tracks. She said she has coexisted with the wildlife for 20 years. Her home was built in 1971 and she bought it in 1983. A document that was part of the closing on the house showed the original developer granted an easement in perpetuity to the United States of America for the purposes of railroad use only.

MS. STOLLE stated she is totally against the proposed trail and supports SB 23. There will potentially be great expense to the state and the municipality as a result of litigation that could go on and on. People have not even been contacted and don't know their homes are going to be taken. There are 177 plus properties that could be affected. Wildlife needs to get up and down the bluff.

MR. ERIC McCALLUM, Anchorage resident, said he lives on the bluff like most of the other people who testified. He is a 22-year resident of Anchorage and a small business owner. He said he is opposed to SB 23. The 1999 Anchorage trail study said 77 percent of Anchorage residents use the trail system, that is over 200,000 people, and 48 percent preferred the coastal trail, that is over 100,000 people. It is obvious that the vast majority of Anchorage residents support the coastal route for the coastal trail.

He believes this bill would limit DOTPF's flexibility to develop a creative solution for the coastal trail. He said he is the first to admit the orange modified route needs to be re-modified to reach a compromise for all these affected parties. The wildlife refuge needs thoughtful consideration. Ironically, the presence of wildlife is one of the reasons the coastal trail alternative is attractive to so many people. From his house he can hear the volley of gunshots from Rabbit Creek Rifle Range loud and clear. The wildlife can adapt to loud sounds and can move to the relatively quiet curtain of the refuge.

The Friends of the Coastal Trail have offered a solution that would increase the size of the refuge by over 100 acres of otherwise unusable municipal land. This acreage could be exchanged for 10 acres of the refuge and allow most of the trail to be located off most of the private properties. It would be a win-win solution to work on alternatives and come up with the

best ideas. He asked Senator Stevens to withdraw the bill or the Senate Transportation Committee to hold the bill in committee.

MR. BOYD MORGENTHALER, Anchorage resident, spoke in support of SB 23. He said he wanted to contradict the previous gentleman's testimony that 48 percent of the people use the coastal trail and a majority of the people support the coastal trail. He said 52 percent of the people do not use the existing coastal trail and the majority of the people do not care about the trail at all.

There is a letter in the DEIS from ADF&G dated September 13, 2003 that describes how the refuge was created. The letter states ADF&G has valiantly protected wildlife, fish populations and habitat. The creation of the refuge in 1971 halted proposals to construct a tidewater highway through a coastal marsh. The refuge was created to stop a highway through that part of town. The DOTPF proposal is a 13 mile long, 14 foot wide ribbon of asphalt down the bluff that is a tidewater highway for people. The same logic that applied in 1971 should apply today. This legislation needs to be passed because it is clear DOTPF cannot be trusted to protect the wildlife refuge and does not respect the original reason it was created. He reiterated his support for the passage of SB 23 to protect the wildlife refuge and keep state control of the refuge.

MR. MATT BOBICH, Anchorage resident, said he lives on the bluff and supports SB 23. He read a letter addressed to Senator Stevens, Representative McGuire and Representative Rokeberg from homeowners whose property may be subject to taking for purpose of construction of the south extension of the Tony Knowles Coastal Trail. They asked for legislative action, this session, aimed at protecting the hundreds of thousands of dollars of private property that would be harmed by this extension. The state action should be designed to clarify the state's authority to condemn private property for the purpose of a recreational trail constructed outside of an existing or newly constructed highway corridor. A statute similar to AS 41.21.189 and AS 41.21.113 should be introduced and passed which specifically prohibits the taking of private property for purposes of extending the coastal trail. Such action on the part of the Legislature would be appropriate in the light of the fact the state has no clear state authority to take property for the purpose of building a recreational trail that is not being built in conjunction with improvement or construction of a highway.

MR. BOBICH thought SB 23 is great and provides additional protection, but it does not address private property issues. His house is built on top of the bluff but his 177,000 square foot lot reaches beyond the bluff and extends out into the wildlife refuge. There is no information as to what would happen to that property and other similar properties close to the wildlife refuge boundary. He proposed the addition of language to SB 23 to protect private property rights.

CHAIR COWDERY asked Mr. Bobich to fax a copy of the letter to the committee. He announced the committee would hold the bill and possibly have a hearing at a later date in Anchorage.

There being no further business to come before the committee, Chair Cowdery adjourned the meeting at 2:55 p.m.