

**ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE**

March 16, 2010

1:05 p.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Craig Johnson, Vice Chair
Representative Kyle Johansen
Representative Cathy Engstrom Munoz
Representative Tammie Wilson
Representative Max Gruenberg
Representative Pete Petersen

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 357

"An Act relating to the sale of land owned by the Alaska Railroad that is not needed for railroad purposes."

- HEARD & HELD

HOUSE BILL NO. 267

"An Act relating to travel by snow machine within five miles of the right-of-way of the James Dalton Highway."

- HEARD & HELD; ASSIGNED TO SUBCOMMITTEE

HOUSE BILL NO. 257

"An Act relating to prohibiting the use of cellular telephones when driving a motor vehicle; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 357

SHORT TITLE: AK RAILROAD CORP. LAND SALES

SPONSOR(S): REPRESENTATIVE(S) STOLTZE

02/19/10 (H) READ THE FIRST TIME - REFERRALS

02/19/10 (H) TRA
03/16/10 (H) TRA AT 1:00 PM CAPITOL 17

BILL: HB 267

SHORT TITLE: SNOW MACHINE USE IN DALTON HWY CORRIDOR
SPONSOR(s): REPRESENTATIVE(s) KELLY, NEUMAN

01/08/10 (H) PREFILE RELEASED 1/8/10
01/19/10 (H) READ THE FIRST TIME - REFERRALS
01/19/10 (H) TRA, RES
03/11/10 (H) TRA AT 1:00 PM CAPITOL 17
03/11/10 (H) Heard & Held
03/11/10 (H) MINUTE(TRA)
03/16/10 (H) TRA AT 1:00 PM CAPITOL 17

WITNESS REGISTER

REPRESENTATIVE BILL STOLTZE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as prime sponsor of HB 357.

JIM KUBITZ, Vice President
Real Estate and Facilities
Alaska Railroad Corporation (ARRC)
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 357.

HANK BARTOS, Representative
Rail Safety and Development Group (RSDG)
Fairbanks, Alaska

POSITION STATEMENT: Testified during the discussion of HB 357.

DON LOWELL President
Alaska Transportation Consultants
Rail Safety and Development Group (RSDG)
Fairbanks, Alaska

POSITION STATEMENT: Testified during the discussion of HB 357.

BONNIE WOLDSTAD
Fairbanks, Alaska

POSITION STATEMENT: Testified during the discussion of HB 357.

DON CALLAHAN, Public Relations Chair, Ice Alaska;
Member, Rail Safety and Development Group (RSDG)
Fairbanks, Alaska

POSITION STATEMENT: Testified during the discussion of HB 357.

RICHARD FAULKNER, President, Steel Fabrication
President, Alaska Railroad Leaseholders Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 357.

PAT GAMBLE, President and CEO
Alaska Railroad Corporation (ARRC)
Anchorage, Alaska.

POSITION STATEMENT: Testified during the discussion of HB 357.

MARY SIROKY, Legislative Liaison
Office of the Commissioner
Department of Transportation & Public Facilities (DOT&PF)
Juneau, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 267.

BRIAN PERSON, Ph.D., Wildlife Biologist
Department of Wildlife Management
North Slope Borough
Barrow, Alaska

POSITION STATEMENT: Testified in opposition to HB 267.

LISA HUGHES, Legislative Liaison
Northern Alaska Environmental Center
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to HB 267.

REBECCA BENSON
Tok, Alaska

POSITION STATEMENT: Testified in opposition to HB 267.

ROBERT CAYWOOD
Wasilla, Alaska

POSITION STATEMENT: Testified during the discussion of HB 267.

STEVE FLORY
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 267.

WILLIAM LANG
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to HB 267.

P.J. SIMON
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition of 267.

JUNE RECOFF
Wiseman, Alaska

POSITION STATEMENT: Testified in opposition to HB 267.

DERRICK MILLER, Staff
Representative Mike Kelly
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the joint prime sponsor during the discussion of HB 267.

MICHELLE DEVAUL
Fairbanks, Alaska

POSITION STATEMENT: Testified during the discussion of HB 267.

KENNETH BARBER
Wasilla, Alaska

POSITION STATEMENT: Testified in support of HB 267.

CODY STRATHE
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to HB 267.

CHAD DIESINGER, Manager
Toolik Field State Institute of Arctic Biology
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to HB 267.

BARRY WHITEHILL
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to HB 267.

TAQUILIK HEPA, Director
Department of Wildlife Management
North Slope Borough (NSB)
Barrow, Alaska

POSITION STATEMENT: Testified during the discussion of HB 267.

DIRK NICKISH, Owner/Operator
Coyote Air
Coldfoot, Alaska

POSITION STATEMENT: Testified in opposition to HB 267.

WADE WILLIS

POSITION STATEMENT: Testified during the discussion of HB 267.

BERNIE HICKER, Wiseman, Alaska

POSITION STATEMENT: Testified in opposition to HB 267.

WYN MENEFEE, Chief of Operations
Division of Mining, Land, and Water
Department of Natural Resources (DNR)
Anchorage, Alaska-

POSITION STATEMENT: Testified during the discussion of HB 267.

JOY WIEBE
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to HB 267.

DANE CROWLEY, Executive Director
Sportsmen for Fish and Wildlife
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 267.

CHARLES DERRICK
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 267.

ACTION NARRATIVE

[1:05:43 PM](#)

CHAIR PEGGY WILSON called the House Transportation Standing Committee meeting to order at 1:05 p.m. Representatives P. Wilson, Johnson, Petersen, and T. Wilson were present at the call to order. Representatives Johansen, Gruenberg, and Munoz arrived as the meeting was in progress.

[1:06:42 PM](#)

HB 357-AK RAILROAD CORP. LAND SALES

CHAIR P. WILSON announced that the first order of business would be HOUSE BILL NO. 357, "An Act relating to the sale of land owned by the Alaska Railroad that is not needed for railroad purposes."

[1:07:01 PM](#)

REPRESENTATIVE BILL STOLTZE, Alaska State Legislature, related that many private businesses are frustrated with the unpredictability of the Alaska Railroad Corporation's (ARRC)

lease terms and the corporation's unwillingness to make investment improvements to their property. He said he thought that the ARRC may need "a little bit of help interfacing with the private sector on these lease holdings." Some municipalities have expressed interest in the bill since they embrace private sector activity. He paraphrased from his sponsor statement, which read as follows [original punctuation provided]:

To spur economic development throughout the state, House Bill 357 adds a fourth clause to the existing language governing how the Alaska Railroad Corporation may dispose of land. House Bill 357 will enable the railroad to sell land that is not needed for essential railroad purposes. This bill does not ask for any irresponsible disposal of land, as the sale must be initiated by the board of directors on two conditions. The first condition is that the land is not essential to railroad operations, and the second condition is that the sale is in the best interest of the state of Alaska.

As support has shown, current leaseholders are very unhappy with the inability to purchase their leased properties from the railroad. In general real estate dealings, private purchases are made in mutually beneficial sales. House Bill 357 encourages these sales after determination by the board of directors of the railroad looks at each sale with the overall benefit to the state of Alaska as the key driver. Not only will the private sector benefit from this addition to state law, the railroad will also have increased ability to make decisions regarding their overall real estate portfolio.

The sale and relationship of private and public lands are vital to the economic growth of the state of Alaska. I ask for your consideration and support of House Bill 357 to promote Alaskan growth through the diversification of land ownership, increasing the tax base of the state, and encouraging responsible development of Alaskan land.

[1:10:25 PM](#)

REPRESENTATIVE STOLTZE characterized the bill "as a permissive bill." The committee may wish to make changes to HB 357, he stated.

[1:11:07 PM](#)

REPRESENTATIVE PETERSEN asked whether the land would be sold and if proceeds would go to the ARRC for further development or to purchase equipment.

REPRESENTATIVE STOLTZE offered his intent for the proceeds to be retained by the ARRC for its operations.

[1:12:08 PM](#)

REPRESENTATIVE JOHNSON referred to page 2, lines 1-7 and asked whether this would require a competitive bid process or if he could explain the process.

REPRESENTATIVE STOLTZE related his intent that the lessee who has an investment would have the first right of refusal.

[1:13:17 PM](#)

CHAIR P. WILSON asked whether the land is state land and if that is allowable.

REPRESENTATIVE STOLTZE responded that if any restrictions exist the bill drafters did not flag the issue during the drafting process. He offered that this is his best first effort.

[1:14:20 PM](#)

REPRESENTATIVE P. WILSON interpreted that she did not know whether it is allowable to offer the first right of refusal to leaseholders of state land. She suggested that question should be answered by the Department of Law (DOL).

REPRESENTATIVE STOLTZE said he wished he knew the inner workings of the ARRC. The ARRC's budget is not subject to state review. He stated that the ARRC's executive payroll is not aligned to the ARRC's economic growth. He also related his desire for the ARRC to run more like a private business in instances in which it is involved in the private sector. He remarked that the breadth of testimony from local government and a consortium of business and industry have endorsed this bill. However, he maintained that he did not solicit the letters in members'

packets. He offered that these "folks were yearning for some type of bill like this." Simply by holding this hearing the committee has informed the public that "the private sector has friends" in Juneau who are responsive, he stated.

[1:16:08 PM](#)

REPRESENTATIVE T. WILSON asked whether this bill would include easements crossing private property if the easement is no longer in use by the railroad.

REPRESENTATIVE STOLTZE said he did not know but his staff would check into it. He suggested that many complicated arrangements with the ARRC and ownership issues exist.

[1:16:41 PM](#)

CHAIR P. WILSON asked whether the ARRC is selling land without giving its lessees the right of first refusal.

REPRESENTATIVE STOLTZE offered that the ARRC does not have a consistent policy on leases or sales. The ARRC has had inconsistent policies with respect to leases, he stated. He recalled last year, during the course of working on another bill, that the ARRC negotiated new leases. He surmised that the ARRC reacts more like a political organization than a business organization. He said, "I don't know that I could say that they have a consistent lease policy and therein lies a lot of the problems. I don't think we would like to have our individual businesses subject to those vagaries."

[1:17:45 PM](#)

REPRESENTATIVE MUNOZ asked for the number of leases on the ARRC's non-essential property.

REPRESENTATIVE STOLTZE offered that currently the ARRC holds about 350 leases. He was not certain how many of the leases fell into the category of essential property.

CHAIR P. WILSON asked how the ARRC acquired its land.

REPRESENTATIVE STOLTZE offered that the ARRC acquired its land in the mid-1980s as a result of the federal Alaska Railroad Transfer Act (ARTA) of 1982 and the subsequent state act, the Alaska Railroad Act.

[1:19:07 PM](#)

REPRESENTATIVE STOLTZE, in response to Representative Munoz, responded that under the state's Executive Budget Act, the legislature does not have access to ARRC budget information. He maintained that numerous members of the public can testify to explain their relationships and frustrations with the Alaska Railroad Corporation.

[1:21:30 PM](#)

JIM KUBITZ, Vice President, Real Estate and Facilities, Alaska Railroad Corporation (ARRC), stated that he has worked for the ARRC for twelve years. He provided a little background information. In 1985, the state purchased the railroad from the federal government and received about 36,000 acres of land. He described the land as about one-third right-of-way, where the trains run, one-third rail and operations yard, one-third "reserve land" or land that is available to lease. The ARRC is required by law to lease its land for fair market value. He remarked that when the state bought the railroad, the federal government was losing money. The state wanted to give the Alaska Railroad Corporation (ARRC) an opportunity to succeed and live under its own profits. Thus, the land must be leased at fair market value, noting there are a few exceptions.

[1:23:23 PM](#)

MR. KUBITZ explained that the ARRC does not always know whether it will need land. Currently, projects to expand the yards in Fairbanks, Anchorage, and Whittier are underway to meet customer needs and improve the dock operations. Sometimes the ARRC must buy out tenants to expand its operations. He said, "We do not always have a crystal ball knowing exactly what could be defined as essential railroad land since it does move." For example, the Anchorage International Airport has numerous private tenants but does not sell its land. One big issue that some tenants have had is the requirement that they must pay property taxes on the leased land. In 2004, the State Assessor advised the Municipality of Anchorage that it must charge fair market value rent for any leased land that is owned by a tax-free entity, such as the ARRC. Thus, for the first time in that area the lessees had to pay property tax for the land. The tenants previously were required to pay taxes on their buildings and improvements, but the new requirement to add taxes on leased land upset some of the tenants.

[1:25:00 PM](#)

CHAIR P. WILSON asked for the duration of the ARRC's leases.

MR. KUBITZ answered that the leases range from 20 to 40 years. Tenants suddenly had to pay property taxes on leased land on which they had held long-term leases, he stated.

REPRESENTATIVE JOHNSON asked who made the determination and asked for the statutory background.

MR. KUBITZ related that the State Assessor made the determination. He offered to provide the legal opinion issued by the Department of Law to the committee. Ultimately, the state's Attorney General required the lessees to pay tax on land.

[1:25:56 PM](#)

REPRESENTATIVE MUNOZ asked whether the assessment is on the land that is leased or if the assessment is on all ARRC parcels.

MR. KUBITZ related that the tenant leases are subject to assessment, but the non-leased parcels are not assessed. He explained that the State Assessor does have some flexibility. He offered that a brand new 35-year lease would be assessed at full fair market value on the property. However, if only two years remained on the lease, the State Assessor would charge a much reduced rate for the land portion of the lease.

[1:26:44 PM](#)

MR. KUBITZ, in response to Chair Wilson, explained that the ARRC is tax exempt. He pointed out that advantages exist for parties who lease land. He explained that the tax cap cannot go increase more than 35 percent each five-year period. The ARRC also has a floor on its leases, which means the tax rates do not decrease. However, the ARRC is currently reviewing its leasing policy given the economy. He commented that the ARRC does have a public leasing policy.

[1:27:48 PM](#)

REPRESENTATIVE MUNOZ related that other leased property is not charged property tax. She related that if the leases are comparable to other leases whether the ARRC takes property taxes into account when setting the rate.

MR. KUBITZ responded that only the value of property is considered. Thus, if property is valued at \$1 million, the ARRC would charge eight percent rent on \$1 million. The ARRC is also not involved with improvements and the appraiser must appraise the land as though it is vacant land.

[1:28:37 PM](#)

MR. KUBITZ, in response to Chair P. Wilson, related that the ARRC hires an independent appraiser to determine the land value.

REPRESENTATIVE MUNOZ asked whether all the lease terms are set at eight percent.

MR. KUBITZ answered that the interest rate on leases ranges from 8 percent to 10 percent, with 9 percent for waterfront and 10 percent for commercial property. The bulk of the ARRC leases are set at 8 percent. He stated that the ARRC follows standard procedures for setting its interest rates. In further response to Chair P. Wilson, he responded that the ARRC has published its leasing policies, which are sometimes adjusted. He stated that currently, due to the downturn in the economy, the ARRC is considering eliminating the floor, but traditionally the lease rates have stayed flat.

[1:30:08 PM](#)

MR. KUBITZ stated that the ARRC indemnifies its tenants for contamination since the ARRC has been around for 85 years. The ARRC does not hold its tenants responsible for contamination unless the tenant contaminated the property.

[1:30:29 PM](#)

MR. KUBITZ, in response to Representative Johnson, explained if a person were to purchase ARRC property that it would depend on the structure of the real estate agreement as to whether indemnification would be included in the terms. He offered that any potential buyer should perform due diligence, have the ground tested and if a problem exists that the party should hold discussions to determine who will be responsible. This would all be covered in the sales contract, he stated.

[1:31:03 PM](#)

REPRESENTATIVE JOHNSON recalled several years ago a battery company went out of business. He asked Mr. Kubitz to describe a similar scenario with respect to the railroad.

MR. KUBITZ recalled the site mentioned is a Superfund Site under control by the Environmental Protection Agency (EPA). He recalled that the site usage is restricted. He further recalled that this site was capped and a list of restrictions would apply to the property use. He was unsure if someone would want to buy the property, but he related that if a sale did occur, discussions on contamination would be part of the due diligence process.

[1:32:15 PM](#)

CHAIR P. WILSON speculated that the ARRC would do its part to protect and inform any potential buyers.

MR. KUBITZ responded that professionals would perform tests to determine any contamination. He said he does not want to leave impression that all the ARRC property has environmental issues. The ARRC is diligent about identifying any issues with its property, but would not necessarily know about recent environmental issues on leased land. He characterized the ARRC as knowledgeable about its property and advised members that the ARRC has a good file on hand for each of its properties.

[1:33:26 PM](#)

REPRESENTATIVE JOHNSON asked whether anyone has reviewed the cost of owning versus leasing ARRC land given the new interpretation on property taxes.

MR. KUBITZ answered that the ARRC Board has policies in place. He offered that the ARRC performed a market analysis and that eight percent is a standard interest rate for leased property.

[1:34:37 PM](#)

REPRESENTATIVE JOHNSON asked when the property tax interpretation was adopted and whether the market analysis was performed prior to when the tax policy was adopted.

MR. KUBITZ related that it occurred at about the same time. In 2004, the tax letter was received from the State Assessor. The ARRC continually reviews the market, he stated. He maintained

his belief that the market study was done at about the same time.

REPRESENTATIVE JOHNSON asked whether he could provide any examples of other communities or states that charge eight percent interest in addition to the property tax.

MR. KUBITZ related that ARRC tenants have always paid taxes on their building. He commented that the property tax on land is based on a decreasing rate scale. He explained that the ARRC also requires its tenants to follow local state and federal laws.

[1:36:34 PM](#)

CHAIR P. WILSON asked whether the Municipality of Anchorage (MOA) was trying to find more ways to bring in revenue without raising taxes.

MR. KUBITZ acknowledged that the MOA has been very successful.

[1:37:08 PM](#)

MR. KUBITZ, in response to Representative Johnson, reiterated that the State Assessor wrote a letter to Municipality of Anchorage referencing the Department of Law's legal opinion that the MOA had to assess property.

MR. KUBITZ, in response to Chair P. Wilson, related that the communities have the option on whether to assess taxes. He stated that Anchorage and Fairbanks assesses taxes on ARRC property.

[1:38:13 PM](#)

REPRESENTATIVE T. WILSON asked for the percentage of ARRC property that is currently vacant.

MR. KUBITZ explained that the ARRC owns one parcel of approximately 5,000 acres that does not have tenant. Thus, one of its largest parcels is vacant. He offered his belief that about 20 percent of ARRC property is under lease, but approximately 80 percent of the revenue from ARRC's real estate is derived from 600 acres in Anchorage at Ship Creek. The rest of the leases are primarily located in Fairbanks, Talkeetna, Seward, and Whittier.

[1:39:07 PM](#)

REPRESENTATIVE T. WILSON asked if the ARRC sold property whether it would provide more revenue for the ARRC over time.

MR. KUBITZ related that a parcel valued at \$1 million leased at 8 percent would provide \$80,000 in revenue annually. If the ARRC deposited \$1 million, it may earn approximately \$20,000 a year. Thus, selling ARRC's land would represent a big decrease in annual income for the railroad.

[1:40:07 PM](#)

MR. KUBITZ, in response to Chair P. Wilson, explained that during the economic downturn the real estate income "tides the ARRC over". He stated that the ARRC earns about \$18 million in leases and reinvests it. He related some investments are made on behalf of tenants, such as water and sewer installation and dock enhancements to create efficiencies.

[1:41:34 PM](#)

REPRESENTATIVE JOHNSON asked of the 80 percent of leases, how many of the ARRC leases in Anchorage will expire within the next five years.

MR. KUBITZ offered his belief that not many leases will expire. He said that typically most lessees holding a 30-year lease will renegotiate the lease about ten years out. He related that the largest ARRC customer is Flint Hills in Anchorage and the second largest customer is Lynden Transport. He stated that the ARRC renews its leases on a continual basis.

[1:42:42 PM](#)

REPRESENTATIVE JOHNSON asked whether the lessees will renew their leases closer to the end date of the lease in order to avoid paying higher property taxes.

MR. KUBITZ said he was unsure. He characterized the ARRC's customers as sophisticated customers who renew their leases when 10 to 15 years remain on the lease. He commented that most leases are renewed.

[1:43:44 PM](#)

MR. KUBITZ explained at times ARRC may need to let tenants know a lease will not be renewed in the event that the ARRC needs the land for its railroad operations. He stated that the ARRC currently holds 350 active long-term leases and 900 permits, which are for leases under 5 years in duration.

[1:44:19 PM](#)

REPRESENTATIVE JOHNSON asked how disposing ARRC's property would affect the ARRC's bonding status and whether it would have a negative effect.

MR. KUBITZ answered that selling ARRC's land probably would have a negative effect. He commented that the ARRC produces an annual report with audited financial information. The ARRC also borrows funds based on lease revenue income. For example, the ARRC recently borrowed \$1 million and pledged its lease revenue for loan repayment. He anticipated that if suddenly the ARRC's portfolio of leases were to shrink, it could adversely affect the interest rate. He reiterated the lease income is used for property improvements, but sometimes the ARRC will borrow funds to complete necessary project improvements.

[1:45:36 PM](#)

REPRESENTATIVE JOHNSON asked whether federal funding would slow down projects.

MR. KUBITZ offered that the ARRC receives some federal railroad funds based on a passenger transportation formula, but the federal dollars are restricted to passenger transportation. He stated that the ARRC could build new depot or buy a new passenger car, but could not spend the federal funds on real estate. He restated that the federal funding "comes with a lot of strings."

[1:46:41 PM](#)

MR. KUBITZ stated that the ARRC's tenants have access to the Board of Directors. The Board has the final say on leases. The ARRC uses money to partner with tenants to improve the plant. In 2002, the ARRC raised the ability to lease land from 35 years to 55 years. The legislature agreed to the change. The plan has been to ask the legislature for the ability to increase some leases to 95-year leases for those seeking long-term leases. He offered that land lease payments are tax deductible. Thus, many tenants would never consider buying their land. In further

response to Representative Johnson, he stated that the appraised value is the highest amount that the land can be assessed.

REPRESENTATIVE JOHNSON related that if a tenant had 2 years left on a 95-year lease, he/she would pay less in property taxes.

MR. KUBITZ agreed.

[1:48:46 PM](#)

MR. KUBITZ, in response to Chair P. Wilson, explained the tenant typically will approach the ARRC and ask to extend his/her lease.

MR. KUBITZ related that passage of HB 357 might start a speculation spree because the land is state-owned land. For example a person could lease land in April, purchase it in May, and then "flip the land." He suggested that this would not in the ARRC's best interest. He said that he was unsure if that type of speculation would happen.

[1:50:05 PM](#)

CHAIR P. WILSON asked whether the ARRC's land is owned by the state.

MR. KUBITZ answered that the ARRC's land is state land, but the land is controlled, managed, and operated by the ARRC. He also noted that the ARRC did not receive all of its federal transfer land as of 12 years ago. The ARRC is currently down to about 5 percent of the land remaining to be transferred.

CHAIR P. WILSON inquired as to whether the state allows first right of refusal to its tenants on state lands that are leased.

MR. KUBITZ said he did not know. He suggested that the legislature could pass a law if it chose to do so. He thought it might put "a cloud over it" to have first right of refusal. He explained that if the state leased the land and then sold it, the public may complain that it was not aware that the state was selling property. He thought if the state wanted to receive the best value that the ARRC should simply sell the land. He pointed out that the tenants are protected during sales since the potential buyer cannot "kick" any tenants off the leased land, but must honor the lease.

[1:52:18 PM](#)

MR. KUBITZ, in response to Representative Petersen, stated that the 5 percent of 36,000 acres of federal transfer land has not yet been transferred to the state. He pointed out that the ARRC has an exclusive easement, which is one step below full fee on the proposed transfer. He remarked it will be "nice to get all the land" from the federal government.

[1:52:53 PM](#)

REPRESENTATIVE PETERSEN asked whether the potential land designated for transfer is located in one location or if it is spread out.

MR. KUBITZ offered that "a fair amount of it" is located in Anchorage. Much of the land is located along the right-of-way near the inlet, he stated. He related that some confusion exists since the 1964 earthquake moved some of the land. He characterized the land transfer process as a complicated process, but pointed out that the ARRC is working closely with the Bureau of Land Management (BLM) on the matter. Once the process is finished and agreed to the agreement will be sent to Washington D.C. for signature and the ARRC will receive the land, he related.

[1:53:32 PM](#)

REPRESENTATIVE PETERSEN recalled that 5,000 acres of ARRC land is not leased and asked whether this is land that poses difficulties to lease and asked whether the land should be sold.

MR. KUBITZ said he did not think there was any benefit to sell the land not currently leased. He stated that the land does not currently have utilities available, and the land is located "50 miles from the closest power pole." He commented that a "section house" is located on the land and the land has a strategic value to the ARRC. He remarked that several uses have also been considered.

MR. KUBITZ, in response to Chair P. Wilson, answered that the parcel does have road access. He reiterated that the ARRC's income stream could be affected if the land was sold. He also thought that changing any existing terms of the ARRC's real estate contract could be problematic. He offered his best professional advice is the ARRC does not want to start the precedent by selling property. He stated that the ARRC income is important and the ARRC's real estate is necessary for its

survival. He also remarked that 100 people were laid off last year.

[1:55:53 PM](#)

MR. KUBITZ, in response to Representative T. Wilson, responded that the ARRC does not grant easements.

REPRESENTATIVE T. WILSON asked whether the ARRC has any mechanism to release easements it no longer needs.

MR. KUBITZ answered that any land disposal or transfer of ARRC property must be approved by the legislature. In further response to Representative T. Wilson, he said he was unsure if this bill would allow the ARRC to do so. In response to Chair Wilson, he agreed that currently the ARRC's Board of Directors could decide to sell land. If such an instance arose, the ARRC would ask the legislature for approval. This bill contains special provisions, including that the person occupying the land would have the first right of refusal on the property.

[1:57:12 PM](#)

REPRESENTATIVE T. WILSON said she thought this bill allowed the ARRC to sell the land without legislative approval, and asked whether the ARRC would still need legislative approval.

MR. KUBITZ agreed that this is state land and the legislature would need to approval any sale.

[1:57:24 PM](#)

REPRESENTATIVE JOHNSON asked whether the ARRC shares any facilities with the Alaska Marine Highway System (AMHS).

MR. KUBITZ responded that the ARRC leases land to the AMHS in Whittier.

MR. KUBITZ, in further response to Representative Johnson, advised that the AMHS could purchase the land it leases from the ARC, but he did not think it would do so. He explained that the AMHS pre-paid a long-term lease using federal funding. He offered his belief that the current lease is a 20-30 year lease.

[1:58:55 PM](#)

HANK BARTOS, Representative, Rail Safety and Development Group (RSDG), offered his belief that a duplication of land management effort occurs in the state. He suggested that the land currently not used by ARRC should be transferred to DNR since that agency could do a better job managing the land. The DNR could transfer any land as necessary. The Fairbanks North Star Borough (FNSB) asked the legislature to transfer some ARRC land not currently being used to the FNSB to improve the Fairbanks community.

CHAIR P. WILSON asked whether the organization has specifically asked the ARRC to transfer the land.

MR. BARTOS stated that the ARRC has been approached on numerous occasions to move the ARRC operations south of town to relieve traffic congestion. He characterized working with the ARRC as working with an "800 pound gorilla."

[2:01:05 PM](#)

CHAIR P. WILSON said she misunderstood Mr. Bartos's issue.

MR. BARTOS explained that the matter is actually two separate issues. In addition to relocating the ARRC rail yard to an areas south of Anchorage, the FNSB would also like the ARRC to transfer land currently used by the ice park to the FNSB. In further response to Chair P. Wilson, he agreed that the parcel used by the ice park is not used for ARRC operations. The land could be donated, traded, or sold to the FNSB, he said.

CHAIR P. WILSON related that the ARRC must conduct its operation as a business. She would not like to see the ARRC come to the legislature and request additional operation funding.

MR. BARTOS pointed out that the land actually belongs to the people of Alaska and whether the revenue is derived from land use operations or is transferred to DNR and is managed, it is still state land. Currently, a duplication of effort exists on land management since DNR and the ARRC both manage state land.

CHAIR P. WILSON answered that the state is not the same category of land.

MR. BARTOS offered if the ARRC land was transferred to one state entity, that the process could be streamlined and more efficient.

[2:03:11 PM](#)

DON LOWELL President, Alaska Transportation Consultants; Member, Rail Safety and Development Group (RSDG), explained that the Alaska Transportation Consultants is a non-profit group. He stated that he supports the bill. Adding to Mr. Bartos's testimony, he recommended that HB 357 be amended to transfer land that is not essential to ARRC operations to the DNR. He explained that the DNR is the agency responsible for all state land. He offered his belief that the ARRC does not operate very well, but the DNR has held the long-term responsibility to manage state land.

[2:04:57 PM](#)

BONNIE WOLDSTAD stated that her comments are directed to the Eielson spur line of the ARRC. She asserted that the ARRC currently encroaches on 10-12 acres of her property. She stated that under the 1914 Homestead Act, the United States allowed homesteaders to reserve rights for the railroad to traverse property. In 1946, her family applied for the property and received a U.S. patented homestead. She said that her property predates the railroad. Her ancestor was given 160 acres and in 1947 the railroad was built. She said that her ancestor received the deed for the entire 160 acres. Subsequently the state required the ARRC under ARTA, Section 1203, including language related to valid existing claims. She further asserted that the patented homestead deed is a valid claim. In 1969, her family acquired the remainder of the homestead and has never relinquished any property rights. She restated that her property predates the railroad. Thus, her family has continued to assert their property rights. Under Section 1208 and 1209 of the ARTA, a provision allows the governor to declare such property as no longer being used and allows the governor to transfer that property to the property owner. In 2003, that specific mechanism was repealed. Thus, property owners no longer have the means to receive property under that provision. She related that Section 4200-4400 also provides for a method to vacate easements. Those ARTA provisions allow the ARRC to vacate an easement and allow the state to acquire the easement. Therefore, since the state has the easement it should revert back to the owner, she stated.

[2:07:50 PM](#)

DON CALLAHAN, Public Relations Chair, Ice Alaska; Member, Rail Safety and Development Group (RSDG), explained that since 2006

he has participated in the RSDG. He offered that an organization, Ice Alaska, presents the best winter event in Fairbanks for tourists and residents. Since 2006, he has been working with the RSDG to relocate the railroad out of Fairbanks. He characterized this as a frustrating experience since the ARRC has continuously defeated his organization's efforts to relocate the ARRC. He asserted that this is a safety issue since the rail yard is physically located in Fairbanks. As Chair, Ice Alaska, he has found the ARRC to be uncooperative. Ice Alaska would like to trade the property to the FNSB for property the ARRC could use for relocation. He understood Representative Stoltze's frustration with the ARRC since he is also "thoroughly frustrated." He recalled working for a year to obtain an easement from the federal government when it owned the railroad. When the state took ownership of the railroad, he expected the ARRC to be community activists and to be supportive of the community's interests. He suggested if the ARRC earns money on land leases to the detriment of the community, that something is wrong with their business plan. The ARRC should be a transportation entity and not a land entity. He said he also did not understand the profit issue.

[2:10:52 PM](#)

RICHARD FAULKNER, President, Steel Fabrication; President, Alaska Railroad Leaseholders Association (ARLA), spoke in favor of HB 357. He said that the ARRC land needs to be sold to private enterprise. At the present time only two percent of the state's land is in private hands. The rest of the land is either owned by the state or federal government. In Anchorage, treating the leased property as fee simple property is derelict, he stated.

REPRESENTATIVE T. WILSON asked whether leaseholders are required to make any improvements to the land.

MR. FAULKNER answered yes. However, he stated that after the lease takes effect, people do not want to make improvements due to the ARRC. He stated that the ARRC does not pay for water and sewer. He related that his business sits on 8 to 10 acres in Ship Creek area of Anchorage. He stated that he had a septic and well system, but the ARRC ran the water line from the main street to edge of property and sent him a bill. He characterized the issue with the ARRC as more of an economic development issue than any other issue. He recommended transferring the ARRC property to private ownership so

individuals can improve the property and increase the tax base in Anchorage and the state.

[2:13:45 PM](#)

CHAIR P. WILSON, after first determining no one else wished to testify, closed public testimony on HB 357.

[2:14:27 PM](#)

REPRESENTATIVE PETERSEN asked whether Mr. Kubitz could answer questions about relocating the ARRC in Fairbanks.

Mr. Kubitz answered that was not his purview.

CHAIR P. WILSON inquired as to whether the ARRC is considering moving its operations in Fairbanks.

PAT GAMBLE, President and CEO, Alaska Railroad Corporation, (ARRC) stated that moving the ARRC out of Fairbanks makes a lot of sense in the abstract. Typically, towns grew up around the tracks and many towns relocated the railroad. However, relocation is very expensive and the ARRC has undertaken with the RSDG and the FNSB to reconsider relocating the railroad in phases from the main part of town and to bypass as much of Fairbanks as it can. He stated that this process is actually a three phase process to make this a reality. The ARRC's efforts include North Pole and in an effort to relocate, the ARRC has closed crossings, some of which are close to schools, in order to improve safety. Some hazardous materials have been hauled out of residential areas. He characterized the goal to relocate the railroad as an excellent and worthy goal. Phase 1 included two meetings with the RSDG. Currently, the ARRC is working to scope Phases 2 and 3 of the project. He anticipated the ARRC would be more aggressive on the project.

[2:17:15 PM](#)

MR. GAMBLE, in response to Chair P. Wilson, offered that quite often "not cooperating" is another way of saying that a disagreement exists over issues. He stated that there are serious issues to resolve, but he felt that more progress has recently been made. He stated that the former FNSB Mayor signed a memorandum of agreement (MOA) that codified a process to allow the ARRC to coordinate its approach. He assessed the progress to resolve issues to relocate the ARRC as slow, but steady progress since the MOA was signed.

[2:18:08 PM](#)

REPRESENTATIVE JOHNSON asked what type of hazardous waste the ARRC would find if it relocated the railroad in Fairbanks to south of Fairbanks. He further asked if the existing rail yard would need to be paved, if the ARRC would be able to sell the land, and if the rail yard is a contaminated site.

MR. GAMBLE stated that the Fairbanks railroad sits on an industrial site. He agreed that likely some kind of contamination is present. He recalled a recent survey conducted at the railroad yard in Ship Creek in Anchorage. He related that the survey cost \$6 million, but the ARRC did "not find a smoking gun." He explained that the ARRC would have to do the same thing in Fairbanks. He said he does not assume the Fairbanks property would be considered a "real dirty site," but that aspect would need to be dealt with before the rail yard could be relocated. He stated that currently, the ARRC is not aware of any problem, noting that the Fairbanks property has not been surveyed.

[HB 357 was held over.]

HB 267-SNOW MACHINE USE IN DALTON HWY CORRIDOR

[2:19:57 PM](#)

CHAIR P. WILSON announced that the next order of business would be HOUSE BILL NO. 267, "An Act relating to travel by snow machine within five miles of the right-of-way of the James Dalton Highway."

[2:21:47 PM](#)

CHAIR P. WILSON reported that she has assigned a subcommittee for HB 267, consisting of Representative Johnson, Petersen, and T. Wilson, chaired by Representative T. Wilson. The subcommittee will report back to full committee, she stated.

[2:22:37 PM](#)

MARY SIROKY, Legislative Liaison, Office of the Commissioner, Department of Transportation & Public Facilities (DOT&PF), explained that the DOT&PF experts on the Dalton Highway are not available today. She stated that the DOT&PF is not opposed to access in the Dalton Highway Corridor, but doing so would

present additional challenges for the department. Opening up the Dalton Highway would create potential conflicts between commercial truckers who move goods and services and recreational users. One area of conflict would be the roadside pullouts since currently not many pullouts could accommodate commercial trucks, DOT&PF vehicles, and recreational users. The DOT&PF requires these pullouts to use as turnarounds to move equipment between the maintenance camps. She related the only pullout really large enough for commercial trucks, the DOT&PF use, and recreational use is located at Franklin Bluff on the north side of Atigun Pass. In response to Chair P. Wilson, she indicated her understanding that access would stop at Coldfoot. Franklin Bluff is located about 50 to 75 miles north of Atigun Pass, which is about 350 miles north of the Yukon River.

[2:25:07 PM](#)

MS. SIROKY commented that the DOT&PF will prepare a map for the subcommittee to show the location and size of the existing pullouts. She highlighted issues the subcommittee may wish to consider as it deliberates on HB 267. The DOT&PF uses high-speed plows to maintain the Dalton Highway. Thus, the DOT&PF is concerned about anyone who may park alongside the Dalton Highway. The DOT&PF has a responsibility to plow the roads and the pullouts and cannot be held responsible for any vehicles that get "plowed in." She anticipated the types of complaints the DOT&PF would likely receive if motorists had to spend hours digging their vehicle out of snow berms. She pointed out that the only emergency responders currently available to assist motorists if an accident were to occur is the DOT&PF and the Alyeska Pipeline Service Company. She explained that any increased time spent assisting motorists would take time away from DOT&PF's road maintenance duties. Another issue that could arise is the need to supply gasoline to motorists who run out of gas. In fact, the DOT&PF does not currently have the means to collect money for fuel, she stated. Finally, in the event of construction for a natural gas pipeline, the DOT&PF expects traffic to increase dramatically. The anticipated schedule for road construction would be in the next three to five years to assist with gearing up to haul goods. She thought that all of these issues could be solved, although some issues may take some time to resolve.

[2:28:00 PM](#)

MS. SIROKY, in response to Representative Johnson, explained that the DOT&PF has seven camps located about every 60 miles

along the Dalton Highway between Livengood and Deadhorse. In further response to Representative Johnson, she explained that typically two to four people live at each camp, including a mechanic and equipment operator.

REPRESENTATIVE P. WILSON asked whether the DOT&PF would allow people to park at the camps.

MS. SIROKY answered no. In further response to Chair P. Wilson, she related that she did not know whether the camps are posted to prohibit trespassing. She pointed out that the DOT&PF is responsible for its equipment, but she did not recall if the camps were gated. She recalled that the camp at Chandalar is open.

[2:29:31 PM](#)

REPRESENTATIVE JOHNSON asked if it would simplify matters to create a corridor for parking. He asked if seven access corridors were created with parking, safety, and rescue capabilities, whether it would solve some of the problems.

MS. SIROKY offered to consider and discuss this solution with the DOT&PF personnel to identify any conflicts. She thought one issue that could arise would be if too many people wanted to use the area. She suggested the subcommittee may want to consider limiting the number of people who could use the Dalton Highway Corridor.

REPRESENTATIVE T. WILSON asked whether the campground at Arctic Circle could be used.

MS. SIROKY responded that the visitor center is not open in the winter so she speculated that the campground is not maintained during the winter. She noted that the campground is not far from Coldfoot, where many resources are available.

[2:32:05 PM](#)

BRIAN PERSON, Ph.D., Wildlife Biologist, Department of Wildlife Management, North Slope Borough (NSB), stated the NSB is opposed to allowing any part of the five-mile corridor along the Dalton Highway for the use of snowmachines. This highway was originally established to allow production of and service of oil and gas facilities. The Dalton Highway was closed to public use due to the broad justifiable concerns over issues relating to wildlife harassment, user conflicts, wildlife violation

concerns, pipeline security concerns, search and rescue responsibility, and traffic issues. These visions were legally challenged and ultimately overturned, but not without retaining some insights for the original plan to protect the land, the wildlife resource, and the people that traditionally have depended upon the use of the resources. This bill clearly disrupts these protections without any consideration for fiscal impacts to the Alaska State Troopers and DOT&PF. He pointed out some misinformation given during testimony. He reported that the Central Arctic Caribou Herd is not over 80,000 in population, but is approximately 67,000. Further, there is not any evidence that suggests the herd has exceeded its carrying capacity or exhausted its range or resources. In fact, passing HB 267 would displace caribou from its winter range, effectively restricting its range. The Central Arctic Caribou Herd is in good health, with over an 80 percent parturition rate and high calf survival. He offered that energetic demands of wildlife in the winter and snowmachine harassment to musk oxen and caribou would be problems. He concluded by stating that he has been fighting similar bills for the last six or seven years. He said, "It's just frustrating to see the state with a long chain of broken promises." He urged members not to open the Dalton Highway Corridor. He suggested that people have access to these lands and many people truly enjoy the Dalton Highway Corridor and the surrounding land.

[2:35:11 PM](#)

LISA HUGHES, Legislative Liaison, Northern Alaska Environmental Center (NAEC), stated that the NAEC does not support HB 267. She stated that the Dalton Highway Corridor has been closed since the construction of the Trans-Alaska Pipeline System (TAPS). This bill would violate a longstanding commitment to protect wildlife and subsistence use in the North Slope. The Dalton Highway was built for industrial purposes and not recreational use. The Dalton Highway supplies the North Slope oil fields, access to the TAPS, countless mining operations, and a provides a take-off point for commercial guides and tour operators. The road conditions in the winter also provide the trucking industry with the best opportunity to haul heavy loads to Prudhoe Bay. Increased traffic and abandoned snowmachine trailers along the Dalton Highway would pose a serious hazard for industrial truck traffic. None of the industries mentioned are in favor of allowing motorized recreational use in the Dalton Highway Corridor. She asked for an assessment of the fiscal impact since there is a complete lack of emergency and public safety services in this region. She stated that HB 267

would require increased funding for the Alaska Department of Fish & Game, Division of Wildlife Conservation and law enforcement such as the Alaska State Troopers (AST). The DOT&PF would need to pave, build parking lots, and create additional roadside pullouts. The Department of Public Safety (DPS) would need additional funds to reinstate a year-round AST in Coldfoot. The Northern Alaska Environmental Center urges the legislature to honor its commitment to protect wildlife and subsistence, as well as provide a safer environment for industries and user groups that use this area. She urged members not to pass HB 267.

[2:37:47 PM](#)

REBECCA BENSON stated that she resides at Mineral Lake, Alaska. She testified in opposition to HB 267. She stated that her family has hunted in the region for many years. The opportunity to hunt in the area without competing with mechanized hunters is unparalleled since almost all other hunts allow snowmachine use or other off-road vehicles, which have resulted in shorter hunting periods. She predicted that if the Dalton Highway Corridor is opened, that the hunting opportunities will deteriorate. She predicted that the hunts would resemble the Forty-mile and Nelchina hunts, especially since the bag limit in the Dalton Highway area was recently increased to five caribou. She related that the Forty-mile hunt is a registration hunt, easily accessible by off-road vehicles (ORV). The Forty-mile hunt is typically open for three to four days. Last year the harvest quota was exceeded by a large margin, which resulted in further restrictions. She suggested that opening the Dalton Highway Corridor to snowmachine use would create problems. Proponents argue that most of the state is open to snowmachines with little damage. However, this statement ignores that non-motorized hunters are being excluded from those areas. The hunt off the Dalton Highway is quite popular among hunters and people who ski, walk, snowshoe, canoe or dogsled in the area. Some say this area is not available to average Alaskan, but she said she hoped that most Alaskans can still walk five miles.

[2:39:29 PM](#)

ROBERT CAYWOOD said that he has hunted off snowmachines and he thinks all Alaskans should be allowed to use area.

[2:40:01 PM](#)

STEVE FLORY said he keeps hearing "not in my backyard." He related that a huge expanse is closed. While the Dalton Highway was originally intended for oil and gas use, the state has expanded and recreational uses need to be spread out further. He suggested that history changes and the state needs to recognize the change, which may result in more facilities and more opportunities for Alaskans and non-Alaskans to use this area. He said, "We're talking about millions of acres." He suggested that there is plenty of room. He further suggested that mechanized and non-mechanized uses are not mutually exclusive. People need to learn to tolerate interests and the state need to grow as a state and should open up some of the state.

[2:42:06 PM](#)

WILLIAM LANG related that he has a secondary residence in Wiseman, Alaska. He testified in opposition to HB 267. He said there is an absence of access issues since any Alaskan can walk from the Dalton Highway to the Bering Sea if they so desire. He agreed with prior testimony on the bill that the caribou estimates were overestimated at the last hearing. He commented that the Alaska Department of Fish & Game presented an estimate of 67,000 to the Board of Game at its February meeting. He speculated that harvest is underestimated. Since people who live north of the Yukon River do not need to report caribou harvest most of the harvest is unreported. He agreed with the need for a fiscal note to provide for increased infrastructure necessary for HB 267. He recalled the Chair mentioning flying to Prudhoe Bay and driving down the Dalton Highway. He asked her to imagine this trip without any AST stationed north of Fairbanks and without any emergency medical services except those provided by Alyeska Pipeline Service Company. The current emergency services are intended for the company's personnel, he stated. He thought state funding would be needed to provide additional parking areas and trash receptacles. He expressed concern about snowmachine use during years with little snow cover. He reminded people that the Iron Dog Snowmachine Race had little snow cover this year, but people participated and are motivated to use their snowmachines to hunt or race, even with little snow cover.

[2:44:32 PM](#)

P.J. SIMON stated that safety is paramount. He described the Dalton Highway road conditions, including the scale of the mountains and sharp turns that truckers carrying large amounts

of fuel must make. He cautioned that trucks cannot easily stop due to the enormous weight. He stressed the safety concerns. He related that the Dalton Highway supplies the oil production with needed supplies. He expressed concern over damage to fauna and flora. He thought a three to five year study should be accomplished prior to opening the Dalton Highway Corridor to snowmachine use. He said, "We count on oil as Alaskans." He concluded by stating he is firmly opposed to HB 267.

[2:46:33 PM](#)

JUNE RECOFF stated that she has lived most of her life in the Brooks Range. She stated she has traveled to faraway places like Africa, but nothing rivals the Central Brooks Range. She stated that opening the Dalton Highway Corridor to indiscriminate snowmachine use at a time when the limit for caribou is five per person would constitute a travesty against prudent stewardship of land and wildlife. The threat of violence and lack of enforcement presents a very real issue. She expressed concern for the wildlife resources if snowmachines are allowed access along the Dalton Highway Corridor. She also expressed concern that local residents will be disenfranchised since they rely on the wildlife resources. She thought the bill would have irreparable repercussions and create hardships for future generations. The land and animals have represented and been symbolic of freedom, balance, hope, serenity, and purpose. She stated that she is opposed to HB 267.

[2:49:04 PM](#)

CHAIR P. WILSON pointed out that this bill opens up the Dalton Highway Corridor, but the hunting rules will remain same.

REPRESENTATIVE T. WILSON agreed.

[2:49:38 PM](#)

DERRICK MILLER, Staff, Representative Mike Kelly, Alaska State Legislature, on behalf of the prime sponsor, stated that currently, regulations are in place for the Dalton Highway Corridor Management Area. These regulations prohibit motorized use to transport game, game material, hunting material in and out of the Dalton Highway Corridor. These regulations would still remain under HB 267. In response to Chair P. Wilson, he stated that the Board of Game oversees hunting regulations, and have established regulations to prohibit the use of snowmachines

to transport game, game material, and game tools in and out of the Dalton Highway Corridor.

CHAIR P. WILSON restated that people still cannot use snowmachines to hunt.

MR. MILLER agreed.

[2:50:48 PM](#)

REPRESENTATIVE T. WILSON asked whether snowmachines can recreate by using snowmachines, but cannot use the snowmachines to hunt.

CHAIR P. WILSON recalled prior testimony. She said, "We were told that everything during hunting would be the same; this was just not during hunting. So that's not a true statement."

MR. MILLER agreed that it is not a true statement.

CHAIR P. WILSON related her understanding that hunting will not be the same. Currently hunters cannot use snowmachine if they are hunting. If HB 267 passes, then hunters can use snowmachines.

MR. MILLER replied that this bill does not speak to any hunting regulations. It does not touch hunting regulations or anything the Board of Game oversees. This bill provides access through the Dalton Highway Corridor via snowmachine. He said, "You cannot use your snowmachine to transport game in and out. It cannot be used as another tool for hunting."

[2:52:20 PM](#)

MICHELLE DEVAUL stated that she has been a tour guide for 12 years. Since 1999, she has been a guide on the Dalton Highway, traveling from Fairbanks to Deadhorse. She said she works for second largest industry, which is the visitor industry. She said she is passionately "not supportive" of HB 267. She is opposed to the bill because of the overall negative impact lack of infrastructure and lack of law enforcement since an AST is not assigned to Coldfoot. She has often observed vehicles on the road and is concerned about increased access to the Dalton Highway. She stated that when she is on the Dalton Highway during the summer and winter she has observed traffic accidents. She has even had to take an injured person to a pump station for emergency treatment. She said that this area is an arctic desert with six inches of precipitation per year, which is one

reason the Prudhoe Bay oilfield has been restricted and why they must use ice roads to traverse the remote regions. She reported that during the summer she has not observed any impact from the development in the region. She related that during 50s and 60s oil exploration left cat tracks from equipment use north of Atigun Pass. She disagreed that snowmachines would have decreased impact since the type of vegetation can take 50 years to grow. She has observed permanent marks on the landscape.

[2:55:26 PM](#)

KENNETH BARBER stated that he would like to have an area that is accessible to people. He did not think potential accidents or injuries should be a concern since accidents happen throughout Alaska. He said he would like to see the Dalton Highway Corridor open to more use than just snowmachines. He said he did not see anything wrong with a little scarring.

[2:56:38 PM](#)

CODY STRATHE said that he is opposed to HB 267. He stated that as a graduate student at the University of Alaska he has performed extensive archeological research in the Arctic, including Gates of the Arctic National Park which borders the Dalton Highway Corridor. He explained that the majority of archeological sites are not buried, but are scattered on the surface since insufficient vegetation exists to rot and cover the remains. During low snow years which often occur north of the Brooks Range the remains can be easily damaged by snowmachines. He thinks there is a gross misconception that snowmachines will not have an impact on the land. He stated that he owns a snowmachine and has observed damage to his own land. He spent the last three years with a dog sled team at Galbraith Lake, which has huge windswept areas that snowmachines could easily damage and have a great impact. He stated that he has hunted caribou in the area. He reiterated that this road was built for industrial use and not recreational use. He offered his belief that the Dalton Highway Corridor area should be managed to protect delicate ecosystem, coastal resources, and subsistence rights that were originally established.

[2:58:23 PM](#)

CHAD DIESINGER, Manager, Toolik Field State Institute of Arctic Biology, stated that a vast number of research plots surround the station. He said that low snow years would be detrimental to the research plots by snowmachine use; the plots represent 30

years worth of research. A second major concern is that the facility has an Emergency Medical Technician (EMT), and during the summer their EMP provides the only emergency response now that the Alaska State Trooper (AST) at Coldfoot has been removed from the post. He expressed concern that the bill does not have a fiscal note to improve the emergency response capabilities for increased traffic. He offered to keep his comments short but related that other comments made by testifiers as valid comments to consider.

[3:00:22 PM](#)

BARRY WHITEHILL testified that he is a hunter. He is a rifle hunter and must walk, hike, or float to cross the corridor. He hunts near the Dalton Highway since it is relatively low cost, primarily paid by his own sweat. He finds the landscape free of motorized conveyances so the hunt is truly an Alaskan experience. He strongly opposed HB 267. He said it is "just a foot in the door" to open the Dalton Highway up to allow other conveyances and change the game laws to allow ORV and snowmachines for hunting.

[3:01:46 PM](#)

REPRESENTATIVE JOHNSON pointed out that initially the Alaska Highway was an industrial corridor for use exclusively by the military so it is not unusual to change uses.

[3:02:47 PM](#)

TAQUILIK HEPA, Director, Department of Wildlife Management, North Slope Borough (NSB), stated that she is a lifelong Alaskan. She expressed concern for the impact HB 267 will have on subsistence users in Game Management 26, in particular, for residents of Anaktuvuk Pass, Nuiqsut, and Kaktovik. She anticipated a dramatic increase of people would use the Dalton Highway and adjacent corridor for recreational uses with passage of HB 267. The bill will provide easy access to areas important to the residents of the North Slope for subsistence use. She also anticipated an increase in user conflicts between sport hunters, recreational users, and local subsistence users. She outlined potential areas west of highway that could have devastating impact on the caribou harvest by residents of Anaktuvuk Pass area. Residents live a nomadic lifestyle and are heavily dependent on caribou and other game. When the caribou are not available and the Dall Sheep and Musk Oxen are heavily regulated, families in the area will not have sufficient game to

meet their nutritional needs. She also has heard Nuiqsut residents express concern about recreational users on the Colville River area. She pointed out the intent of Dalton Highway or the "Haul Road" is for industrial purposes. People were told the Dalton Highway use would be restricted to protect subsistence use.

[3:05:52 PM](#)

REPRESENTATIVE GRUENBERG asked her to provide her written testimony.

DIRK NICKISH, Owner/Operator, Coyote Air, stated that the DOT&PF camps located along the Dalton Highway are industrial worksites. The DOT&PF manpower have been cut due to budget constraints in the past few years and they neither have manpower or the equipment to facilitate rescues. The campground is closed at Marion Creek during the winter and as of July the U.S. Park Service has made their Park Ranger posting a seasonal position. As previously mentioned there is no longer an AST in the area and it may be mid-summer before one is in the area. There is not any garbage disposal service and the EMS services provided by the Alyeska Pipeline Services Company are voluntary services. As a small business owner along the Dalton Highway, he often picks up trash, helps facilitate rescues, and works on law enforcement issues with Fairbanks. He stated that he is opposed to HB 267 and opening the Dalton Highway until the questions are answered would be negligent.

[3:08:15 PM](#)

WADE WILLIS stated that hunters hunt beyond the five-mile corridor. There is not any long or short-term management plan for the Northern Alaska caribou herd that migrates along the Dalton Highway Corridor. He anticipated that it would bring significant impact to migration since snowmachine use would be allowed during the period that caribou are moving to the spring calving ground and hunting would be allowed in April on the calving ground. The impact will be tremendous. The Board of Game just increased the caribou bag limit to 10 in the Northwest section of Game Management Unit (GMU) 26-B which would allow use of snowmachines. He stated that this is the traditional hunting grounds of the Nuiqsut residents. He referred to the comments made at the Board of Game meeting. He related that no public testimony was taken by the board at the meeting with respect to the Dalton Highway, but sent a letter supporting HB 267, although no testimony was taken. He noted that Ben Grussendorf,

who once served in the legislature, strongly opposed sending the letter. He suggested that a stakeholder group should be established to consider opening up that area to trapping. He offered his belief that a reasonable opportunity for subsistence should be considered. The "Haul Road" offers important resources to residents who areas rely on trapping. He offered to submit comments.

3:11:02 PM

BERNIE HICKER, Wiseman, Alaska, stated that he has been a resident of Dalton Highway Corridor for the past 27 years. He spoke in opposition to HB 267. His family runs a bed and breakfast, the Arctic Getaway, which serves about 400 people, including Alaskans, who come there because of the wilderness. They can step off the side of the road and be in wilderness without noise. He thought it would be a shame to open up the area for "the fun of a few" to "tear this place up." He hoped the legislature would keep the area closed to snowmachines. Many photographers come to photograph animals in close proximity to the road. It is a great opportunity and the snowmachines would inhibit the ability to participate in that type of photography. He urged members to vote no on HB 267.

3:12:47 PM

WYN MENEFEE, Chief of Operations, Division of Mining, Land, and Water, Department of Natural Resources (DNR), stated that there are overlapping restrictions on snowmachine in the Umiat meridian. He said that anywhere north of the meridian line requires a permit for snowmachine use.

REPRESENTATIVE P. WILSON asked Mr. Menefee to identify the latitude or longitude of the meridian line.

MR. MENEFEE answered that the area is located above Chandalar, in about the upper third of the Dalton Highway, although he did not know the exact mileage. He related that anywhere in that region requires a special-use designation and anyone using a vehicle must obtain a permit. He said snowmachine use would require a specific authorization any time of the year. In further response to Chair P. Wilson, he stated that currently the DNR cannot authorize recreational use of a snowmachine. Under the bill, the DNR could issue permits for snowmachine use. Thus, the bill would broaden what the DNR could authorize.

CHAIR P. WILSON related that if HB 267 bill passes the DNR would change its procedures.

MR. MENEFEЕ answered no, the procedures would not change. However, it would change what the DNR could authorize. In further response to Chair P. Wilson, he related that the DNR cannot currently authorize permits for snowmachine use or for hunting.

[3:16:00 PM](#)

JOY WIEBE stated that she works as a "haul road" truck driver. She stated that she "runs fuel" on the Dalton Highway. If someone has an accident and his/her truck runs off the road the truck will stay there until towing services can arrive from Fairbanks. The road barely allows two trucks to pass and it can be unbelievably icy. She thinks that wolves and subsistence hunters are doing fine job harvesting the caribou. She related that the road is open to public, but not for snowmachines. People can cross country ski or dog mushers can use the Dalton Highway Corridor. She offered her belief that the caribou herd would be decimated. She related that pull outs are barely adequate and during storms are inadequate. North of Arctic Circle storms appear suddenly. "There is absolutely no rescue and in that case would be recovery," she said. She concluded by stating that she strongly opposes HB 267.

[3:18:41 PM](#)

MS. WIEBE, in response to Chair Wilson, suggested that increased traffic would especially impact drivers during the winter since most people are unfamiliar with the Dalton Highway and tend to travel right down the middle of the road. She related that her fuel truck weighs between 105,000 to 108,000 pound and she cannot "stop on a dime." She explained that she slows down for cars, but it also very difficult to determine the actual edges of the road. She offered her belief that only two outhouse facilities are available on the Dalton Highway between Coldfoot and Deadhorse, including one at the shelf and one at mile 62. She noted that she has been afraid to stop at the outhouse at mile 62 since trash piles up and creates a bear hazard.

[3:20:37 PM](#)

CHAIR P. WILSON asked for information on what would happen if her truck became involved in an accident.

MS. WIEBE answered that if her truck were to hit someone that the occupants of the vehicle would not have any chance of survival so she would rather go into the ditch herself.

3:21:08 PM

DANE CROWLEY, Executive Director, Sportsmen for Fish and Wildlife (SFFW), stated that the SFFW is a statewide organization represents several thousand Alaskans. Their mission is to ensure the state has an abundance of resources available and to provide access to the resources. He stated that the purpose of the Dalton Highway Corridor was to not interfere with subsistence hunting by not allowing snowmachine use in the corridor. The assumption has been that access will "wreck something." Currently, the Dalton Highway Corridor management is inconsistent since some residents are disallowed access. This bill is not about hunting, but would provide access to state lands from a state highway. He urged members to review the statute. He maintained that this bill is not about hunting but is about access to public land.

3:23:07 PM

REPRESENTATIVE GRUENBERG expressed concern about the public safety along the Dalton Highway Corridor. He hoped that as the subcommittee performs its work that the lives and property of residents along the Dalton Highway Corridor will be protected.

MR. CROWLEY offered to send in additional comments.

3:24:05 PM

CHARLES DERRICK stated that he previously worked on the TransAlaska pipeline and has traveled most of the pipeline length. He said he is retired, owns snow machines, a satellite phone and would like to be able to travel in the early spring but cannot currently do so. He said he does not wish to hunt, but would like to do some ice fishing and explore some of the lakes in the Dalton Highway Corridor. He spoke in favor of HB 267. He asked what measures the DOT&PF has taken to improve the Dalton Highway, including adding pullouts. He related that he heard for years that insufficient pullouts and facilities exist along the Dalton Highway. He did not understand why DOT&PF has not taken any action to make improvements.

[HB 267 was held over.]

3:27:21 PM

ADJOURNMENT

There being no further business before the committee, the House meeting was adjourned at 3:27 p.m.