

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 194

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE FOSTER

Introduced: 2/26/14

Referred: Transportation, Resources

A BILL

FOR AN ACT ENTITLED

1 **"An Act vacating a portion of the Copper Center - Valdez right-of-way; relating to**
2 **rights-of-way acquired under former 43 U.S.C. 932 that cross land owned by a private**
3 **landowner; and relating to the use of eminent domain to realign a right-of-way."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1.** AS 19.30.400 is amended by adding a new subsection to read:

6 (e) The Copper Center - Valdez right-of-way, RST 633, identified in (d) of
7 this section is vacated for those portions that overlap public easements established
8 under 43 U.S.C. 1616(b) (Alaska Native Claims Settlement Act).

9 *** Sec. 2.** AS 19.30 is amended by adding a new section to read:

10 **Sec. 19.30.430. Rights-of-way acquired under former 43 U.S.C. 932 that**
11 **cross land conveyed to a private landowner.** (a) Notwithstanding AS 19.10.015(a),
12 a right-of-way granted under former 43 U.S.C. 932 (R.S. 2477) that crosses land
13 owned by a private landowner is limited to the uses of the route established on
14 October 21, 1976, and may not exceed a width of 60 feet.

1 (b) A right-of-way granted under former 43 U.S.C. 932 (R.S. 2477) that
2 crosses land owned by a private landowner may be used only for transportation
3 purposes and may not be used for rest areas, parking lots, overnight camping, boat
4 launches, recreation sites, or other similar uses.

5 (c) A right-of-way granted under former 43 U.S.C. 932 (R.S. 2477) that
6 crosses land owned by a private landowner shall include a secondary easement to
7 enter, inspect, repair, maintain, and improve the right-of-way under the following
8 conditions:

9 (1) routine maintenance and repair may only preserve the condition of
10 the right-of-way as it existed on October 21, 1976;

11 (2) the state may make reasonable and necessary improvements to a
12 right-of-way for the transportation uses preserved by the right-of-way;

13 (3) before improvements, other than routine maintenance and repair,
14 the state shall consult with and gain the permission of the private landowner subject to
15 the right-of-way established under former 43 U.S.C. 932 (R.S. 2477) and give the
16 private landowner an opportunity to

17 (A) determine whether the proposed improvements are
18 reasonable in light of the traditional uses of the right-of-way as it existed on
19 October 21, 1976;

20 (B) study the potential effect of the proposed improvements on
21 the surrounding land; and

22 (C) determine whether modifications to the proposed
23 improvements should be made to protect the surrounding land and propose
24 modifications, if appropriate;

25 (4) in the event of a dispute between the private landowner and the
26 state about proposed improvements, the dispute shall be submitted to mediation
27 directed by a mediator who is mutually agreeable to the parties and who is not
28 employed by either party; each party shall bear its proportionate share of the cost of
29 mediation, including the mediator fees; if, after a period of 60 days following
30 commencement of mediation, the parties are unable to resolve the dispute, either party
31 may bring suit in superior court; the proposed improvements may not proceed until

1 resolution of the suit.

2 (d) Notwithstanding any other provision of law, if a right-of-way established
3 under former 43 U.S.C. 932 (R.S. 2477) has been damaged beyond repair by natural
4 causes and the state plans to realign the right-of-way as provided in (c)(3) of this
5 section, the state shall use the process in AS 09.55.240 - 09.55.460 for any additional
6 land that will be burdened by the realigned right-of-way.

7 (e) In this section, "routine maintenance and repair" includes preservation of
8 an existing road or trail by physical upkeep, repair of wear or damage from natural or
9 other causes, maintenance of the shape of the road, grading or blading to preserve the
10 character of the road, maintenance to ensure proper drainage, and any other activities
11 necessary to preserve the condition of the road as it existed on October 21, 1976.