

HB

115

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House Transportation:

3/4/87

3/11/87

Alaska State Legislature



House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

March 4, 1987

FOR TODAY'S MEETING YOU HAVE:

A FOLDER ON HB 115 THAT INCLUDES:

- * a copy of HB 115
- * a fiscal note from DOT/PF
- * a fiscal note from the Dept. of Public Safety
- * a position paper from the Dept. of Public Safety
- * a map of the Dalton Highway
- * an excerpt from the state statutes
- * an excerpt from DOT's regulations
- * 2 resolutions from the Fairbanks Chamber of Commerce
- * a newspaper article
- * the construction agreement between the state of Alaska and Alyeska Pipeline Service Co.
- * a letter from the Office of the Governor

Alaska State Legislature



House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

March 11, 1987

FOR TODAY'S MEETING YOU HAVE:

A BINDER ON HB 115 THAT INCLUDES:

- * a copy of HB 115
- * a copy of the questions sent to DOT/PF
- * a fiscal note from DOT/PF
- * a position paper and fiscal note from the Dept. of Public Safety
- * an overview of HB 115 from Rep. Frank
- * a map of the Dalton Highway
- * an excerpt from the state statutes
- * an excerpt from the federal statutes
- * an excerpt from the DOT/PF regs
- * an opinion from the attorney general's office
- * the construction agreement between the State of Alaska and the Alyeska Pipeline Service Company
- * a letter from the attorney general to the office of the governor
- * two resolutions from the Fairbanks Chamber of Commerce
- * a statement from the executive director of the Alaska Trucking Association
- * a newspaper article

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: HB 115

Publish Date: _____

REQUEST

Revision Date: _____

Title: Opening the entire Dalton Highway to the public without toll.

Sponsor: Frank

Requestor: Cato

Agency Affected: DOT&PF

BRU: _____

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		<243.0>	<243.0>	<243.0>	<243.0>	<243.0>
TRAVEL						
CONTRACTUAL		<127.0>	<27.0>	<27.0>	<27.0>	<27.0>
SUPPLIES		<20.0>	<20.0>	<20.0>	<20.0>	<20.0>
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		<390.0>	<290.0>	<290.0>	<290.0>	<290.0>
CAPITAL						
REVENUE		<5600.0>	<5500.0>	<5500.0>	<5500.0>	<5500.0>

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (IARF)		<390.0>	<290.0>	<290.0>	<290.0>	<290.0>
TOTAL						

POSITIONS:

FULL-TIME		<5>	<5>	<5>	<5>	<5>
PART-TIME		<1>	<1>	<1>	<1>	<1>
TEMPORARY						

ANALYSIS: This bill will remove the authority to charge tolls on the Dalton Highway. These are estimated to produce \$5.6 million in FY88 to support the maintenance and operating costs of this route. These tolls would have been deposited in the General Fund to offset the budgeted costs for operation.

The deletion of the requirement for the checkpoint will not impact the 1988 budget because funding is not included.

The reduced operating expenditures and funding are related to the estimated costs of collection of the tolls.

Prepared by: Ron B. Lind, Director
Division: Plans, Programs, and Budget

Phone: 465-4070

Date: 2/27/87

Approved by Commissioner: M. K. S. H.

Date: 2/3/87

Agency: DOT&PF

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

BILL NO: HB 115

DATE: February 27, 1987

TITLE: "An Act relating to public use of the Dalton Highway."

CONTACT: Maj. Walter J. Gilmour
Acting Director
Alaska State Troopers

DEPARTMENT OF PUBLIC SAFETY

HB 115 will open the Dalton Highway for public access for the entire year.

The Division of Alaska State Troopers will need to provide a full range of law enforcement services to include accident response and investigation, search and rescue and patrol in order to protect the users of the highway. Winter use of the highway will result in a need to provide these services under difficult conditions, and equipment costs reflect this fact.

The Department of Public Safety is opposed to this legislation.

William R. Nix
WILLIAM R. NIX
Acting Commissioner

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: HB 115

Publish Date: _____

REQUEST

Revision Date: _____

Title: "An Act relating to public use
of the Dalton Highway."

Agency Affected: Public Safety

BRU: Alaska State Troopers

Sponsor: Rep. Frank

Components: Detachments & CIB

Requestor: House Transportation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		281.4	289.8	298.5	307.5	316.7
TRAVEL		8.0	8.2	8.5	8.7	9.0
CONTRACTUAL		92.9	95.7	98.6	101.5	104.6
SUPPLIES		13.2	13.6	14.4	14.8	15.3
EQUIPMENT		89.2				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		484.7	407.3	420.0	432.5	445.6
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS		484.7	407.3	420.0	432.5	445.6
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		4	4	4	4	4
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See attached schedule.

Prepared by: Francis C. Alian

Phone: 269-5691

Division: Alaska State Troopers

Date: 2/27/87

Approved by Commissioner: William R. Nix

Date: 3/3/87

Agency: Public Safety

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

CONTINUATION OF FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 115

In order to keep the Dalton Highway open throughout the entire year, a full range of law enforcement services must be maintained. In order to provide accident response, patrol, investigation and search and rescue services, four additional State Trooper positions will be needed; one at Coldfoot, one at 7-Mile Camp, and two others in Prudhoe Bay. The costs below summarize their Personal Services and related costs. It is anticipated that equipment will be needed in the first year only and that a 3% inflationary cost will be incurred each year after 1988.

	Trooper Coldfoot	Trooper 7-Mile	Trooper Prudhoe Bay	Trooper Prudhoe Bay	Increased Helo Oper. Costs (1)	Total
Personal Services	71.5	66.9	71.5	71.5		281.4
Travel	2.0	2.0	2.0	2.0		8.0
Contractual	8.5	8.5	42.1	32.5	1.3	92.9
Supplies	3.3	3.3	3.3	3.3		13.2
Equipment	22.3	22.3	22.3	22.3		89.2
	<u>107.6</u>	<u>103.0</u>	<u>141.2</u>	<u>131.6</u>	<u>1.3</u>	<u>484.7</u>

(1) - Helicopter costs include one additional trip up and down the highway, fueling at Coldfoot and Prudhoe Bay (contract). This is expected to involve seven hours @ \$187 per hour.

Position Title State Trooper		No. of Positions	Range/Step 76/A	Barg. Unit PSEA																										
Time Status PFT	Staff Months 12.0	Location Coldfoot		Election District 22																										
<table border="1"> <thead> <tr> <th>Type of Expenditure</th> <th>Amount</th> </tr> <tr> <th>1</th> <th>2</th> </tr> </thead> <tbody> <tr> <td>Salary</td> <td>48,516</td> </tr> <tr> <td>Benefits</td> <td>12,454</td> </tr> <tr> <td>Premium Pay</td> <td>4,478</td> </tr> <tr> <td>Other</td> <td>6,097</td> </tr> <tr> <td>Total Personal Services</td> <td>71.5</td> </tr> <tr> <td>Travel</td> <td>2.0</td> </tr> <tr> <td>Contractual</td> <td>8.5</td> </tr> <tr> <td>Commodities</td> <td>3.3</td> </tr> <tr> <td>Equipment</td> <td>22.3</td> </tr> <tr> <td>Other</td> <td></td> </tr> <tr> <td>Total Cost</td> <td>107.6</td> </tr> </tbody> </table>		Type of Expenditure	Amount	1	2	Salary	48,516	Benefits	12,454	Premium Pay	4,478	Other	6,097	Total Personal Services	71.5	Travel	2.0	Contractual	8.5	Commodities	3.3	Equipment	22.3	Other		Total Cost	107.6	Justification A fully trained and experienced law enforcement officer is needed to provide accident response, patrol, investigation and Search and Rescue along the Dalton Highway. This trooper position must have a 4 X 4 vehicle (152P) in order to be able to travel the rough road during winter conditions. All other costs are average Trooper costs and are based upon experience. Currently, The FY88 FWP operating plan calls for the elimination of the FWP Trooper stationed in Coldfoot. This state housing unit will be occupied by this new AST Trooper.		
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**Request For
New Position**

Agency Department of Public Safety
BRU Alaska State Troopers
Component Detachments & CIB

Page 1 of 4
Revised Date _____

FY 88

Position Title State Trooper			No. of Positions	Range/Step 76/A	Barg. Unit PSEA																																							
Time Status PFT	Staff Months 12.0		Location 7-Mile		Election District 22																																							
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**Request For
New Position**

Agency Department of Public Safety
 BRU Alaska State Troopers
 Component Detachments & CIB

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 Revised Date

FY 88

Position Title State Trooper			No. of Positions	Range/Step 76/A	Barg. Unit PSEA
Time Status PFT	Staff Months 12.0		Location Prudhoe Bay		Election District 22
			Justification		
Type of Expenditure			Amount		
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Total Cost			141.2		
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Other					

A fully trained and experienced law enforcement officer is needed to provide accident response, patrol, investigation and Search and Rescue along the Dalton Highway. This trooper position must have a 4 X 4 vehicle (152P) in order to be able to travel the rough road during winter conditions. All other costs are average Trooper costs and are based upon experience.

Contractual costs include housing and office space at a cost of \$2,800 per month, which is based upon previous AST experience in Prudhoe Bay as assumes space availability.

**Request For
New Position**

Agency Department of Public Safety
 BRU Alaska State Troopers
 Component Detachments & CI

Page 3 of 4
 Revised Date

FY 88

Position Title State Trooper		No. of Positions	Range/Step 76/A	Barg. Unit PSEA
Time Status PFT	Staff Months 12.0	Location Prudhoe Bay		Election District 22
Type of Expenditure		Justification		
		A fully trained and experienced law enforcement officer is needed to provide accident response, patrol, investigation and Search and Rescue along the Dalton Highway. This trooper position must have a 4 X 4 vehicle (152P) in order to be able to travel the rough road during winter conditions. All other costs are average Trooper costs and are based upon experience.		
		Contractual costs include a leased housing space of approximately \$24,000 per year, assuming that it is available.		
Amount				
1	2	3		
Salary	48,516			
Benefits	12,454			
Premium Pay	4,478			
Other	6,097			
Total Personal Services		71.5		
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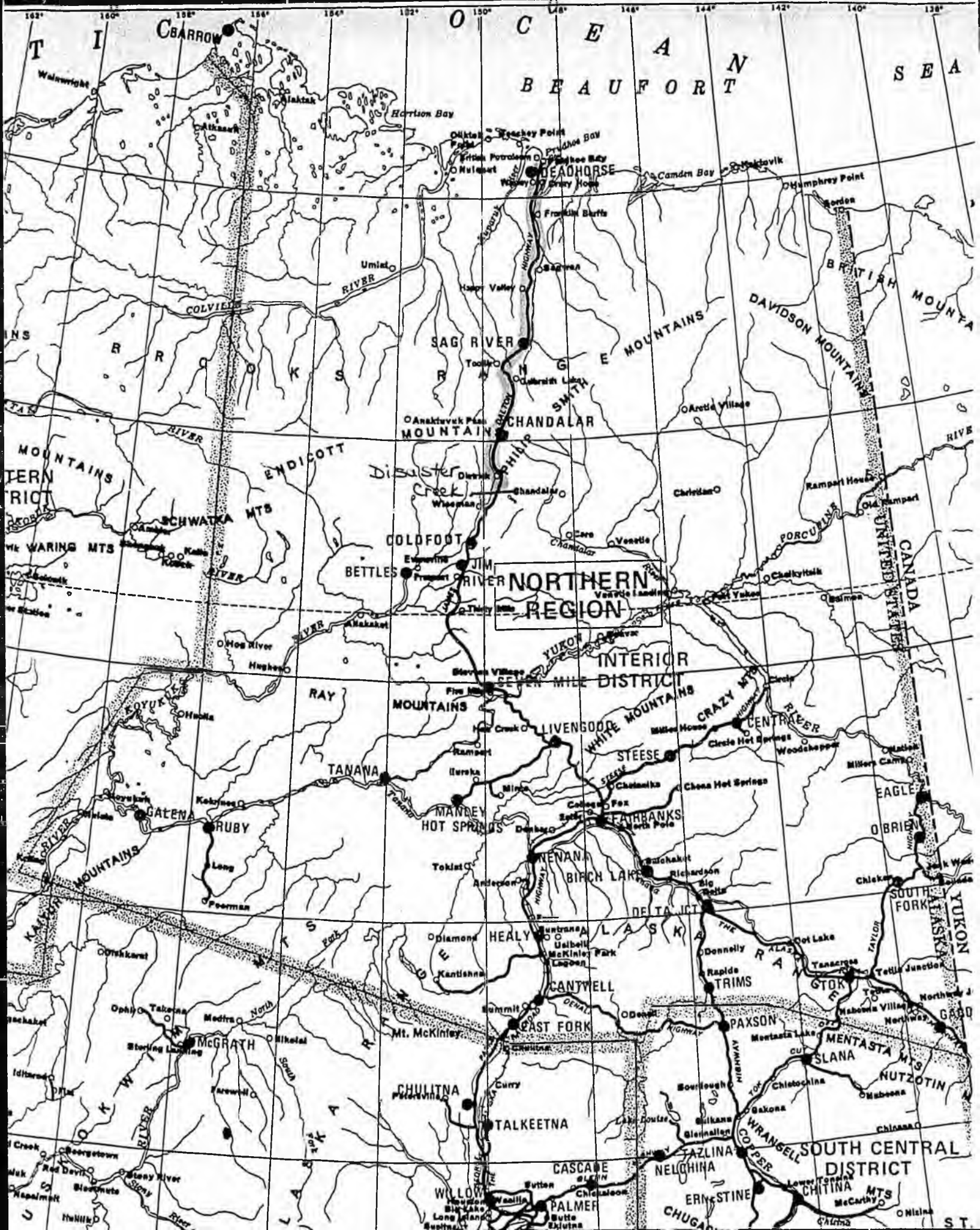
**Request For
New Position**

Agency Department of Public Safety
 BRU Alaska State Troopers
 Component Detachments & CIB

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 Revised Date

FY 88

open only to mail service
open to all public traffic
Villages which practice subsistence hunting





Greater Fairbanks

Chamber

of Commerce

First National Center

P O. Box 74446

100 Cushman Street

(907) 452-1105

Fairbanks, Alaska 99707

RESOLUTION 3-0287

A RESOLUTION TO OPEN THE DALTON HIGHWAY TO THE GENERAL PUBLIC

WHEREAS, there is no justifiable reason that the general public should not have access to a public highway, and

WHEREAS, public funds are used to maintain this road, and

WHEREAS, the denial of the public to use the Dalton Highway as any other highway in Alaska, as stated in A.S. 19.40.120, is discriminatory, and

WHEREAS, there are existing state and federal regulations which provide for management of public use of land and resources adjoining public highways, and

WHEREAS, the opening of the Dalton Highway has been part of the program of work as stated in the Interior Transportation Needs Study developed by the Greater Fairbanks Chamber of Commerce;

NOW, THEREFORE, be it resolved, that the Greater Fairbanks Chamber of Commerce recommends that the Legislature pass HB 115 without further restrictions.

Be it further resolved that this resolution be sent to the following:

Governor Cowper
The Interior Delegation
The Congressional Delegation
The Commissioner of Transportation

DATED THIS 23rd

DAY OF February, 1987

BY James Dodson
James Dodson, Chairman of the Board

BY Althea St. Martin
Althea St. Martin, Acting President



Greater Fairbanks

Chamber

of Commerce

First National Center
100 Cushman Street

(907) 452-1105

P.O. Box 74446
Fairbanks, Alaska 99707

RESOLUTION 1-0287

A RESOLUTION RECOMMENDING THAT A TOLL SHOULD
NOT BE CONSIDERED ON THE DALTON HIGHWAY

WHEREAS, Fairbanks is facing an economic down trend, and

WHEREAS, more effort needs to be placed on trying to assist Fairbanks to recover and continue to offer competitive services in deploying freight through Fairbanks to users along and at the end of the Dalton Highway, and

WHEREAS, a toll could work an economic hardship on any business planning to use the road, and

WHEREAS, the Greater Fairbanks Chamber of Commerce feels that the road should not be used as a single purpose road, and

WHEREAS, this proposed toll would represent a double tax on the oil industry,

NOW, THEREFORE, be it resolved that options other than a toll being placed on a road in Alaska (specifically the Dalton Highway), be considered as a method to generate more state revenue.

BE IT FURTHER RESOLVED that this resolution be sent to the following:

Governor Cowper
The Interior Delegation
The Congressional Delegation
Commissioner of Transportation

DATED THIS

BY

James Dodson
James Dodson, Chairman of the Board

DAY OF

BY

2-23- 1987
Aithea St. Martin
Aithea St. Martin, Acting President

Ex-lawmaker says Dalton should be open

By JOHN FRIDRICH
Staff Writer

A former Fairbanks lawmaker who fought to open the Dalton Highway to the public, told a forum held Wednesday the U.S. Constitution makes it clear the portion of the road now closed to the public should be open.

"That was my reason, and I can't speak for anybody else, for trying to get it open and open to everyone on the same terms," Charlie Parr told about 60 people who attended a

panel discussion held by the Alaska Outdoor Council.

The Dalton Highway, built in 1974 at a cost of \$307 million so the Trans-Alaska Pipeline could be constructed, stretches from Livengood to Prudhoe Bay, a distance of 415 miles.

Since 1988, two years after the state took over maintenance duties from the Alyeska Pipeline Service Co., the southern half of the highway has been opened to the public. The northern half has been closed, however, with permits available only to people who have a commercial purpose in the area north of Disaster Creek, such as oil production.

Although several people brought up safety issues during the 1½-hour discussion, the prevailing sentiment among people in the audience who spoke was that the road should be open to Prudhoe Bay.

"They're trying to make it something special and I think that's wrong," said Andy Mlscovich, who added that a toll on trucks proposed by Gov. Steve Cowper to raise maintenance funds is sending industry the wrong message.

The state Department of Trans-

portation and Public Facilities spent \$6.5 million for maintenance of the Dalton Highway in fiscal year 1986, a figure that is projected to be \$4.9 million in the 1988 budget, according to Fritz Guenther, DOT maintenance engineer for the Northern Region.

At its peak, the road handled 215 vehicles daily, but that has dropped to around 75 a day during the summer in the past two years, Guenther said. State officials say a toll on truck traffic would bring in about \$5.6 million annually.

He said keeping the road surface intact is a problem, an issue that several people also raised. Another was efforts by the North Slope Borough, oil industry and truckers to keep the northern part of the road closed. DOT maintains a checkpoint three months of the year and gets money from the North Slope Borough to keep it manned an additional two months, which drew objections from several people.

Much of the discussion centered on public access to hunting, an issue towards which the Department of Fish and Game has generally adopted a neutral position, said

Dick Bishop, regional supervisor of the agency's game division.

In theory, the area's wildlife could be effectively managed if the road was open, but the practical end is a different story, he said. "In practical terms, especially considering everybody is short of money, I think it may be very difficult; it has been difficult in any case, to have adequate enforcement of fish and game in that area," Bishop said.

As it stands, there are laws prohibiting all-terrain vehicle use within five miles of either side the road, but it's technically not possible to prosecute violators, Bishop said.

Areas of discrimination related to the road's closure were also aired. Firearms can not be used for hunting in that 10-mile wide corridor, but people can use guns in the pursuit of trapping in that area. Bow and arrow hunters are allowed in the corridor, another area that some found discriminatory. Certain rifles and ATVs can be used near Paxson, but not along the haul road.

"They ought to look at all areas of discrimination," said one man.

CONSTRUCTION AGREEMENT

This Agreement was made and entered into this 11th day of June, 1971, between the STATE OF ALASKA, hereinafter referred to as State, acting by and through its Commissioner of Highways, hereinafter called the Commissioner, and ALYESKA PIPELINE SERVICE COMPANY, a Delaware corporation, its successors and assigns, hereinafter referred to as Contractor.

The State and the Contractor agree that:

1. The Contractor shall perform, or cause to be performed, at the Contractor's sole expense, all the work and labor required to construct a highway for the State of Alaska generally described as follows: (1) from a point on the Livengood to Yukon highway approximately three miles northwest of the Yukon Radio Repeater Tower to the South bank of the Yukon River and (2) from the North bank of the Yukon River to Prudhoe Bay, Alaska. The Contractor shall also construct, at its sole expense, all the said highway and facilities related thereto which Contractor deems necessary or useful to the construction of that highway (both segments together hereinafter referred to as Highway), in accordance with those documents listed and described in Exhibit A, all of which documents are by reference incorporated herein and made a part hereof. All of said construction of the Highway and related facilities shall be substantially in accordance with secondary highway standards for the State of Alaska. At the time this Agreement is executed by the parties hereto, the said documents will describe only that part of

the highway north of the Yukon River; however, as soon thereafter as practicable, the parties hereto shall supplement Exhibit A with a document or documents describing route alignment of that segment of the highway south of the said River. Upon proper application by Contractor, the State shall issue to Contractor a Utility Permit, in State's customary form and subject to all requirements of the law and the State's standard conditions, granting the Contractor authority to lay the trans Alaska pipeline across the said Highway at the locations along the Highway indicated on Exhibit A in its present form and as supplemented by the parties hereto.

2. The State will be responsible for securing, in advance of construction, all rights-of-way across State and Federal lands for the Highway and all facilities related thereto which Contractor deems necessary or useful to the construction of the Highway. The State will also be responsible for obtaining free use of mineral materials from Federal and State of Alaska lands for use in the construction of the Highway. If the State does not, however, secure such rights-of-way and permits, it shall not be liable for damages, if any, resulting therefrom. The State will also acquire all necessary rights-of-way across private lands, and the Contractor agrees to reimburse the State the actual cost of the acquisition thereof, as determined solely by the Commissioner. In order for the State to acquire such right-of-way in an orderly fashion, the Contractor agrees to furnish the State for its use a plat of the right-of-way required across private lands in advance of such right-of-way acquisition.

3. The Highway shall be a State highway and may be used by Contractor, its employees, agents and sub-contractors in a lawful manner for the construction and operation of the trans Alaska pipeline without incurring any State-imposed tolls or costs for such use of the Highway, except for applicable motor vehicle taxes, licenses and fees, such as the Alaska Motor Fuel Oil Tax, and such other fees and costs imposed by law, regulations and customary conditions of its utility permits. During construction of the trans Alaska

pipeline the Contractor shall have the right to traverse the Highway with construction equipment of all kinds as necessary or convenient to Contractor in such construction, provided however that Contractor shall repair damage to said Highway caused by such construction equipment, and provided further that such damage shall not be constituted to include normal wear and tear. Any damages apart from normal wear and tear as determined by the Commissioner will be repaired by the Contractor at its own cost and expense and to the satisfaction of the Commissioner.

4. When the Commissioner determines in writing that there is no danger to the public from hazards associated with construction, the Highway may be opened by the State for use by the public during construction of the trans Alaska pipeline.

5. The Contractor shall perform all work and labor required by this Agreement and shall conform with the plans and specifications listed and described in Exhibit A attached hereto. The Contractor shall carry Workmen's Compensation Insurance in an approved amount. The Contractor will comply with all federal, state and local laws and regulations and all stipulations, covenants, and agreements specified herein and included in Exhibit A, or Exhibit A as it may be amended, by mutual agreement, and in the Environmental Stipulations. "Environmental Stipulations" means the Environmental Stipulations of the Department of the Interior for the Trans Alaska Pipeline System (hereinafter referred to as Environmental Stipulations) insofar as they are applicable to construction of the Highway, and all rights and rights of action which accrue to the United States under the Environmental Stipulations of the Department of the Interior accrue also to the State. The State may revise or amend the applicable Environmental Stipulations if unforeseen conditions arise during construction or maintenance of the Highway. If there is non-compliance with the provisions of this paragraph, the work or

materials shall be removed and replaced or otherwise corrected by and at the expense of the Contractor.

6. Contractor, its agents and employees, are and shall act as independent contractor and not as officers, employees, or agents of the State in the performance of this Agreement.

7. Any dispute concerning a question of fact or a value judgment arising under this contract (which is not disposed of by agreement of the parties) shall be finally decided by the Commissioner.

8. Contractor shall immediately notify the Commissioner of commencement of construction hereunder. Prior to the time such notice is given by Contractor and accepted by the State either party to this Agreement may elect, in writing, to terminate this Agreement and upon termination shall thereafter be relieved of all obligations hereunder; provided that said termination shall not become final until the Contractor has immediately paid to the State the actual costs incurred by the State pursuant to or by reason of this Agreement, thereafter the Contractor shall be relieved of all obligations imposed under this Agreement.

9. The State shall inspect the construction of the Highway and authorized representatives of the State shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the Contractor as is required to make a complete and detailed inspection.

10. Upon written notice from the Contractor of the completion of the construction of the Highway or any segment thereof, the State will make an inspection of the Highway or such segment. If such construction is found completed in accordance with all terms and provisions of this agreement, that inspection shall constitute the final inspection and the State will accept construction of the Highway or the segment or segments found to be so completed and shall notify the Contractor in writing of such acceptance as of the date of the final inspection. Thereafter State shall maintain the portions of the Highway so accepted in accord with standards established by the Commissioner and Contractor shall have no further responsibility or obligation or liability

of any kind under this Agreement with respect to portions of the Highway so accepted, provided that Contractor shall reimburse State its actual, direct, out-of-pocket cost of such maintenance until either (1) State permits public access to any portion of the road except for restricted use which must be jointly approved or (2) the trans Alaska pipeline is commissioned and first oil is transported therein from Prudhoe Bay to Valdez, Alaska, whichever shall first occur. Such cost shall include no overhead or other indirect cost whatever and shall not exceed \$800,000 for any calendar year.

11. Any structure, property, land, stream or wildlife harmed or damaged by the Contractor, its employees or agents, during the construction or maintenance of the Highway shall be reconstructed, repaired, rehabilitated and restored by the Contractor at the direction of the Commissioner, so that the condition thereof, in the judgment of the Commissioner, is at least equal to the conditions thereof immediately prior to such damage or destruction. The Contractor shall further abate at the direction of the Commissioner any condition or conditions existing with respect to the Highway or its related facilities, during construction or maintenance thereof caused by the Contractor, its employees or agents, which may be causing harm or damage to any person, structure, property, land, stream or wildlife.

12. The Contractor shall pay the State for any damage suffered or cost or expense incurred by the State in any way arising from or connected with any operation under this Agreement whenever such damage, cost or expense results from any breach of the Agreement or from any wrongful or negligent act of the Contractor, its employees, agents or subcontractors. Upon the mailing of written notice by the Commissioner to the Contractor of the nature and amount of such damage to, or cost or expense of, the State, the Contractor shall pay the State therefor.

13. The Contractor shall indemnify, defend and hold harmless the State against and from any and all demands, claims or liabilities of every

nature whatsoever, arising directly or indirectly from or in any way connected with any or all of the following: (1) the construction or maintenance by the Contractor, its employees, agents or subcontractors, of the Highway or of any facility or structure used in connection therewith, and (2) the use or occupancy, whether authorized or not, by any person whomsoever of any land owned by the State which is the subject of any permit or right granted to the Contractor, its employees, agents or subcontractors; provided, however, that the Contractor is not responsible for injuries or damages caused by employees of the State.

14. The Contractor is and shall be liable, without regard to negligence, and shall pay the State or other person or entity thereto for any damage or loss occasioned to fish and wildlife and their habitat by construction and operations of the Contractor, its employees, agents or subcontractors, for work done under this Agreement.

15. The construction and maintenance of the Highway pursuant to this Agreement are subject to the employment preference provisions of AS 36.10.010-110 to the extent permitted by Federal Law.

16. In the event the Commissioner determines in writing that the Contractor, its employees, agents and subcontractors have failed or refused to comply with any provision of this Agreement or of the Environmental Stipulations the State may without liability to the Contractor, its employees, agents and subcontractors, suspend or terminate any or all of the activities under this Agreement. Work so suspended or terminated shall not be resumed until the Commissioner gives the Contractor written authorization to do so.

17. In the event of any inconsistency in the provisions of the documents listed below, the following order of preference shall be observed:

- (1) This Construction Agreement;
- (2) Specifications;
- (3) Design Criteria;
- (4) Drawings.

18. Before this Agreement becomes effective, pursuant to the provisions of AS 19.40.030, the State in lieu of bonds or individual sureties required by AS 36.25.010, may accept corporate undertakings which include the same essential provisions of the bonds or individual sureties required by AS 36.25.010 and which are satisfactory to the State, from each of the corporations owning an interest in the Alyeska Pipeline Service Company.

19. The Contractor shall furnish to the State all records of geological data, hydrological data, soil core drillings and terrain temperature measurements made during pre-construction investigations, test results, engineering standards, basic data and technical criteria relating to the design and construction of the Highway and other similar information.

20. Exhibit A attached hereto at the execution of this Agreement describes that portion of the Highway crossing Dietrich Pass in the Brooks Range as designed with grades up to 24%. The parties agree that said Exhibit shall be amended to reduce the maximum grade for that portion of the Highway between Station 1155+00 in Segment 4 and Station 159+50 in Segment 5 to grades of approximately 12%; provided, that if State can demonstrate to Contractor that said grade for said portion of the Highway can be reduced to less than 12% (without adding to the difficulty of constructing the pipeline) for a cost not to exceed \$10.4 million, which is the present estimated cost, then Contractor will construct said portion of the Highway to the lesser grade as demonstrated by State; however, in the event Contractor's estimates of unit costs as set forth in Exhibit 3 attached hereto are modified by reason of renegotiation with its subcontractors or otherwise, then said \$10.4 million maximum shall be adjusted accordingly.

21. This Agreement shall be binding upon and inure to the benefit of the parties in this Agreement and their successors and assigns.

IN WITNESS WHEREOF, the parties hereunto have caused this Agreement

to be executed by their authorized officers and their seals to be affixed
as of the day and date first written above.

STATE OF ALASKA

BY: *[Signature]*
Commissioner of Highways

ATTEST

BY: *[Signature]*
Secretary

ALYESKA PIPELINE SERVICE COMPANY

BY: *[Signature]*
Vice President

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU 99811

January 17, 1978

Fran Ulmer, Director
Division of Policy
Development & Planning
Office of the Governor
Pouch AD
Juneau, Alaska 99811

Re: North Slope Haul Road

Dear Ms. Ulmer:

INTRODUCTION

You have asked our opinion on several issues concerning the North Slope Haul Road (hereinafter "Haul Road" or "Road"). While most of these questions were addressed, either directly or indirectly, in a September 7, 1976 Attorney General's Opinion to former director of Policy Development & Planning Robert LeResche, this opinion will supplement and update that previous opinion.

The Haul Road extends north from Livengood, Alaska across the Yukon River and on to Prudhoe Bay, Alaska. The road south of the Yukon River and the bridge across the river are currently open to the public and maintained by the state in the same manner as are all other state highways. This opinion will deal primarily with the approximately 370 miles of road between the Yukon River bridge and Prudhoe Bay

which were constructed for the State by Alyeska Pipeline Service Company (hereinafter "Alyeska") pursuant to a Construction Agreement dated June 21, 1971, as subsequently amended.

The pertinent factual background of the Haul Road was summarized in Part II of the September 7, 1976 opinion. Two important matters which occurred after that earlier opinion are pertinent here. First, on June 17, 1977, an agreement was executed by the State and Alyeska listing remaining work items to be completed by Alyeska on the Haul Road by mid-October, 1978, and providing that control of the Road would be retained by Alyeska until that time. Second, Congress has approved the Alcan route for the gas pipeline from the North Slope. This route parallels the Haul Road from Prudhoe Bay to Fairbanks, and the Road will be necessarily used in the construction of the line.

You have asked us to discuss issues concerning maintenance obligations of the State, means by which access to the Road may be limited, if at all, and possible funding sources for maintenance costs. We will discuss those questions in the order stated.

I. MAINTENANCE

Maintenance of the Haul Road presents unique considerations because of its geographic location, the surrounding terrain, and the extreme climatic conditions to which

the road is exposed. There is also an additional factor which is unique to the Haul Road. Unlike other state highways, the Road is the subject of a contractual maintenance obligation which arises from the June 11, 1971 Construction Agreement between the State and Alyeska. Paragraph 10 of that agreement, as amended, provides in part that after acceptance of the completed Haul Road from the construction contractor (Alyeska), the "State shall maintain the portions of the highway so accepted in accord with standards established by the commissioner . . ." This provision clearly imposes a duty of maintenance on the State, though it also specifically recognizes that the commissioner may set the particular standards for maintenance.

The contractual obligation of the State to maintain the Haul Road requires no greater commitment ^{than} that the general duty of the State to maintain all public highways. This duty of maintenance is one of the primary characteristics that defines a public highway. Prillaman v. Commonwealth, 100 S.E. 2d 4 (Va. 1957).*/ The general duty of maintenance has been delegated by the legislature to the Department of Highways (AS 19.05.010 and .030(1)) and transferred to the new Department of Transportation and Public Facilities (DOTPF) by Executive Order No. 39 (1977) as of

*/ The State also has the same obligation to maintain all highways constructed with Federal highway funds under § 12 of the Project Agreement granting such funds.

July 1, 1977. Pursuant to both general powers and the specific contractual obligations present in this case, the commissioner of DOTPF, in his discretion, may determine reasonable standards for maintenance of the Haul Road. That discretion includes the power to close the Road seasonally, or otherwise to prevent damage, or danger to traffic. (AS 19.05.100 and AS 28.05.010(4)). No obligation exists to maintain the Haul Road or any other highway year-round or to particular standards other than that set generally by AS 19.05.130(9) which provides:

"maintenance" means the preservation of each type of highway, roadside structure and facility as nearly as possible in its original condition as constructed, or as subsequently improved, and the operation of highway facilities and services to provide satisfactory and safe highways.

Despite the broad nature of the Commissioner's discretion in the area of highway maintenance, it is conceivable that some actions might constitute a breach of that obligation. For example, the maintenance standards established by the Commissioner of DOTPF might be unreasonable or actual maintenance might fall short of reasonable standards established. If the State were to somehow breach its obligation to Alyeska to maintain the Haul Road, it could possibly be liable to Alyeska for damages. These damages would probably be measured by estimating the difference between the value to Alyeska of use of the Road maintained according

to reasonable standards and the value to Alyeska of use of the Road as actually maintained. Because Alyeska's use of the Haul Road for maintenance and operation of the oil pipeline is expected to be much less than its use of the Road during construction of the pipeline, and because other transportation options available to Alyeska may not be much more costly than use of the Road, it is unlikely that such damages would be substantial. However, any breach of the State's obligation to Alyeska to maintain the Road would probably also constitute a breach of the State's obligation to maintain the Road under paragraph 12 of its Project Agreements with the Federal Highway Administration (FHWA) and 23 U.S.C. § 116. That would not open the State to damages, but it could nonetheless, have serious legal consequences including possible vulnerability to an action for specific performance and possible loss of future Federal Aid Highway funds.

The obligation of the State to maintain the Haul Road will not become operative until the State accepts the Haul Road from Alyeska. (¶10 of June 11, 1971 Construction Agreement as amended.) According to a recent agreement between the State and Alyeska, this will be in the first half of October, 1978, assuming Alyeska completes the ten work items listed therein according to Federal secondary road standards. (¶12 of June 17, 1977 Agreement.) When

the State accepts the Road, it will be a completed public highway under the State's control and subject to the State's obligation of maintenance. Alyeska will no longer be subject to any duty to maintain the Road or any part of it.

Even after the Haul Road is accepted by the State, Alyeska may wish to voluntarily assume responsibility for some maintenance on all or part of the Road. If the reasonable maintenance standards set by the commissioner of DOTPF do not reach the level or duration of maintenance desired by Alyeska, nothing would prevent Alyeska from entering an arrangement with the State whereby Alyeska would perform or pay for extraordinary maintenance above that otherwise performed by the State. For example, Alyeska may wish to maintain all or part of the Road during seasonal periods when the State may choose not to maintain the Road at all. Likewise, Alyeska may wish to maintain parts of the Road which they plan to use more heavily than other parts to a higher level than that provided by the State.

The State might make similar agreements for special maintenance with Alcan Pipeline Company (Alcan). If the Alcan gas line construction schedule requires use of the Haul Road during seasonal periods when the State chooses not to maintain the Road, Alcan may wish to assume maintenance responsibility for those periods. Similarly, if Alcan's gas pipeline construction activity requires a higher level

of maintenance of the Haul Road than is required by the reasonable maintenance standards set by the commissioner of DOTPF, Alcan may wish to enter into an agreement with the State to perform or pay for extraordinary maintenance above that otherwise performed by the State.

By assuming responsibility to maintain the Haul Road, above the reasonable standards set by the State, both Alyeska and Alcan could make possible more intensive use of the Road and/or use of the Road during seasonal suspension of state maintenance. Also, weight restrictions which might otherwise necessarily be imposed by the commissioner of DOTPF under AS 19.10.060(1), AS 28.05.020(3), and 17 AAC 25.100(a) could be avoided or minimized.*/

In conclusion, the State will have the responsibility of maintaining the Haul Road to reasonable minimum

*/ It has been suggested that the commissioner of the Department of Natural Resources may insert a provision in the Alcan right-of-way lease requiring Alcan to assume all or part of the State's obligations to maintain the Haul Road. The lease will be granted under the Right-of-Way Leasing Act, AS 38.15. Under AS 38.315.120(c), the commissioner may insert only "reasonable provisions that he determines the public interest requires." We have some doubt whether such a provision, requiring an activity outside the right-of-way to be leased, could be considered reasonable and valid. The Haul Road will not be part of the Alcan "pipeline" as defined in AS 38.35.250(12). In contrast, access roads between the Haul Road and the Alcan right-of-way will clearly be part of the Alcan "pipeline" and Alcan can validly be required to maintain those roads in the lease. Likewise, Haul Road maintenance can not properly be viewed as part of the consideration or rental for the lease because AS 38.35.140 limits the price of a pipeline right-of-way lease to the fair market value of the land leased.

standards after acceptance of the Road from Alyeska. Either Alyeska or Alcan can assume part of this responsibility or the responsibility to maintain the Road to higher standards or during seasonal periods of no state maintenance.

II. LIMITS ON ACCESS

The second primary attribute of the Haul Road once it is accepted as a public highway is the public's right of access to and use of the Road. This right is subject to reasonable restrictions and regulations calculated to secure the best practical benefit and enjoyment of the public.

(Part III A., p. 16 of the September 7, 1976 opinion and authority cited therein.) Such restrictions and regulations must be directed toward the protection of the public health, safety, and general welfare in exercise of the State's police power. This power is exceptionally broad and need only be exercised in a manner that is reasonable and not arbitrary. (See Part III. B., pp. 22-3 of the September 7, 1976 opinion and cases cited therein.) Distinctions may be made according to classifications of types of potential users as long as the classifications bear a fair and substantial relation to the purpose of the regulations. Isakson v. Rickey, 550 P.2d 359, 363 (Ak. 1976).

The broad power of the State to regulate and restrict access to public highways, including the Haul Road, has been delegated by the legislature to the commissioner of

DOTPF. Under AS 19.05.040, the Department (of Transportation and Public Facilities) may:

- (4) control access to highways;
- (5) regulate roadside development; (and)
- (6) preserve and maintain the scenic beauty along state highways.

Under AS 19.10.100, the department may close a highway "when it is necessary to exclude traffic from any portion of a highway." Under AS 28.05.010:

The commissioner of (DOTPF) has the power and duty:

- (4) to order a public road or highway, or portion of it, closed entirely or closed as to certain classes of vehicles when for any reason the use or continued use of it would cause damage or be dangerous to traffic, or when it is being maintained in such a manner as to require restriction of traffic . . .

Finally, under AS 28.105.020(3)

The commissioner of (DOTPF) may adopt rules and regulations . . . governing the size, weight, and load limits of all vehicles operating upon public roads, highways, or bridges . . .

Various possible options for valid restrictions on access to the Haul Road in exercise of the commissioner's broad police power based authority were discussed at pages 23 to 30 of the September, 1976 opinion. In the interest of brevity, we will summarize those options here:

- 1) Delay opening Road to the general public for a reasonable but finite period. The commissioner may delay opening the Haul Road for a reasonable period. Such a delay

clearly could be justified by the need for completion and implementation of a comprehensive land use plan for the vast fragile newly roaded area adjacent to the Haul Road, coupled with the need for adequate facilities and services to protect the public safety and welfare, such as Trooper and Fish & Wildlife Protection patrols and stations. An additional justification for a delayed opening to the general public is the expected volume of traffic related to construction of the Alcan gas pipeline, especially considering the nature of the traffic which will likely be predominately large trucks and heavy equipment and involve a number of crossings and entrances and exits. Such heavy industrial traffic on a secondary road could very likely pose problems to the safety of the average citizen driving the Haul Road in a private vehicle which could be avoided by restricting access.

2) Interim Distinction between Industrial and Non-Industrial Users. As suggested above, a temporary delay in opening the Road to the general public would most likely be accompanied by allowance of access to industrial users during the interim. Under Paragraph 3 of the June 11, 1971 Construction Agreement between the State and Alyeska, Alyeska and its employees, agents and sub-contractors must be allowed to use the Haul Road for operation of the oil pipeline. Also, the state and national interest in fast, efficient, economical construction of the gas pipeline seems to require

special consideration and access to traffic related to Alcan's gas line construction. Likewise, it may well be in the state's and nation's best interest to grant similar special consideration and access to other industrial traffic, especially that related to operation and maintenance of the oil pipeline and to oil, gas, and mineral exploration, development, and production, both along the Haul Road right-of-way and at P. adhoe Bay.

The classification of potential Haul Road users into industrial and non-industrial users would, in our opinion, satisfy the equal protection test enunciated by the Alaska Supreme Court in Isakson v. Rickey, supra. Non-industrial users (general public, private vehicle traffic) would pose the greatest threat of degradation to the heretofore isolated environs of the Haul Road in the absence of the completion and implementation of a land use plan. Unlimited public use would generate a far greater necessity for Trooper and Fish & Wildlife Protection presence and for other private sector services and facilities such as gas, food, lodging, campgrounds, trails, emergency auto maintenance and repairs.*/ A distinction then, between industrial

*/ There is no obligation on the part of the State to provide any such services and facilities along the Haul Road which it is not obligated to provide on any other highway. Nonetheless, the absence of such private commercial presence along the Haul Road is part of the justification for police power restriction of general public access to protect the public health, safety, and welfare. If the option of temporarily restricting general access to private vehicles is chosen, however, the state should provide any assistance it can in the planning and provision of such facilities for the time when they will be needed.

and private use would be reasonable, even under the intensive scrutiny prescribed by Isakson. (See pp. 28-29 of September, 1976 opinion.)

3) Limiting Public Access to Mass Transit.

There is a strong possibility that the commissioner of DOTPF may validly exercise his broad power to control access to highways by prohibiting the use of private vehicles on the Haul Road altogether and confining public access to the Road to mass transit vehicles such as buses. Although there is no case authority directly in point, cases upholding bus and carpool lanes and ramps seem to provide by analogy, a rational basis for such a restriction. These cases are discussed at pages 25-27 of our 1976 Opinion. A contrary ruling would mean that the right of public access to highways is the same as the right to use private motor vehicles on the highway, regardless of a alternative means provided for access. We do not believe such a holding would be warranted in the case of the Haul Road where the use of private vehicles would cause environmental and safety problems which can be avoided by provision of mass transportation.

Restriction of general public access to the Haul Road to utilization of mass transit is more than an interim option - it is an option for permanent use of the road as well. However, if it is chosen as a permanent measure, legislation would be desirable to clarify the commissioner's

authority in this area, although this limitation may well be within the commissioner's already existing authority.

The options mentioned below are also equally valid as either interim or permanent measures.

4) Seasonal Denial of Access. The commissioner may validly deny access to the general public or to all potential Haul Road users on a seasonal basis.

5) Vehicle Quota: The commissioner may validly impose a maximum on the number of vehicles allowed on the Haul Road at one time or during a specific period. The maximum may apply either to all vehicles or only to non-industrial vehicles.

6) Regulation of Manner of Vehicle Use. The commissioner may also control the way in which vehicles are used on the Haul Road such as by allowing stopping or turning off only at designated points.

In addition to these listed options which were discussed in the 1976 Opinion, several other valid access restriction options are worthy of mention. One of these is restricting access to the Haul Road only to private vehicles which have certain required equipment. Examples of equipment which might be required are 4-wheel drive, snow tires, chains, tow chain, survival gear, and food and water for a specified number of Days. Under AS 28.05.030(a):

The commissioner of public safety may adopt regulations governing . . .

(3) the required equipment to be carried

Although all of the existing regulations adopted under this authority apply to vehicles on all state highways (See e.g. 13 AAC 04), there is no apparent reason why special requirements may not be imposed on vehicles used on a special highway such as the Haul Road.

Whatever options (interim or permanent) are finally adopted, we believe it follows that the State may establish a system for the issuance of permits for Haul Road use which reflects the restrictions imposed. Such a permit system could probably be established through regulations adopted by the commissioner of DOTPF under his existing broad authority. However, as with the option of limiting general public access to mass transit vehicles, specific legislation would strengthen and clarify this approach. The permit system could incorporate criteria which would give preference to industrial users over non-industrial users or criteria which would give preference to some industrial users over others. It could allow for some limited access to private non-industrial vehicles. Alternatively, it could limit non-industrial permit issuance to mass transit vehicles such as buses.

The options listed may be combined with each other in a variety of ways and they may be applied to all or only a part of the Road. The options are available as either permanent or interim controls. Any option imposed as either

a temporary or permanent restriction on access, however, must be a valid exercise of the police power.

III. FUNDING

The final general subject area addressed by this opinion is that of financing the maintenance of the Haul Road. Because of the uniqueness of the Road, its maintenance may require expenditure far above that required for other state highways. As discussed in Part I above, part of the cost of maintaining the Road may be shifted from the State to industrial users such as Alcan and/or Alyeska by agreement. Essentially, the costs which may be shifted by agreement are those generated by maintenance above the reasonable standards to which the state would otherwise maintain the Road or by maintenance during periods the state would not otherwise maintain it.

There is little that may be validly done presently to pass on the cost of maintaining the Haul Road directly to the users of the road. One limited possibility is through the use of the permit system option previously mentioned. A fee could be required for issuance of the permits, and this fee could generate a slight amount of revenue over and above the cost of administering the permit program. However, such a permit fee must be primarily based upon an estimate of the cost of administering the permit program, and if it were established at a level much higher than a reasonable estimate of that cost, it would be invalid for reasons which

will appear shortly.

The status of the Haul Road as part of the Federal Aid Highway System is the major obstacle blocking the passage of maintenance costs through to users of the Road. The Haul Road is part of Federal Aid Secondary (FAS) Route 681 which extends from Livengood to Prudhoe Bay. As such, the State received funds for environmental surveillance of its construction pursuant to a "Project Agreement" dated May 23, 1974 from the Federal Highway Administration (FHWA). The Project Agreement authorized expenditure by the State of nearly \$3 million Federal funds, but indications are that only approximately half or \$1.5 million of these funds have been or will be expended by the State. Placement of the Haul Road on the FAS system, execution of the Project Agreement, and State receipt and expenditure of FHWA funds bring the Road under the provisions of Title 23 of the United States Code and of the Code of Federal Regulations.

23 U.S.C. § 301 provides that, (with an exception not applicable to the Haul Road), "all highways constructed under this Title shall be free from tolls of all kinds." Because of this prohibition, the State is unable to impose tolls, or any special user fee on Haul Road users, as long as the Road remains on the FAS system. (See pp. 29-34 of September, 1976 Opinion.) The only way tolls or user fees may be imposed on the Haul Road is by removing the Road from the Federal Aid System. Such a removal would require the

concurrence of the FHWA or, in the alternative, an Act of Congress. It is possible that the FHWA would require repayment of the Federal funds used for surveillance of construction of the road as a condition to its concurrence in removal from the system. However, there is no legal requirement of such a condition.

The FHWA has recently taken the position that it lacks the authority to concur in the removal of a highway from the Federal Aid System even if federal funds spent constructing the highway are repaid. This position is stated in a Memorandum of Law by the Office of the Chief Counsel for FHWA dated September 14, 1976 which is based on a 1958 decision of the Comptroller General, 38 Comp. Gen. 266 (October 3, 1958). In all frankness, we do not believe that this preliminary opinion by the Chief Counsel correctly states the law. FHWA's insistence on Congressional authorization for removal of a highway from the Federal Aid System ignores the precedent set in New York which is discussed in Bozart v. Westchester County, 57 N.Y.S. 2d 506 at 513 (Sup. Ct. 1945); aff'd 59 N.Y.S.2d 77 (App. Div. Second Dept. 1945), the FHWA's own Policy and Procedure Memorandum 10-1, May 28, 1965 and the FHWA's own regulation 23 CFR § 470.111(b). That regulation provides:

Federal Highway Administration approval of a deletion or a route from any Federal-aid system, without reclassification and

redesignation to another Federal-aid system, shall relieve the State of its obligation to the Federal Government to maintain portions thereof constructed as Federal-aid projects with the exception of defense access-road projects constructed under the provisions of Volume 6, Chapter 9, Section 5 of the Federal-Aid Highway Program Manual. Such deletion shall also relieve the State of any other obligations included in project agreements executed for Federal-aid projects on portions of the deleted route. (Emphasis added).

Subsection (c) further provides for reinstatement of a route previously deleted from a Federal Aid system if a State agrees to resume its maintenance obligation.

Requests for reinstatement of routes deleted from any Federal-aid system shall be approved by FHWA only when the State expressly agrees to resume its obligation for the maintenance of any portion of the route previously constructed as a Federal-aid project. Resumption of any other obligations included in project agreements executed for Federal-aid projects on the route being considered for reinstatement shall be mutually agreed to by the State and the FHWA.

These regulations, which are now in effect and the above cited FHWA Policy and Procedure Memorandum in effect when the Haul Road Project Agreement was executed, give rise to serious doubt as to the validity of FHWA's position that it may not approve deletion of a route from the Federal Aid system without congressional approval. However, the FHWA position is significant as an indication of the agency's reluctance to give its approval to removal of the Haul Road from the FAS system. There is nothing which would require

FHWA to give its approval, short of an Act of Congress..

Therefore, the FHWA position may be self-fulfilling.

If removal of the Haul Road is accomplished, with or without Congressional legislation, tolls may be imposed on users of the Road, but the tolls must be authorized by State legislation. Moreover, under paragraph 3 of the June 11, 1971 State-Alyeska Construction Agreement, any tolls imposed must exempt Alyeska and its employees, agents, and sub-constructors who use the Road for the operation and maintenance of the oil pipeline. Such an exemption would be legally valid since it would be a part of the consideration to Alyeska from the State for building the Haul Road.

The discussion of removing the Road from the Federal Aid System has focussed primarily on the Road north of the Yukon River Bridge. However, it is possible, of course, to broaden the outlook toward removing the bridge as well from the federal system. If removal included reimbursement of FHWA funds used by the State for construction, an additional \$25 million would have to be repaid by the State. This is the approximate amount of FHWA funds received by the State for construction of the bridge under a separate Project Agreement. The bridge, though the subject of this separate Agreement, is part of the same FAS Route 681 as the Road, which extends from Livengood to Prudhoe Bay. Removal of both the bridge and the Road from the Federal Aid System

would simply allow the point at which tolls were collected to be moved to the south end of the bridge and tolls could be set at a level which would include the costs related to the bridge.

Removal of the Road north of the bridge from the Federal Aid System would not necessitate removal of the bridge also. Under 23 U.S.C. § 129(c), Federal aid funds may validly be used on a project approaching a toll road as long as the project "will have some use irrespective of its use for such toll road." If the Road north of the bridge were removed from the Federal Aid System and made a toll road the bridge could have some use irrespective of its use as an approach to the toll road. It provides access to both sides of the Yukon River with its enormous recreational potential. The area could be developed and improved and combined with a tourist service and information center as suggested by some and the independent usefulness of the bridge would be augmented.

Removal of the Road and/or bridge from the Federal Aid System may be accomplished by obtaining the approval of FHWA pursuant to 23 C.F.R. § 470.111(b). However, in light of the FHWA position that, despite its own regulation, it lacks the authority to grant such approval, Congressional action may be the most practical, expeditious means to accomplish removal. If FHWA reevaluates its position and

grants removal approval administratively, it is likely that it will require as a condition, reimbursement of Federal funds spent in construction of whatever part of FAS Route 681 is to be removed. If Congressional approval is obtained, it may or may not be conditioned upon reimbursement. Once removal is accomplished, tolls may be imposed if the Alaska legislature provides the authority.*/ Part of the revenue from the tolls may be used to amortize the cost of reimbursement.**/

Congress has approved removal of roads and bridges from the Federal Aid System in the past to enable states to impose tolls.***/ Most of these approvals required repayment of Federal Aid Highway funds used to construct the highway, but the repayment was credited to the balance of Federal Aid Highway funds apportioned to the State and made available to that State for expenditure on other highway projects. (e.g. P.L. 93-87, § 131(a)). Thus, the repayment required by

*/ The legislature has granted the authority to levy bills only on bridges to the Alaska Toll Bridge Authority - AS 44.57.180(a).

**/ 23 U.S.C. § 129(a), which delineates the valid uses of revenue from toll facilities constructed as part of the Federal Aid System pursuant to pre-construction agreements, would not apply.

***/ E.G.: P.L. 83-350, § 22, May 6, 1954 (Connecticut); P.L. 86-657, § 6, July 14, 1960 (Delaware and Maryland); P.L. 90-495, § 20(a), August 23, 1968 (New Jersey); P.L. 91-605, § 145, December 31, 1970 (Michigan); and P.L. 93-87, § 131, August 13, 1973 (New Hampshire).

Congress is less a reimbursement than a transfer of funds to other highways or routes in the state.

Short of removal of the Haul Road from the Federal Aid System and imposition of tolls on its users, the only other means for funding the cost of maintaining the Road are indirect and statewide. The graduated commercial vehicle tax (AS 28.10.200(b)(4)) could be increased. The motor fuel tax of 8¢/gallon (AS 43.40.010) could be increased. The partial motor fuel tax refund of 6¢/gallon for non-highway use of fuel (AS 43.40.030) could be adjusted, narrowed, or eliminated.*/ All of these measures would, of course, require legislative action. There may be other statewide revenue generating possibilities involving taxes or fees imposed on the basis of mileage, vehicle weight or type, or other classification with a rational basis.

*/ The off highway use motor fuel tax refund is now available only for fuel other than aviation or watercraft fuel not used in conjunction with vehicles licensed to be operated on public highways under AS 28.10. Under AS 28.10.030, all vehicles used on public highways must be licensed (registered). The only exceptions relevant to the Haul Road are vehicles used only cross highways and special mobile equipment which is defined in AS 28.10.650(14) includes most heavy construction equipment (AS 28.10.040(1) and (3)).

Fran Ulmer
Division of Policy
Development & Planning

Page 22

January 17, 1978

We trust we have adequately responded to your questions concerning the Haul Road in this opinion. If you have any further questions, or if you would like to discuss any portion of this opinion in greater detail, please do not hesitate to contact us.

Yours very truly,

AVRUM M. GROSS
ATTORNEY GENERAL

By: Peter B. Froehlich
Assistant Attorney General

PFB:bvd

cc: Commissioner Harris
Commissioner LeResche

Alaska State Legislature

House of Representatives

Committee on Transportation



Rep. Bette Cato, Chairman

March 4th, 1987

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

TO: Commissioner Mark Hickey
FROM: Representative Bette Cato
SUBJECT: House Bill 115 - Representative Steve Frank
Public Use of the Dalton Highway

During the House Transportation Committee meeting held on Wednesday, March 4, 1987, the committee members asked the department to provide information on the following:

- a. The statute that applies to the opening of the road in 1980 from Dietrich to the Yukon.
- b. How many years the road has actually been open.
- c. How many accidents have occurred on the road since it has been open.
- d. A breakdown on the accidents:
 1. number of accidents on this road in the summer months compared to the winter months
 2. The number of accidents involving commercial vehicles as compared with non commercial.
- e. Since the opening of this road, the enviromental impacts in the summer months compared to the winter months.
- d. The overall total number of accidents that have occurred on the Dalton Highway.

This bill is scheduled for a second public hearing on Wednesday March 11th. I would appreciate a representative from the department being available to answer the above questions and provide any additional information required.

Thank you

A handwritten signature in cursive script that reads "Bette".

Representative Bette Cato
House Transportation Chairman

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX Z
JUNEAU, ALASKA 99811-2500
PHONE: (907) 465-3900

March 11, 1987

RE: HB 115 - Public Use
of the Dalton Highway

The Honorable Bette Cato
Alaska State House of Representatives
P. O. Box V
Juneau, AK 99811

Dear Representative Cato:

The following is the department's response to questions from the March 4 House Transportation Committee meeting concerning the Dalton Highway.

- A. Provide (copy of) the statute that applies to the opening of the road in 1980 from Dietrich to the Yukon.

A copy of the statute, AS 19.40.110, is attached.

- B. How many years has the road actually been open?

The Dalton Highway was completed in 1974 and turned over to the State in 1978. In 1981, it was opened to the public as far as Dietrich from June 1 to September 1. Since January, 1983, it has been open to the public as far as Dietrich year-round.

- C. How many accidents have occurred on the road since it has been open?

The total number of accidents recorded on the Dalton Highway (Livengood to Deadhorse) from 1977 through September 1986, is 245. Of those, 87 were between Livengood and the Yukon River Bridge, and 158 were north of the Yukon River. On the section of road between the Yukon River and Dietrich, there have been 36 accidents during 66 months of restricted use and 40 accidents during 51 months of open, public use. Accident statistics are attached.

- D. Show a breakdown on the number of accidents on this road in the summer months compared to the winter months.

March 11, 1987

The following accident numbers are presented by section of road and by month. Figures are an average from 1977 through September 1987.

	J	F	M	A	M	J	J	A	S	O	N	D
Livengood-Yukon River	9	6	7	1	4	3	8	2	11	18	5	13
Yukon River-Dietrich	6	4	9	6	0	3	5	8	9	5	11	11
Dietrich-Deadhorse	6	9	12	2	2	4	7	8	3	5	8	15
TOTAL	21	19	28	9	6	10	20	18	23	28	24	39

- E. Since opening the road, (what are) the environmental impacts in the summer months compared to the winter months.

There is not quantifiable information available to use which would make it possible to answer this question. Therefore, any response would only be subjective.

- F. The overall total number of accidents that have occurred on the Dalton Highway.

See response to question "C".

- G. Provide a copy of the Attorney General's Opinion that states that the Department of Transportation and Public Facilities currently has the authority to charge tolls.

A copy of the February 20, 1987 Opinion is attached.

- H. Is Alyeska Pipeline Service Company exempt from toll activities?

The Attorney General's office has reviewed the original Construction Agreement between Alyeska and the State of Alaska. Attached is their response.

- I. How many miles of federal route is there south of Deadhorse to Dietrich?

The entire Dalton Highway from Livengood to the Deadhorse Airport is a federal-aid route. It is 416 miles long. The portion from Dietrich to Deadhorse is 205 miles long.

The Honorable Bette Cato

-3-

March 11, 1987

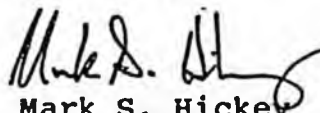
- J. How long has the bridge at Dietrich been open to the public year-round?

The Dalton Highway has been open to Dietrich (Disaster Creek Checkpoint at MP 211) year-round since January, 1983.

- K. What are the accident statistics on the portion of the Dalton Highway currently open to the public?

Compiles accident statistics for the Livengood-Yukon River and Yukon River-Disaster Creek Checkpoint sections are attached. Note that the compilations are for 1977 to present. For the Yukon River-Disaster Creek section the compilation includes information from several years before it was open to the public. We have information on individual accidents on computer and can retrieve and compile it by date or by milepost.

Sincerely,


Mark S. Hickey
Commissioner

Attachment

ACCIDENT STATISTICS

MORE

TWR/ACCIDENTS

ALASKA DOT/PF

03/05/87

ROUTE 150000

YEARS 1977 - PRESENT

11:50:35.

MILES 072.85 - 134.86 DALTON HWY JCT ELLIOTT HWY AT MP66 TO YUKON R BRIDGE

-----ACCIDENT-----			-----LOCATION----			D NBR		---INJURY---			PROPTY EV C CO		
NUMBER	DATE	TIME	ROUTE	MILEPT	G	VEH	FAT	MAJ	MIN	DAMAGE	TP	H	ND

ACCIDENT TYPE	-----INJURIES-----			PROPTY DAMAGE	-----COUNTS-----	
	FATAL	MAJOR	MINOR		VEH.	ACCIDENT
TYPE 1 - FATALITIES	2	0	0	90000	2	2
TYPE 2 - MAJOR INJURIES		15	1	206172	11	10
TYPE 3 - MINOR INJURIES			25	691000	23	22
TYPE 4 - PROP. DAMAGE ONLY				508329	56	40
-- TOTALS ----->	2	15	26	1495501	109	87

MORE

TWR/ACCIDENTS

ALASKA DCT/PF

03/05/87

ROUTE 150000

YEARS 1977 - PRESENT

11:59:05.E

MILES 134.86 - 290.58 DALTON HWY YUKON RIVER BRIDGE TO CHECK POINT MP211

-----ACCIDENT-----			-----LOCATION----			D NBR		---INJURY---			PROPTY EV C CO		
NUMBER	DATE	TIME	ROUTE	MILEPT	G	VEH	FAT	MAJ	MIN	DAMAGE	TP	H	ND

ACCIDENT TYPE	-----INJURIES-----			PROPTY DAMAGE	-----COUNTS-----	
	FATAL	MAJOR	MINOR		VEH.	ACCIDENT
TYPE 1 - FATALITIES	1	0	1	24000	2	1
TYPE 2 - MAJOR INJURIES		13	3	279500	17	13
TYPE 3 - MINOR INJURIES			16	134575	15	13
TYPE 4 - PROP. DAMAGE ONLY				408170	59	40
-- TOTALS ----->	1	13	20	846245	107	77

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

P. O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 20, 1987

M E M O R A N D U M

TO: Honorable Steve Cowper
Governor

FROM: Grace Berg Schaible
Attorney General

BY: Arthur H. Peterson
Assistant Attorney General
Legislation/Regulations Section

RE: Toll on Dalton Highway
Our file: 773-87-0129

At our February 7, 1987, meeting on legislation, you asked whether it would be necessary to have a bill to authorize charging a toll for use of the Dalton Highway. The short answer is no. In fact, at least one bill (SB 132, by Coghill) has been introduced to prevent charging such a toll.

AS 19.05.040 lists the powers of the Department of Transportation and Public Facilities (DOTPF). Paragraph (1) of that statute provides that the department may

establish, levy, and collect tolls, fees, charges, and rentals for the use of state roads, highways, bridges, crossings, and causeways.

AS 19.45.001 is the definition section for AS 19.05 -- AS 19.40. Paragraph (9) of that statute defines "highway" as follows:

"highway" includes a highway (whether included in primary or secondary systems), road, street, trail, walk, bridge, tunnel, drainage structure and other similar or related structure or facility, and right-of-way thereof, and further includes a ferry system, whether operated solely inside the state or to connect with a Canadian highway, and any such related facility.

Clearly, the James Dalton Highway, established under AS 19.40, fits that definition. Thus, it is within the power of DOTPF to charge a toll for the use of this highway. AS 19.40.-100(a) provides that "the department shall maintain the highway and keep it open to industrial or commercial traffic throughout

Hon. Steve Cowper, Governor
File No. 773-87-0129

February 20, 1987
Page 2

the year." Keeping the highway open for this kind of traffic does not mean that the department may not charge a toll for the use of the highway.

AS 37.15.610 -- 37.15.760 provide for toll facilities revenue bonds. AS 37.15.720 authorizes construction, maintenance, etc., of toll bridges, highways, etc. AS 37.15.740 authorizes the DOTPF commissioner to charge fees, tolls, etc., for use of such facilities. However, these two statutes should be read in the context of AS 37.15.610 -- 37.15.760, i.e., as applicable to facilities constructed with money derived from the issuance of bonds under those sections. This does not detract from DOTPF's general authority to charge tolls, as described above.

GBS:AHP:md

cc: Jay Hogan, Director
Division of Budget Review
Office of Management & Budget
Governor's Office

Mary Halloran, Director
Division of Planning
Office of Management & Budget
Governor's Office

John Halterman, Director
Division of Audit & Management Services
Office of Management & Budget
Governor's Office

George Sullivan
Legislative Liaison
Governor's Office

Jack McGee
Assistant Attorney General
Juneau

MEMORANDUM
TO: Honorable Mark S. Nickey
Commissioner
Department of Transportation
and Public Facilities

DATE: March 10, 1987

FILE NO.:

THRU:

TELEPHONE NO.: 465-3603

SUBJECT: Dalton Highway (Haul
Road) Agreement with
Alyeska

FROM: Grace Berg Schaible
Attorney General

By:

Jack B. McGee *J.M.*
Assistant Attorney General
Transportation Section-Juneau

You recently asked our office two questions concerning the above agreement (copy attached). Your questions and our answers follow:

- 1) Does the agreement preclude DOT/PF from charging tolls on the Dalton Highway?

Answer: Paragraph 3 of the agreement says in effect that except for "such other fees and costs imposed" by law or regulation, no "tolls or costs" shall be charged Alyeska, its employees, agents and subcontractors for Alyeska's use of the highway "for the construction and operation of the trans Alaska pipeline."

Three conclusions follow from a close reading of paragraph 3:

- a) It is clear that paragraph 3 does not operate to prohibit tolls for vehicles other than those operated by Alyeska, its employees, agents, and subcontractors.
- b) It is at least arguable that paragraph 3 does not prohibit user fees for vehicles operated by Alyeska provided they are imposed by regulation.
- c) In any event, paragraph 3 does not prohibit a toll for those vehicles operated by Alyeska that are not used for the construction and operation of the pipeline.

Honorable Mark S. Hickey
Commissioner

March 10, 1987
Page 2

- 2) Does the agreement require the state to provide maintenance on the Dalton Highway for an indefinite period of time?

Answer: Paragraph 10 of the agreement says that after inspection and upon acceptance of the highway by the state, the "state shall maintain the portions of the highway so accepted in accord with standards established by the commissioner and the contractor shall have no further responsibility or obligation or liability" for the portion of the highway accepted by the state.

- a) This section does not require the state to maintain the highway indefinitely; it operates to relieve Alyeska from the legal obligation of maintaining the highway to the standards referred to in paragraph 1 after state acceptance.
- b) Paragraph 10 specifically leaves the question of the level of maintenance to the discretion of the commissioner. Moreover, AS 19.40.120 specifically authorizes the state to close the highway in accord with the commissioner's discretion under AS 19.10.160.

JBM:ebc

Alaska State Legislature

STEVE FRANK

DISTRICT 20A
Finance Committee

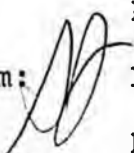
1125 Sunset Drive
Fairbanks, Alaska 99701
(907) 452-3421



White in Juneau
P. O. Box V
Juneau, Alaska 99811
(907) 465-3709

House of Representatives

To: All Members,
House Transportation Committee

From:  Rep. Steve Frank

Re: House Bill 115 - "An Act relating to the Dalton Highway, and providing for an effective date."

Date: March 4, 1987

House Bill 115 would statutorily open the Dalton Highway to the general public and prohibit the imposition of a toll for vehicular traffic.

Currently, the Dalton Highway is open to the public as far as Disaster Creek which lies about half way between the Yukon River bridge and Prudhoe Bay. State statutes allow vehicles with an industrial or commercial purpose to travel beyond this point but those vehicles are required to obtain a permit from the Department of Transportation. There is a checkpoint at Dietrich Camp, 31 miles north of Disaster Creek, open from June 1 through September 1 each year to check permits and keep unauthorized travelers from entering the closed portion of the road.

The term "commercial use" causes some obvious problems with consistency. For example, if a person wants to drive up the highway to sightsee, they would be denied access. However, if that same person buys a business license as a tour operator, he or she could obtain a permit.

Paramount to the logic of this bill is the belief that the road should be open to the public because it is a publicly owned road, and is maintained with millions of public dollars.

Moreover, opening the Dalton Highway would encourage tourism and improve access to our natural resources. Also, residents would have the opportunity to visit a unique area of our state for hiking, sightseeing, camping, photography,

fishing & hunting under certain restrictions, and other types of outdoor recreation.

Certainly, there are legitimate safety, environmental and fish & game protection concerns; however, those concerns can be adequately addressed and they, by themselves, should not deny public use of the road. Other Alaska highways such as the Taylor and the Steese are similar in nature. They are remote and travelers do need to take special precautions and be aware of potential dangers while traveling these roads. In addition, the environment and fish & game must be protected and these needs can be adequately addressed by the Departments of Environmental Conservation and Fish & Game.

As indicated earlier, HB 115 would also prevent the Department of Transportation from charging a toll for use of the Dalton Highway. The reasons to prohibit the imposition of a toll are philosophical, practical and legal.

First of all, the policy of the State should be to encourage commerce and other uses of our public facilities. We don't charge tolls on any other roads in the state, why start here?

Secondly, as a practical matter, the tolls collected from the so called "single user" will be deductible expenses in calculating our oil & gas taxes and neither DOT/PF nor the Office of Management & Budget has done an analysis to show the reduction in those taxes. Therefore, they haven't properly calculated the net revenues of a toll to the General Fund or conversely, the negative fiscal note prepared by DOT/PF for HB 115.

Finally, from the perspective of the Federal Highway Administration and the construction agreement with Alyeska Pipeline Service Company, legal impediments to charging a toll may exist.

The Federal Highway Administration has taken the position that because federal funds were used in part to build the Dalton Highway and it is on the Federal Aid Secondary System, that 23 U.S.C. 301 applies; it provides that "...all highways constructed under this title shall be free from tolls of all kinds." There is some difference of opinion as to whether it would take an act of Congress to remove the Dalton Highway from the Federal System; however, at best the issue must be addressed and resolved.

Also, a construction agreement applicable to the Dalton Highway between the Commissioner of Highways of the State of Alaska and the Alyeska Pipeline Service Company (June 11, 1971) stipulates:

"3. The Highway shall be a State highway and may be used by Contractor, its employees, agents and sub-contractors in a lawful manner for the construction and operation of the trans Alaska pipeline without incurring any State-imposed tolls or costs for such use of the Highway, except for applicable motor vehicle taxes, licenses and fees, such as the Alaska Motor Fuel Oil Tax, and such other fees and costs imposed by law, regulations and customary conditions of its utility permits."

In conclusion, opening the Dalton Highway to the public without a toll will encourage economic development and increase recreational opportunities. Your favorable consideration of this legislation would be appreciated.

Dec. 1

PUBLIC LAW 96 -487 [H.R. 39]; December 2, 1980

**ALASKA NATIONAL INTEREST LANDS
CONSERVATION ACT**

*For Legislative History of this and other Laws, see Table 1, Public
Laws and Legislative History, at end of final volume*

An Act to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled,*

SECTION 1. This Act may be cited as the "Alaska National Interest Lands Conservation Act".

Alaska National
Interest Lands
Conservation
Act.
16 USC 3101
note.

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- Sec. 1005. Wildlife resources portion of study.
- Sec. 1006. Transportation alternatives portion of study.
- Sec. 1007. Arctic research study.
- Sec. 1008. Oil and gas leasing program for non-North Slope Federal lands.
- Sec. 1009. Oil and gas lease applications.
- Sec. 1010. Alaska mineral resource assessment program.
- Sec. 1011. Presidential transition.

TITLE XI—TRANSPORTATION AND UTILITY SYSTEMS IN AND ACROSS, AND ACCESS INTO, CONSERVATION SYSTEM UNITS

- Sec. 1101. Findings.
- Sec. 1102. Definitions.
- Sec. 1103. Effect of title.
- Sec. 1104. Procedural requirements.
- Sec. 1105. Standards for granting certain authorizations.
- Sec. 1106. Agency, Presidential, and congressional actions.
- Sec. 1107. Rights-of-way terms and conditions.
- Sec. 1108. Expedited judicial review.
- Sec. 1109. Valid existing rights.
- Sec. 1110. Special access and access to inholdings.
- Sec. 1111. Temporary access.
- Sec. 1112. North Slope Haul Road.
- Sec. 1113. Stikine River region.

TITLE XII—FEDERAL-STATE COOPERATION

- Sec. 1201. Alaska Land Use Council.
- Sec. 1202. Federal Coordination Committee.
- Sec. 1203. Bristol Bay cooperative region.

TITLE XIII—ADMINISTRATIVE PROVISIONS

- Sec. 1301. Management plans.
- Sec. 1302. Land acquisition authority.
- Sec. 1303. Use of cabins and other sites of occupancy on conservation system units.
- Sec. 1304. Archeological and paleontological sites.
- Sec. 1305. Cooperative information/education centers.
- Sec. 1306. Administrative sites and visitor facilities.
- Sec. 1307. Revenue-producing visitor services.
- Sec. 1308. Local hire.
- Sec. 1309. Klondike Gold Rush National Historical Park.
- Sec. 1310. Navigation aids and other facilities.
- Sec. 1311. Scenic highway study.
- Sec. 1312. Administration of the White Mountains National Recreation Area.
- Sec. 1313. Administration of national preserves.
- Sec. 1314. Taking of fish and wildlife.
- Sec. 1315. Wilderness management.
- Sec. 1316. Allowed uses.
- Sec. 1317. General wilderness review provision.
- Sec. 1318. Statewide cultural assistance program.
- Sec. 1319. Effect on existing rights.
- Sec. 1320. Bureau of Land Management land reviews.
- Sec. 1321. Authorization for appropriation.
- Sec. 1322. Effect on prior withdrawals.
- Sec. 1323. Access.
- Sec. 1324. Yukon Flats National Wildlife Refuge agricultural use.
- Sec. 1325. Terror Lake Hydroelectric Project in Kodiak National Wildlife Refuge.
- Sec. 1326. Future Executive actions.
- Sec. 1327. Alaska gas pipeline.
- Sec. 1328. Public land entries in Alaska.

TITLE XIV—AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT AND RELATED PROVISIONS

PART A—AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

- Sec. 1401. Stock alienation.
- Sec. 1402. Selection requirements.
- Sec. 1403. Retained mineral estate.
- Sec. 1404. Vesting date for reconveyances.

- Sec. 1405. Reconveyance to municipal corporations.
- Sec. 1406. Conveyance of partial estates.
- Sec. 1407. Shareholder homesites.
- Sec. 1408. Basis in the land.
- Sec. 1409. Fire protection.
- Sec. 1410. Interim conveyances and underselections.
- Sec. 1411. Escrow account.
- Sec. 1412. Limitations.

PART B—OTHER RELATED PROVISIONS

- Sec. 1413. Supplemental appropriation for Native Groups.
- Sec. 1414. Fiscal Year Adjustment Act.
- Sec. 1415. Relinquishment of selections partly within conservation units.
- Sec. 1416. Bristol Bay Group Corporation lands.
- Sec. 1417. Pribilof Islands acquisition authority.
- Sec. 1418. NANA/Cook Inlet Regional Corporations lands.
- Sec. 1419. Doyon Regional Corporation lands.
- Sec. 1420. Hodzana River study area.
- Sec. 1421. Conveyance to the State of Alaska.
- Sec. 1422. Doyon and Fortymile River.
- Sec. 1423. Ahtna Regional Corporation lands.
- Sec. 1424. Bering Straits Regional Corporation lands.
- Sec. 1425. Eklutna Village Corporation lands.
- Sec. 1426. Eklutna-State Anchorage agreement.
- Sec. 1427. Koniag Village and Regional Corporation lands.
- Sec. 1428. Chugach Village Corporation lands.
- Sec. 1429. Chugach Regional Corporation lands.
- Sec. 1430. Chugach region study.
- Sec. 1431. Arctic Slope Regional Corporation lands.
- Sec. 1432. Cook Inlet Village settlement.
- Sec. 1433. Bristol Bay Native Corporation lands.
- Sec. 1434. Shee Atika-Charcoal and Alice Island conveyance.
- Sec. 1435. Amendment to Public Law 94-204.
- Sec. 1436. Inalik Native Corporation lands.
- Sec. 1437. Conveyances to Village Corporations.

TITLE XV—NATIONAL NEED MINERAL ACTIVITY RECOMMENDATION PROCESS

- Sec. 1501. Areas subject to the national need recommendation process.
- Sec. 1502. Recommendations of the President to Congress.
- Sec. 1503. Expedited congressional review.

TITLE I—PURPOSES, DEFINITIONS, AND MAPS

PURPOSES

16 USC 3101.

SEC. 101. (a) In order to preserve for the benefit, use, education, and inspiration of present and future generations certain lands and waters in the State of Alaska that contain nationally significant natural, scenic, historic, archeological, geological, scientific, wilderness, cultural, recreational, and wildlife values, the units described in the following titles are hereby established.

(b) It is the intent of Congress in this Act to preserve unrivaled scenic and geological values associated with natural landscapes; to provide for the maintenance of sound populations of, and habitat for, wildlife species of inestimable value to the citizens of Alaska and the Nation, including those species dependent on vast relatively undeveloped areas; to preserve in their natural state extensive unaltered arctic tundra, boreal forest, and coastal rainforest ecosystems; to protect the resources related to subsistence needs; to protect and preserve historic and archeological sites, rivers, and lands, and to preserve wilderness resource values and related recreational opportunities including but not limited to hiking, canoeing, fishing, and sport hunting, within large arctic and subarctic wildlands and on

freeflowing rivers; a research and undistur

(c) It is further the management of fish scientific principles a system unit is establish this Act, to provide th subsistence way of life

(d) This Act provide in the scenic, natura public lands in Alas opportunity for satisf State of Alaska and disposition of the pu found to represent a national conservation and appropriate for Congress believes tha conservation system national recreation a

SEC. 102. As used in following terms shall Alaska Native Claims Act)—

(1) The term therein.

(2) The term "F the United Sta

(3) The term which, after the except—

(A) land se tentatively Statehood A validly selec the State un

(B) land se Alaska Nat, conveyed to is determine

(C) lands Claims Sett

(4) The term Alaska of the N System, Nation Trails System, National Forest lished, designat Act, additions designated, or e

(5) The term "An Act to pro Alaska Natives 1971 (85 Stat. 68

areas, and national conservation areas, and shall not be prohibited unless, after notice and hearing in the vicinity of the affected unit or area, the Secretary finds that such use would be detrimental to the resource values of the unit or area. Nothing in this section shall be construed as prohibiting the use of other methods of transportation for such travel and activities on conservation system lands where such use is permitted by this Act or other law.

(b) Notwithstanding any other provisions of this Act or other law, in any case in which State owned or privately owned land, including subsurface rights of such owners underlying public lands, or a valid mining claim or other valid occupancy is within or is effectively surrounded by one or more conservation system units, national recreation areas, national conservation areas, or those public lands designated as wilderness study, the State or private owner or occupier shall be given by the Secretary such rights as may be necessary to assure adequate and feasible access for economic and other purposes to the concerned land by such State or private owner or occupier and their successors in interest. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the natural and other values of such lands.

TEMPORARY ACCESS

SEC. 1111. (a) IN GENERAL.—Notwithstanding any other provision of this Act or other law the Secretary shall authorize and permit temporary access by the State or a private landowner to or across any conservation system unit, national recreation area, national conservation area, the National Petroleum Reserve—Alaska or those public lands designated as wilderness study or managed to maintain the wilderness character or potential thereof, in order to permit the State or private landowner access to its land for purposes of survey, geophysical, exploratory, or other temporary uses thereof whenever he determines such access will not result in permanent harm to the resources of such unit, area, Reserve or lands.

16 USC 3171.

(b) STIPULATIONS AND CONDITIONS.—In providing temporary access pursuant to subsection (a), the Secretary may include such stipulations and conditions he deems necessary to insure that the private use of public lands is accomplished in a manner that is not inconsistent with the purposes for which the public lands are reserved and which insures that no permanent harm will result to the resources of the unit, area, Reserve or lands.

NORTH SLOPE HAUL ROAD

SEC. 1112. (a) IN GENERAL.—So long as that section of the North Slope Haul Road referred to in subsection (c) is closed to public use, but not including regulated local traffic north of the Yukon River, regulated industrial traffic and regulated high occupancy buses, such regulation to occur under State law, except that the Secretary, after consultation with the Secretary of Transportation, and the Governor of Alaska shall agree on the number of vehicles and seasonality of use, such section shall be free from any and all restrictions contained in title 23, United States Code, as amended or supplemented, or in any regulations thereunder. Prior to executing an agreement pursuant to this subsection, the Secretary and the Governor of Alaska shall consult with the head of any unit of local government which encompasses lands located adjacent to the route of the North Slope Haul Road. The State of Alaska shall have the authority to limit access,

16 USC 3172.

impose restrictions and impose tolls, notwithstanding any provision of Federal law.

(b) RELEASE.—The removal of restrictions shall not be conditioned upon repayment by the State of Alaska to the Treasurer of the United States of any Federal-aid highway funds paid on account of the section of highway described in subsection (c), and the obligation of the State of Alaska to repay these amounts is hereby released so long as the road remains closed as set forth in subsection (a).

(c) APPLICATION OF SECTION.—The provisions of this section shall apply to that section of the North Slope Haul Road, which extends from the southern terminus of the Yukon River Bridge to the northern terminus of the Road at Prudhoe Bay.

STIKINE RIVER REGION

Consultation with Canadian Government and report to Congress. 16 USC 3173.

SEC. 1113. Congress finds that there is a need to study the effect of this Act upon the ability of the Government of Canada to obtain access in the Stikine River region of southeast Alaska. Accordingly, within five years from the date of enactment of this Act, the President shall consult with the Government of Canada and shall submit a report to the Congress containing his findings and recommendations concerning the need, if any, to provide for such access. Such report shall include, among other things, an analysis of the need for access and the social, environmental and economic impacts which may result from various forms of access including, but not limited to, a road along the Stikine and Iskut Rivers, or other alternative routes, should such access be permitted.

TITLE XII—FEDERAL-STATE COOPERATION

ALASKA LAND USE COUNCIL

16 USC 3181.

SEC. 1201. (a) ESTABLISHMENT.—There is hereby established the Alaska Land Use Council (hereinafter in this title referred to as the "Council").

Presidential appointment.

(b) COCHAIRMEN.—The Council shall have Cochairmen. The Federal Cochairman shall be appointed by the President of the United States with the advice and consent of the Senate. The State Cochairman shall be the Governor of Alaska.

(c) MEMBERS.—In addition to the Cochairmen, the Council shall consist of the following members:

- (1) the head of the Alaska offices of each of the following Federal agencies: National Park Service, United States Fish and Wildlife Service, United States Forest Service, Bureau of Land Management, Heritage Conservation and Recreation Service, National Oceanic and Atmospheric Administration, and Department of Transportation;
- (2) the Commissioners of the Alaska Departments of Natural Resources, Fish and Game, Environmental Conservation, and Transportation; and
- (3) two representatives selected by the Alaska Native Regional Corporations (in consultation with their respective Village Corporations) which represent the twelve geographic regions described in section 7(a) of the Alaska Native Claims Settlement Act.

Any vacancy on the Council shall be filled in the same manner in which the original appointment was made.

(d) STATE DECIS participate on th termination of th Federal Cochairm the representati referred to in sub out the administr recommendation referred to in su make recommen private landowne

(e) COMPENSATI

(1) The Fe be determin for level IV United State

(2) The oth ees shall rec Council.

(3) While i in the perfo Council who referred to i including emp persons emp allowed exp States Code.

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STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 20, 1987

M E M O R A N D U M

TO: Honorable Steve Cowper
Governor

FROM: Grace Berg Schaible
Attorney General

BY: Archur H. Peterson
Assistant Attorney General
Legislation/Regulations Section

RE: Toll on Dalton Highway
Our file: 773-87-0129

At our February 7, 1987, meeting on legislation, you asked whether it would be necessary to have a bill to authorize charging a toll for use of the Dalton Highway. The short answer is no. In fact, at least one bill (SB 132, by Coghill) has been introduced to prevent charging such a toll.

AS 19.05.040 lists the powers of the Department of Transportation and Public Facilities (DOTPF). Paragraph (1) of that statute provides that the department may

establish, maintain, and collect tolls, fees, charges, and rentals for the use of state roads, highways, bridges, crossings, and causeways.

AS 19.40.001 is the definition section for AS 19.05 -- Paragraph (9) of that statute defines "highway" as follows:

"highway" includes a highway (whether included in primary or secondary systems), road, street, trail, walk, bridge, tunnel, drainage structure and other similar or related structure or facility, and right-of-way thereof, and further includes a ferry system, whether operated solely inside the state or to connect with a Canadian highway, and any such related facility.

Clearly, the James Dalton Highway, established under AS 19.40, fits that definition. Thus, it is within the power of DOTPF to charge a toll for the use of this highway. AS 19.40.100(a) provides that "the department shall maintain the highway and keep it open to industrial or commercial traffic throughout

the year." Keeping the highway open for this kind of traffic does not mean that the department may not charge a toll for the use of the highway.

AS 37.15.610 -- 37.15.760 provide for toll facilities revenue bonds. AS 37.15.720 authorizes construction, maintenance, etc., of toll bridges, highways, etc. AS 37.15.740 authorizes the DOTPF commissioner to charge fees, tolls, etc., for use of such facilities. However, these two statutes should be read in the context of AS 37.15.610 -- 37.15.760, i.e., as applicable to facilities constructed with money derived from the issuance of bonds under those sections. This does not detract from DOTPF's general authority to charge tolls, as described above.

GBS:AHP:md

cc: Jay Hogan, Director
Division of Budget Review
Office of Management & Budget
Governor's Office

Mary Halloran, Director
Division of Planning
Office of Management & Budget
Governor's Office

John Halterman, Director
Division of Audit & Management Services
Office of Management & Budget
Governor's Office

George Sullivan
Legislative Liaison
Governor's Office

Jack McGee
Assistant Attorney General
Juneau

STATEMENT FROM T.J. THRASHER - EXECUTIVE DIRECTOR

ALASKA TRUCKING ASSOCIATION

T. J. Thrasher had planned to attend this meeting to testify, however, unfortunately she had to remain in Anchorage until tonight.

T. J. wished to express the Trucking Association's position on House Bill 115.

The Trucking Association agree the Dalton Highway should not be a toll road.

They agree this road should be open to the public.

The Association support HB #115, HOWEVER, they do have several concerns they would like to see addressed if the road is opened to the public.

1. They feel that unless the Department of Transportation agree to maintain and upgrade the road there will be definite safety problems. The road is not in a safe condition.
2. There are no provisions or amenities past Hilltop and there are many stretches where you cannot pull off.

While the Trucking Association does support HB #115, they would like to see these concerns addressed.

As per telephone conversation with T.J. Thrasher on Wednesday, March 4th, 1987 at 9.10 a.m.



Resource Development Council

for Alaska, Inc.

807 "G" Street, Suite 200, Anchorage, Alaska 99501-3440
Box 100516, Anchorage, Alaska 99510-0516 - 907/276-0700

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EX-OFFICIO MEMBERS
Senator Ted Slovans
Senator Frank Murkowski
Congressman Don Young

March 5, 1987

Representative Steve Frank
Alaska State Legislature
Pouch V
Juneau, AK 99811

re: HB 115 and SB 132

Dear Steve:

The Resource Development Council is pleased to support HB 115 and SB 132, Acts relating to public use of the Dalton Highway. Our Executive Committee's action in this regard was unanimous.

We agree that these bills will allow the state to further develop the industries that rely on access to Northern Alaska. We need to encourage development and use of this key element in the state's road system if we are to foster development of valuable resources.

Please call on RDC if we can be of assistance to your office on this issue.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL
for Alaska, Inc.

Paula P. Easley
Executive Director

cc: Senator Jack Cognill
Mayor Juanita Helms
Mayor Bill Walley

FEB 17 1987

Fbls R 99707
Feb. 12 - 1987

House Transportation Commission
Chairman - Representative Bettie Cato
Pouch V June 99811-

Dear Chairman,

I am vitally interested in our state transportation system. I am having my troubles in getting access (except during 5 winter months) to both patented & unpatented claims - in the Yukon Charley Preserve.

Now, I hear of the continued abuse of our right to use the Dalton Highway. The Gov. even has even suggested a toll fee.

This is totally unacceptable under our Constitution - so let us forget it and open this road to the public.

This road - is access to the major source of Alaska income - Prudhoe Bay. The initial pattern to Limerick is a disgrace to a civilized society.

It should be the best road in the nation - for the wealth it gives access to and it is not by a long shot.

The entire state of Alaska seems to
income to a large degree - and
should be intacted in the area
it provides -

If they are not - maybe we need
some changes - North & South Alaska
maybe?

Thankyou for opening up this
road to the public - improving it,
and hopefully expanding the source
of income - our natural resources.

Alaskan Patriot
Joseph E. Vogler

J. Vogler
Box 40
Ft. Reliance
99707

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE CATO

NAME: JOHN HOLLAND

TITLE:

ADDRESS: 503 BULLION DRIVE

CITY: FAIRBANKS

PHONE: 457-1630

ZIP: 99712

BILL NO:

SUBJECT: DALTON HIGHWAY

MESSAGE: THE DALTON HIGHWAY IS A PUBLIC ROAD THAT WAS BOUGHT AND MAINTAINED WITH PUBLIC FUNDS. AS SUCH IT SHOULD BE OPEN TO THE PUBLIC. EOM/AN

POMID: 07095104

DATE: 03/05/87

TIME: 09:51:04

LIONAME: FAIRBANKS LIO

COPIES: REPRESENTATIVES SENATORS

BOYER	BENNETT
DAVIS	COGHILL
FRANK	FAHRENKAMP
KOPONEN	ABOOD
MILLER	JONES
BOUCHER	KELLY
GRUSSENDORF	BINKLEY
HUDSON	DUNCAN
PEARCE	FISCHER
SPRINGER	HENSLEY
ADAMS	UEHLING
BROWN	ZHAROFF
GOLL	
LARSON	
POURCHOT	
RIEGER	
SWACKHAMMER	
WALLIS	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE CATO

NAME: EDNA LYON

TITLE:

ADDRESS: 629 W. 9TH

CITY: ANCHORAGE

PHONE: 272-5715

ZIP: 99501

BILL NO:

SUBJECT: BUDGET

MESSAGE: I FEEL THE LEGISLATORS AND THE STATE EMPLOYEES SHOULD TAKE A 5% SALARY CUT. NO MORE PERMANENT FUND DIVIDEND CHECKS.

POMID: 03100029

DATE: 03/05/87

TIME: 10:08:29

LIONAME: ANCHORAGE LIO

COPIES: REPRESENTATIVES REPRESENTATIVES SENATORS

ADAMS	BARNES	ABOOD
BOUCHER	BOYER	BENNETT
BROWN	COLLINS	BINKLEY
COTTEN	DUNCAN	COGHILL
DAVIS	HANLEY	DUNCAN
ELLIS	FRANK	ELIASON
FURNACE	GOLL	FAHRENKAMP
GRUENBERG	GRUSSENDORF	FAIKS
HANLEY	HERRMANN	FISCHER
HOFFMAN	HUDSON	HALFORD
KOPONEN	LARSON	HENSLEY
MARTIN	MENARD	JONES
MILLER	HAVARRE	JOSEPHSON
PEARCE	PETTYJOHN	KELLY
PHILLIPS	POURCHOT	KERTTULA
RIEGER	SHULTZ	RODEY
SPRINGER	SUND	STURGULENSKI
SWACKHAMMER	TAYLOR	SZYMANSKI
ULNER	WALLIS	UEHLING
ZAWACKI		ZHAROFF

No Dist MSGS

PUBLIC OPINION MESSAGE

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE CATO

DEAR: REPRESENTATIVE CATO

NAME: RALPH ROBERTS
TITLE:
ADDRESS: 2718 GORDON ROAD
CITY: NORTH POLE
PHONE: 488-1702

MAR 06 1987

ZIP: 99705

BILL NO:
SUBJECT: DALTON HIGHWAY
MESSAGE: I WISH TO SAY THAT THE DALTON HWY. IS KEPT OPEN TO THE PUBLIC BECAUSE IT WAS BOUGHT WITH PUBLIC FUNDS AND IS MAINTAINED WITH PUBLIC FUNDS AND SHOULD BE OPEN TO THE PUBLIC.
EOM/MJO

NAME: DONALD DAVIS
TITLE:
ADDRESS: BOX 883
CITY: FAIRBANKS
PHONE: 488-0699

ZIP: 99707

BILL NO:
SUBJECT: HIGHWAYS
MESSAGE: I WOULD LIKE TO SAY THAT THE DALTON HIGHWAY WAS PURCHASED WITH PUBLIC FUNDS AND IS MAINTAINED WITH PUBLIC FUNDS AND SHOULD BE OPEN TO THE PUBLIC. THE LEVEL 3 ROADS IN THE FAIRBANKS AREA AND STATE-WIDE FOR THAT MATTER THAT WOULD BE DROPPED FROM PUBLIC MAINTENANCE UNDER GOV. COMPER'S RECONSTRUCTION PLAN SHOULD BE ADVERTISED IN THE PUBLIC NEWSPAPERS TO MAKE THE PUBLIC AWARE.
EOM/MJO

POMID: 07110520
DATE: 03/05/87
TIME: 11:05:20
LIONAME: FAIRBANKS LIO

POMID: 07133538
DATE: 03/05/87
TIME: 13:35:38
LIONAME: FAIRBANKS LIO

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HERRMANN	SPRINGER	SZYMAWSKI
ZAWACKI	ADAMS	ZHAROFF
BROWN	GOLL	BENNETT
LARSON	POURCHOT	BINKLEY
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WALLIS	DONLEY	FISCHER
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COTTEN	NAVARRE	JOSEPHSON
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ULMER	BOUCHER	RODEY
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PEARCE	SHULTZ	
GRUSSENDORF	MARTIN	
PETTYJOHN		

COLLINS	HERRMANN	HALFORD
SPRINGER	ZAWACKI	KELLY
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FURNACE	MENARD	ELIASON
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MARTIN	PETTYJOHN	FAIKS
HILLER		ABOOD

23 February, 1987

Dick Mackey, owner and operator of Coldfoot services, called to voice his opinion over the Dalton Highway. He asserts that the Dalton Highway "north of the Yukon should be treated no differently than south of the Yukon."

He explained that in '81 Gov. Hammond opened the highway from the Yukon north to Deitrich camp for 3 months out of the year. By Gubernatorial decree, he asked Mackey to operate a service area 12 months at Coldfoot.

Later, during the Sheffield administration, Mackey pointed out to Gov. Sheffield that it made no sense for him to be there 12 months when the road was only open to the public for 3 months. Sheffield agreed and opened the highway to Dietrich.

Deitrich is not a safety checkpoint, claims Mackey, but a political one. There is no reason for restricting access, according to Mackey, as those who wish to hunt already do so, and there is no corporate land to deny access to that would be effected by such an action. If it is to be a safety check-point, he says, ask folks to demonstrate that they have a 5 gallon can of gas, tools or whatever, and let the folks go.

Westours and Princess tours are taking buses up there this summer, and the business done has doubled. One state agency spends millions to promote tourism while another throws roadblocks in the way.

He claims that the checkpoint is a farce, that privately D.O.T. officials despise the loathsome checkpoint, and that the constitution of Alaska states that any road which is built and maintained with public funds is to be accessible by the public which pays for it.

PLEASE SUPPORT HB115.

I asked that he put some of this in writing so that it could be used as testimony in a hearing at some later date.

HOUSE COMMITTEE REPORT

7)

Date referred: 2/11/87

FURTHER REFERRALS: Finance

DATE: March 11, 1987

The Transportation Committee has considered HB 115

"An Act relating to public use of the Dalton Highway."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Betty Pat

Bill Hux

Kilo Miller

Whe Kease

Hermin Springs

SIGNING OTHER RECOMMENDATIONS:

Betty Pat

 Chairman's signature



Official Business

COMMITTEE:

House Transportation Committee

DATE: March 4, 1987

SIGN-IN

Subject of meeting:

*HB 115: "An Act relating to public use of the Dalton."

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
✓ Jim Vaden	Dep. Comm. Box 11 Juneau, AK	465-4322	Public Safety	yes
✓ Mark Hickey	Commissioner Box 7 Juneau, AK	465-3900	Transportation	Yes
Phil Holdsworth	Lobbyist Juneau	586-1383	AMA	Yes.
STEVE FRANK	Juneau		Sponsor	Yes
BOB LANCE	Volunteer covering HB 115 FBK.S	586-2345	AK Environmental Lobbyist	Yes
Ron Somorville	Executive Director JUNEAU	784-2399	AK Outdoor Council	Yes
Dan Savage Savage	* Administrative Aid	465-3732	Rep Waller	

* indicates first public hearing



Official Business

COMMITTEE:

House Transportation Committee

DATE: March 11, 1987

SIGN-IN

Subject of meeting:

HB 115: "An Act relating to public use of the Dalton Highway."

HCR 13

NAME Please include title **ADDRESS** Please use full address. Please include zip. **PHONE** **REPRESENTING** **DO YOU WANT TO TESTIFY?**

7	William S. Small	Anchor		266-1440	Alaska DT/PTF	HCR 13
2	Bob Somerville	Juneau 3750 Macginnis Juneau 99801		289-2399	AK - Outdoor Council	Yes 115
4	Bonifance	BKS		536-2345	AEL	✓ 115
5	Dean Savage	Cap Cm 501		3732	Rep. Kay Waller	yes 115
3	Mark Hickey				NOT/PTF	115
6	Rep. Lyman Hoffmann	ASL		4453	Sponsor HCR 13	115
1	Rep Steve Frank	ASL		3709	" HB 115	115

Alaska State Legislature

REPRESENTATIVE
PAT POURCHOT

HOUSE FINANCE COMMITTEE
COMMITTEE ON OIL AND GAS



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STATE CAPITOL
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House of Representatives

MEMORANDUM

DATE: MAR 18 1987
March 13, 1987

TO: David Teal, Director
House Research

FROM: Representative Pat Pourchot, Chair
House Finance Subcommittee - DOT/PF

SUBJECT: Request for information on Dalton Highway trucking

In our review of the current DOT/PF budget, one proposed change receiving considerable scrutiny is the imposition of a toll on the Dalton Highway (the Haul Road) to pay for the operating and maintenance costs of the road. Current plans call for a toll sufficient to cover the costs of the approximate \$5.2 million in Operations and Maintenance. This would be based on the number of axles and is estimated to work out to be about \$500 roundtrip for an "18-wheeler."

The criticism raised is that the cost will make commercial trucking on the road economically prohibitive and force the abandonment of the route in favor of air transportation. Such a switch would not only result in significantly higher operating costs on the North Slope, but would reportedly cause the dislocation of significant economic activity and employment in the Fairbanks area associated with Haul Road trucking.

It is very hard to evaluate the proposal and its reported impacts without more detailed facts. I would greatly appreciate your help in researching some of this needed economic information, as much of it apparently lies outside the expertise or knowledge of DOT/PF. Specifically, we would like to know what the toll costs would mean to shippers or truckers relative to the other transport costs involved in moving goods from Fairbanks to Prudhoe Bay; how existing trucking costs compare to air transport alternatives; some indication as to the elasticity of demand for the Haul Road in light of significant tolls; and the importance of Haul Road trucking as an economic activity in the Fairbanks area.

Thank you for your help in this matter.